NO. 17-16321

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CALIFORNIA VALLEY MIWOK TRIBE, et al.
Plaintiffs and Appellants,

v.

RYAN ZINKE, et al.
Defendants and Appellees,

and

THE CALIFORNIA VALLEY MIWOK TRIBE, et al.
Intervenor-Defendants and Appellees

ANSWERING BRIEF BY APPELLEES THE CALIFORNIA VALLEY MIWOK TRIBE, ET AL.

Appeal From The United States District Court
for the Eastern District of California
Case No. 2:16-01345 WBS CKD, Hon. William B. Shubb

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, the undersigned declares the following:

None of Appellees The California Valley Miwok Tribe, The Tribal Council, Yakima Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Gilbert Ramirez, Jr., Antoinette Lopez, or Iva Sandoval is a nongovernmental corporate party.

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INTRODUCTION

Appellants Silvia Burley, her two daughters and her granddaughter (the Burleys) challenge a December 30, 2015 decision (2015 Decision) by the Department of Interior's Assistant Secretary – Indian Affairs (AS-IA).[1] The 2015 Decision reaffirmed prior administrative and judicial determinations that the process of organizing a Tribal government for the California Valley Miwok Tribe (Tribe) must be open to all members of the Tribal community. The 2015 Decision further determined, consistent with prior decisions, that the Tribal community is not limited to five people as the Burleys claim, but includes all the lineal descendants of historical Tribal members. Because the Burleys purported to form a Tribal government without acknowledging or consulting the Tribal community, the 2015 Decision reaffirmed that the United States does not recognize the Burleys as representing the Tribe.

Having twice failed in related litigation in the federal courts for the District of Columbia, the Burleys brought their current suit in the Eastern District of California, seeking to collaterally attack the prior judgments. The appellee Tribal

[1] Congress has charged the Secretary of the Interior with authority over Indian affairs, 43 U.S.C. § 1457, and the Secretary has delegated this responsibility to the Bureau of Indian Affairs, which is headed by the Department of the Interior's Assistant Secretary – Indian Affairs. *See California Valley Miwok Tribe v. USA*, 424 F.Supp.2d 197, 201 n.6. (D.D.C. Mar. 31, 2006) (*Miwok I*), *affirmed*, 515 F.3d. 1262 (D.C. Cir. 2008) (*Miwok II*).

Council, representing the Tribe and its several hundred members whom the Burleys seek to disenfranchise, intervened in the district court in support of the 2015 Decision.

The Burleys' substantive challenge to the 2015 Decision rests entirely on a single, false premise: that they *are* the entire Tribal community. They claim the Bureau of Indian Affairs (BIA) has historically granted Tribal membership, and control of Tribal government, exclusively to those individuals who reside on the one-acre rancheria, or Tribal reservation, that the United States purchased for homeless Tribe members in 1915. Although the Burleys have never resided on the rancheria, they claim that, in 1998, rancheria resident Yakima Dixie "enrolled" them as the Tribe's only other members and established a valid Tribal government that the Burleys now control.

The AS-IA and the district court properly rejected this argument. First, prior decisions by the D.C. district and circuit courts necessarily and finally decided that the Tribe's membership is not limited to five people, and the Burleys cannot relitigate that issue now. Second, the BIA lacks the legal authority to limit the Tribe's membership, even if it wanted to. Third, the Burleys cannot point to any evidence proving that the BIA has ever tried to limit the Tribe's membership to rancheria residents.

The Burleys' two procedural arguments also lack merit. The six-year statute of limitations for civil actions against the United States does not apply to the AS-IA's administrative action in making the 2015 Decision; and the AS-IA acted well within his authority by reaffirming that the BIA does not recognize the Burleys' purported Tribal government.

The 2015 Decision was reasonable, supported by the record, and consistent with multiple published federal court opinions rejecting the Burleys' arguments. The district court's judgment should be affirmed.

ISSUES PRESENTED

I. Did the AS-IA act arbitrarily or capriciously in (i) determining that Tribal organization must be open to all members of the Tribal community; (ii) rejecting the Burleys' claim that the Tribe is limited to five members; or (iii) determining the United States does not recognize the Burleys' purported Tribal government because it was formed without the participation or consent of the Tribal community?

II. Does issue preclusion bar the Burleys from relitigating the question of whether the Tribe's membership is limited to five people, which the D.C. district court and court of appeals necessarily and finally decided in prior litigation brought by the Burleys?

III. Did the six-year statute of limitations for civil actions against the United States bar the AS-IA from reversing a 2011 BIA decision that would have recognized the Burleys' Tribal government, after the D.C. district court found the 2011 decision unlawful and remanded it to the agency for reconsideration?

IV. Did the AS-IA have the authority to reaffirm the BIA's long-held position that it does not recognize the Burleys' purported Tribal government?

PRIMARY AUTHORITY

As required by Circuit Rule 28-2.7, the attached addendum contains relevant statutes, regulations and rules.

STATEMENT OF THE CASE

The Burleys challenge the district court's order granting summary judgment to Federal Defendants and Intervenor-Defendants and denying the Burleys' motion for summary judgment. The district court upheld the 2015 Decision, which found that (*i*) all lineal descendants of known historical Tribal members — referred to in the 2015 Decision as the "Eligible Groups" — are entitled to participate in the organization of a Tribal government; (*ii*) the Tribe's membership is not limited to five people and (*iii*) the United States does not recognize the Burleys' purported Tribal government, which is based on a 1998 resolution signed by only two people (ER:129-131). (ER:893-895)

The 2015 Decision followed a remand by the District of Columbia District Court in *California Valley Miwok Tribe v. Jewell*, 5 F.Supp.3d 86 (D.D.C. Dec.13, 2013) (*Miwok III*), which found unlawful an August 30, 2011 decision by the prior AS-IA (2011 Decision, ER:381-389). The 2011 Decision unexpectedly recognized the Burley government, contrary to years of prior decisions by the BIA and the courts, and to the BIA's 100-year trust relationship with the Tribe.

A. Early Tribal history

In 1915, federal Office of Indian Affairs (now BIA) agent John Terrell located a group of Miwok Indians — remnants of a larger band — living in and near the former mining town of Sheepranch in Calaveras County, California.

(ER:46) The agent took a census of the 13 band members he found there (1915 Census) and noted they were "[t]o some extent … interchangeable in their relations" with the Indians of nearby Miwok communities in Murphys, Six Mile, Avery and Angles. (ER:46) The United States acquired a small (0.92 acre) parcel of land and created a reservation for the benefit of these Indians, which was known as the Sheep Ranch Rancheria (Rancheria). (ER:34) The band initially was recognized by the United States as the Sheep Ranch Rancheria of Me-Wuk Indians of California, and more recently as the California Valley Miwok Tribe. (ER:2239-2240, ¶ 127)

In a 1935 referendum, Rancheria resident Jeff Davis voted to accept application to the Tribe of the Indian Reorganization Act (IRA), 25 U.S.C. §5101, *et seq.*,[2] which authorized tribes to "organize" by adopting a constitution and bylaws through a majoritarian process.[3] (ER:42, 44) The Tribe did not organize at that time.[4] *Miwok III*, 5 F.Supp.3d at 89. Under the IRA, participation in the

[2] Section 5101 was formerly codified at 25 U.S.C. § 461.

[3] Under the IRA, participation in the referendum was limited to adult residents of the Rancheria, rather than all Tribal members. *See* 25 U.S.C. § 5125. It appears from the record that Davis was the only Tribal member the BIA found residing on the Rancheria at the time of the 1935 referendum (ER:40), although the BIA estimated the total population of the Tribe that year as 16 people (ER:904).

[4] In the 2015 Decision and throughout the prior judicial decisions involving this tribe, "organize" and "reorganize" are used interchangeably to refer to the process of adopting tribal governing documents through a majoritarian process — whether under procedures prescribed by the IRA, *see* 25 U.S.C. § 5123(a)-(d), or under

referendum was based not on Tribal membership, but on current residence upon the Rancheria. *See* 25 U.S.C. § 5125 (limiting voting to adult residents of the reservation); ER 40 (identifying Davis as "living on" the Rancheria).

In 1966, the BIA began proceedings to terminate the United States' trust relationship with the Tribe under the California Rancheria Act, P.L. 85-671, *as amended*, by distributing the assets of the Rancheria. (ER:67.) As part of that process, the BIA prepared a list of people entitled to vote on a "distribution plan" for the Rancheria assets. (ER:60-61, 65) Because the Tribe was still unorganized, the regulations in effect at the time required the list to be based on who was currently using Rancheria lands through formal or informal allotments, and not on membership in the Tribe. *Compare* 25 C.F.R. § 242.3(a) *with* § 242.3(b) (1965) (*included in the record as* ER:61). The voter list included only Mabel Hodge Dixie, the sole Miwok resident of the Rancheria at that time, who voted in favor. (ER:67) The BIA prepared a distribution plan and attempted to deed the Rancheria property to Ms. Dixie, as the sole distributee. (ER:77-80) But the BIA never completed the termination process, and the United States' relationship with the Tribe was never terminated. (ER:2296, ¶23.)

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other procedures, *see* 25 U.S.C. § 5123(h). Regardless of the procedures used, organization must "reflect the will of a majority of the tribal community." *Miwok I*, 424 F.Supp.2d at 202.

B. The 1998 Resolution and interim council

Ms. Dixie's son Yakima Dixie was the only Tribal member living on the Rancheria property in 1998 when Silvia Burley "wrote for Yakima's signature, a statement purporting to enroll herself, her two children, Rashel Roznor [sic, Reznor] and Anjelica Paulk, and her granddaughter, Tristian Wallace, into the Tribe." *Miwok III*, 5 F.Supp.3d. at 90. (ER:86-90, 231-234) BIA staff met with Mr. Dixie and Ms. Burley and told them the BIA could make federal funds available for the process of Tribal organization, including identifying the Tribe's full membership, drafting a constitution, and establishing a government. (ER:96) Later in 1998, Dixie and Burley signed a tribal resolution captioned "Resolution #GC-98-01" (1998 Resolution), which recited that the membership of the Tribe consisted of "at least" the four Burleys and Dixie, and purported to establish a "general council" consisting of all adult members (the 1998 Council). (ER:129) They did not involve any other members of the Tribe in this process. (ER:313) *See Miwok III*, 5 F.Supp.3d at 90-91.

The BIA, which drafted the 1998 Resolution, described it as "an initial document to get started from" which would facilitate the organization process. (ER:116) After this initial step, the BIA expected Dixie and the Burleys to "identify other persons eligible to participate in the initial organization of the

Tribe" and eventually, with the participation of those other members, to draft a constitution, hold elections and adopt a government. (ER:124-125, 291)

In 1999, Burley submitted a letter to the BIA claiming she had replaced Dixie as the leader of the Tribe under the 1998 Resolution — a claim Mr. Dixie disputed. (ER:133, 137, 482) *See Miwok III*, 5 F.Supp.3d at 91-92. The BIA initially accepted Burley as the head of an interim Tribal council and, from 1999 through 2004, provided that council with federal funds under the Indian Self Determination Act, P.L. 638, for the purpose of organizing the Tribe.[5] (ER:141, 147, 185-188, 253-254) *See California Valley Miwok Tribe v. USA*, 424 F.Supp.2d 197, 200 (D.D.C. Mar. 31, 2006) (*Miwok I*), *aff'd sub nom.*, *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008) (*Miwok II*). *See also Miwok II*, 515 F.3d at 1265 n.6; *Miwok III*, 5 F.Supp.3d at 91, 93 n.10.

During the next few years, Burley submitted a series of proposed Tribal constitutions to the BIA, seeking to demonstrate that the Burleys had properly organized the Tribe. (ER:166, 170, 315) But the constitutions reflected the involvement of only Burley and her two adult daughters, and would have limited

[5] In September 1999, Burley and her daughter Rashel Reznor signed a resolution by which the 1998 Council purportedly established, and transferred governance of the Tribe to, a "Tribal Council" with the same members and the same Chairperson as the 1998 Council. (ER 143) Since both councils include the same members and both depend on the 1998 Resolution for their authority (ER 143, 147), appellees regard them as equivalent and refer to them interchangeably as the 1998 Council.

Tribal membership to only the Burleys and their descendants (*e.g.*, ER:170, 242-243), even though Silvia Burley herself estimated the Tribe's membership at around 250 people (ER:191). *See Miwok II*, 515 F.3d at 1265-1266. The BIA rejected the Burley constitutions (ER:170-171), explaining that Burley "would need to at least attempt to involve the entire tribe in the organizational process before the [BIA] would give approval." *Miwok II*, 515 F.3d at 1265.

C. *Miwok I* and *II*

By letter dated March 26, 2004 (2004 Decision), the BIA rejected another constitution submitted by Burley, informed her that Tribal organization must involve the entire Tribal community, and identified some members of the Tribal community who should be involved. (ER:242-245) The BIA also rescinded its interim recognition of Burley and the 1998 Council and terminated federal funding to the Council (ER:267), stating that "the Tribe has not yet reorganized despite the funds provided by the federal government for that purpose."[6] (ER:258) In a separate decision in February 2005 (2005 Decision), the acting AS-IA informed Burley and Dixie that the BIA "does not recognize any tribal government" for the Tribe. (ER:264-265)

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[6] Burley sued the United States in 2008, alleging the BIA had unlawfully failed to renew funding contracts with the 1998 Council. The case was dismissed for failure to exhaust administrative remedies. *California Valley Miwok Tribe v. Kempthorne*, No. S:08-cv-03164 (E.D. Cal. 2009). (ER:334-335)

Burley sued the United States in the Tribe's name, claiming the BIA had previously recognized the Tribe's government, with her as its leader, and could not "reverse that position" despite her failure to involve the Tribe's members in forming a Tribal government.[7] *Miwok I*, 424 F.Supp.2d at 201. The District of Columbia District Court upheld the BIA's refusal to recognize the Burley government, finding it consistent with the BIA's "responsibility to ensure that [the] Secretary deals only with a tribal government that actually represents the members of a tribe." *Miwok I*, 424 F.Supp.2d at 201. The D.C. Circuit affirmed, holding that Burley's "antimajoritarian gambit deserves no stamp of approval from the Secretary." *Miwok II*, 515 F.3d at 1267.

D. The Burleys' efforts to thwart Tribal organization

In 2006 and 2007, after *Miwok I* was decided, the BIA attempted to assist the Tribal community in the organization process. It published a notice asking Tribal community members to submit documentation to the BIA demonstrating their lineal descent from known historical members, including: (1) individuals listed on the 1915 Census; (2) eligible voters listed on the federal government's 1935 IRA voting list for the Rancheria (*i.e.*, Jeff Davis); and (3) distributees under the Rancheria distribution plan prepared in 1966 (*i.e.*, Mabel Dixie). (ER:331)

[7] The *Miwok I* opinion treated the Burleys' complaint as asking the court to find both the 2004 Decision and the 2005 Decision invalid. *See* 424 F.Supp.2d at 201 n.5.

The BIA received about 500 genealogies in response to the public notice. (ER:398) It reviewed the submissions and prepared a letter to each person, verifying their degree of Indian blood and lineage. (ER:398)

Before the letters could be sent, Burley filed multiple administrative appeals, which prevented the BIA from continuing its assistance. *See California Valley Miwok Tribe v. Pacific Regional Director*, 51 IBIA 103, 104, 2010 WL 415327 (2010). However, Dixie and others were already working to engage the Tribal community in the process of organization, and they continued those efforts, including the drafting of a Tribal constitution with inclusive membership criteria, and the establishment of the Tribal Council. (SER:4-8) The Tribe's organization efforts were open to the entire Tribal community, and included more than 200 adults and approximately 350 children. (SER:6)

In 2010, the Interior Board of Indian Appeals (IBIA) issued a decision on Burleys' appeals, dismissing most of her claims but referring one issue to the AS-IA for decision. *California Valley Miwok Tribe*, *supra*, 51 IBIA at 104. In response to the referral, the AS-IA eventually issued the 2011 Decision. Acknowledging that it marked a "180-degree change of course" from prior BIA decisions regarding this Tribe, the 2011 Decision found that (i) the Tribe's membership was limited to the four Burleys and Yakima Dixie, and (ii) the Tribe

was already organized with a "general council" form of government under the 1998 Resolution — *i.e.*, the 1998 Council. (ER:381-382)

E. *Miwok III*

The Tribe and its Tribal Council challenged the 2011 Decision in *Miwok III*, and the Burleys intervened as defendants. The *Miwok III* court found the 2011 Decision arbitrary, capricious and unlawful because it (*i*) unreasonably assumed the truth of the Burleys' claims that the Tribe was limited to five people, despite a record "replete with evidence" of a much larger Tribal community, and (*ii*) unreasonably assumed that the 1998 Resolution established a valid Tribal government, despite its failure to involve the Tribe's members. *Miwok III*, 5 F.Supp.3d. at 98-100. The court observed that "when an internal dispute questions the legitimacy of the *initial* tribal government, the BIA must ascertain whether the initial government is a duly constituted government" and cannot merely "repeat[] the rhetoric of … federal noninterference with tribal affairs." *Id.* at 100 (italics added; quotation marks and citations omitted). The 2011 Decision's acceptance of the 1998 Council, despite the Council's failure to involve the Tribal community, violated the United States' "distinctive obligation of trust" to the Tribe. *Id.* (quoting *Seminole Nation v. United States*, 316 U.S. 286, 296 (1942)). On December 13, 2013, the district court remanded the 2011 Decision to the BIA for reconsideration consistent with its decision. *Id.* at 101.

F. The 2015 Decision

Following the district court's remand order, both the Burleys and the Tribal Council submitted information to the BIA for use in making its reconsidered decision. (Burley briefings at ER:775, 786, 799, 802, 813, 831, 859; Tribal Council briefings at ER:718, 793, 806, 824, 843, 873.) Two years after the court's remand in *Miwok III*, after considering all the evidence in the record and the courts' decisions in *Miwok I*, *II* and *III*, the AS-IA issued the 2015 Decision. The 2015 Decision unequivocally rejected the Burleys' claims that the Tribe consists of only five members and that the 1998 Resolution established a valid Tribal government. Accordingly, the Decision determined that "Ms. Burley and her family do not represent the [Tribe]." (ER:895)

The 2015 Decision determined that the individuals eligible to participate in the organization of the Tribe are "the Mewuk Indians for whom the [Sheep Ranch] Rancheria was acquired and their descendants." (ER:894) The Decision identified those individuals as: (1) the individuals listed on the 1915 Census and their descendants; (2) the descendants of Rancheria resident Jeff Davis (the only person on the 1935 IRA voter list for the Rancheria); and (3) the heirs of Mabel Dixie, and their descendants (collectively, the Eligible Groups). (ER:894) The 2015 Decision

determined that, consistent with *Miwok I*, *II* and *III*, these individuals must be given an opportunity to take part in any Tribal organization.[8] (ER:894, 896)

The 2015 Decision determined the BIA could not recognize the 1998 Council as a valid Tribal government because "the people who approved the 1998 Resolution … are not a majority of those eligible to take part in the reorganization of the Tribe." (ER:895) As a result of the 2015 Decision, the Burleys do not represent the Tribe and have the same status as any other member of the Eligible Groups.[9] (ER:895)

G. The Tribe's request for recognition and the inception of this litigation.

Responding to the 2015 Decision, the appellee Tribal Council requested that the BIA recognize the Tribal Constitution that the Tribe had adopted through a Tribal election on July 6, 2013, while *Miwok III* was pending. (SER:12) The Tribe's request showed that the election was open to all members of the Eligible

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[8] Recognizing that "the Indians named on the 1915 Terrell Census had relatives in other Calaveras County communities," the 2015 Decision also determined that descendants of Miwok Indians named on the 1929 census of Indians of Calaveras County (1929 Census) may be included in Tribal organization at the discretion of the Eligible Group members. (ER 895)

[9] Based on information the Burleys provided to the BIA, the Tribal Council believes the Burleys are members of the Eligible Groups and thus eligible to participate in Tribal organization. (ER 691) To date, however, the Burleys have chosen not to participate with the rest of the Tribal community, and continue to hold themselves out to the public and governmental agencies as the Tribe. *See* http://californiavalleymiwok.us/index.php/tribal-government/ (last accessed November 28, 2017).

Groups, and documented the outreach and notice to members of the Eligible Groups preceding the election. (SER:52-57) On June 9, 2016, the BIA provided the Burleys with a copy of the Tribal Council's entire recognition request and invited them to provide comments on the process used to conduct the 2013 election. (SER:70) The Burleys instead filed this lawsuit challenging the 2015 Decision.

SUMMARY OF ARGUMENT

The Burleys have failed to show that the 2015 Decision is arbitrary or capricious. The Decision is well reasoned, supported by the record, and consistent with controlling law, including the decisions in *Miwok I*, *II* and *III*. The AS-IA reasonably identified the current Tribal community based on lineal descent; determined that it includes far more than five members; and reaffirmed that the Burleys' 1998 Council is not a valid Tribal government because it did not involve anything close to a majority of that Tribal community. The Burleys' claim that residents of the Rancheria have sole authority to define the Tribe's membership and government, without involving the rest of the Tribal community, has no legal or factual foundation.

Issue preclusion bars the Burleys from relitigating issues that were decided by *Miwok I* and *II*, including (*i*) whether the Tribe's membership is limited to the four Burleys and Yakima Dixie, and (*ii*) whether the 1998 Council established a valid Tribal government that the BIA must recognize. *Miwok I* and *II* necessarily decided those issues by holding that three people did not constitute a majority of the Tribe, and by upholding the BIA's decision that it did not recognize *any* government for the Tribe.

The six-year statute of limitations for lawsuits challenging federal agency action did not bar the AS-IA's 2015 Decision. The statute of limitations

applies to civil actions in federal courts, not to administrative actions such as the 2015 Decision. The *Miwok III* decision, which remanded the 2011 Decision to the BIA for reconsideration, is not before this Court. In any case, the Tribal Council's lawsuit in *Miwok III* presented a timely challenge to the 2011 Decision, which caused a new injury to the Tribe by recognizing the 1998 Council for the first time since 2004.

The AS-IA had the authority to decide that the United States does not recognize a Tribal government based on the 1998 Resolution. The decision whether to recognize a Tribal government lies squarely within the AS-IA's plenary authority over Indian affairs. Furthermore, the AS-IA's decision responded squarely to the *Miwok III* remand order, which directed the AS-IA to consider whether the 1998 Resolution actually established a valid Tribal government.

ARGUMENT

The record shows that, since at least 2004, the BIA has rejected the Burleys' claims to represent the Tribe, and affirmed the rights of Tribal community members to participate in any Tribal organization process. The D.C. district court and court of appeals have affirmed the BIA's position and held that the BIA has a duty to the Tribe to uphold majoritarian principles. This Court should deny the Burleys' attempts to relitigate the issues those courts decided and should uphold the 2015 Decision as a reasonable exercise of the AS-IA's discretion, consistent with the BIA's trust obligations to this Tribe.

I. Controlling law

A. Standard of review

This Court reviews *de novo* the district court's order granting summary judgment to the BIA. *Butte Envtl. Council v. U.S. Army Corps of Eng'rs*, 620 F.3d 936, 945 (9th Cir. 2010). Under the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A), the issue is whether the 2015 Decision was arbitrary or capricious. *San Luis & Delta-Mendota Water Auth. v. Locke*, 776 F.3d 971, 994 (9th Cir. 2014). The APA establishes a "deferential standard of review under which the agency's action carries a presumption of regularity." *Id.* "This traditional deference to the agency is at its highest where a court is reviewing an agency action that required a high level of technical expertise." *Id; Aguayo v. Jewell*, 827 F.3d 1213, 1227 (9th Cir. 2017) (court's review of BIA actions is

"highly deferential"). Under the APA standard, courts must not substitute their judgment for that of the agency, but instead "must uphold the agency decisions so long as the agencies have considered the relevant factors and articulated a rational connection between the facts found and the choice made." *Selkirk Conservation Alliance v. Forsgren*, 336 F.3d 944, 953-954 (9th Cir. 2003) (quotation marks and citation omitted).

B. The Indian Reorganization Act

The IRA, adopted in 1934, authorized Indian tribes to "organize for [their] common welfare" by adopting a tribal constitution and bylaws. 25 U.S.C. § 5123(a).[10] This Tribe has accepted the application of the IRA. (ER:42, 44) The IRA provides that a constitution or bylaws adopted pursuant to subsection 5123(a) must be (*i*) "ratified by a majority vote of the adult members of the tribe" in a special tribal election called by the Secretary, and (*ii*) approved by the Secretary. 25 U.S.C. § 5123(a). Alternatively, IRA subsection 5123(h) allows tribes to "adopt governing documents under *procedures* other than those specified in [Section 5123]." 25 U.S.C. § 5123(h) (italics added). But, as *Miwok I* explained, the reference to "governing documents":

> must be understood as references to documents that have been "ratified by a majority vote of the adult members," as required by subsection [5123](a). Subsection [5123](h) did not repeal the provisions of [5123](a), nor will it be construed to repeal or water

[10] 25 U.S.C. § 5123 was formerly codified at 25 U.S.C. § 476.

> down the protections afforded by the IRA when tribes organize: notice, a defined process, and minimum levels of tribal participation.

Miwok I, 424 F.Supp.2d at 202-203 (rejecting the Burleys' claim that IRA section 5123(h) required the BIA to recognize the Burleys' Tribal government). *See also Miwok II*, 515 F.3d at 1267-1268 ("Congress has made clear, tribal organization under the [IRA] must reflect majoritarian values.").

II. The 2015 Decision was not arbitrary or capricious.

On remand from *Miwok III*, the AS-IA addressed the two key issues that the court had ordered him to reconsider: whether the Tribe is limited to five people, and whether the 1998 Resolution established a valid Tribal government. *See Miwok III*, 5 F.Supp.3d at 99-100. Both of these issues turn on the same question: whether Yakima Dixie and the Burleys had the authority, through the 1998 Resolution, to define the Tribe's membership and establish a Tribal government without involving the rest of the Tribal community. The AS-IA reasonably determined they did not.

The Burleys have failed to show that the AS-IA's decision was arbitrary or capricious. First, *Miwok I* and *II* necessarily decided the central issues in this case, and the Burleys are precluded from relitigating them. Second, the Burleys' sole argument on the merits — that Rancheria residents have exclusive power over Tribal membership and organization — lacks any legal or factual foundation.

Third, the Burleys' procedural arguments do not persuade, because the 2015 Decision was not time-barred and did not exceed the AS-IA's authority.

A. *Miwok I* and *II* determined that the Tribe is not limited to five members and the 1998 Council is not valid.

As a threshold issue, the Burleys are precluded from relitigating the issues of whether the United States is required to recognize the Burleys' tribal government, and whether Tribal membership is limited to five people. These issues were litigated and decided in *Miwok I* and *II*.

Issue preclusion bars a party from relitigating an issue that was necessarily decided in a previous lawsuit involving the same party, which resulted in a final judgment, even if brought in connection with a different claim. *Hydranautics v. FilmTec Corp.*, 204 F.3d 880, 885 (9th Cir. 2000). The issue to be precluded in the second case must be identical to the issue decided in the first case. *Kamilche Co. v. United States*, 53 F.3d 1059, 1062 (9th Cir. 1995), *opinion amended on reh'g sub nom. Kamilche v. United States*, 75 F.3d 1391 (9th Cir. 1996) (discussing the four Restatement factors for determining whether an issue is identical).

1. *Miwok I* upheld the BIA's refusal to recognize the 1998 Council.

In *Miwok I*, the Burleys challenged the BIA's 2004 and 2005 Decisions, which refused to recognize *any* government for the Tribe.[11] (*See* ER:264-265) The Burleys claimed the Tribe had adopted "valid governing documents," which the BIA had previously recognized, and had "lawfully organized pursuant to its inherent sovereign authority." 424 F.Supp.2d at 201. They sought declaratory and injunctive relief to stop the BIA from "trying to reverse" its prior position and to compel federal recognition of their Tribal government. *Id.* Although the Burleys did not explicitly identify the 1998 Resolution as the "valid governing documents" they claimed the BIA had previously recognized, the BIA had never recognized any *other* Tribal governing document — rejecting each of the constitutions the Burleys submitted. *See id.* at 198-200.

In *this* case, the Burleys' complaint alleged that the 2015 Decision "illegally disavowed recognition of the existing governing body of the [Tribe] that was established in 1998," and asked the district court for an order directing the BIA to recognize the 1998 Council. (ER:2290, ¶ 1; ER:2331-2332, ¶ 2) On appeal, they continue to argue that the BIA is "required to accept and … conduct government-

[11] Although *Miwok I* was prompted by the BIA's rejection of the Burleys' constitution, the federal government stated that its "refusal to recognize the [Burleys'] tribal constitution implicitly encompasses any and all tribal governing documents." (ER:309)

to-government relations" with the 1998 Council. Appellants' Brief, ECF No. 9, p. 77 (Burley Brief).

The issue in both cases is identical. In each case, the argument turns on whether the Burleys' government had sufficient support from the Tribal community. *See Kamilche Co.*, *supra*, 53 F.3d at 1062 (discussing Restatement factors). The same legal rule governs both cases: "tribal organization … must reflect majoritarian values." *Miwok II*, 515 F.3d at 1267-1268. The 1998 Resolution and the events leading to its adoption, which the Burleys rely on here, were part of the record in *Miwok I* — a case in which the BIA and the Burleys were also parties. *See Miwok I*, 424 F.Supp.2d at 198 (discussing 1998 Resolution). The Burleys' claims in both cases are closely related — both complaints seek recognition of the Burleys' Tribal council. The courts' prior rejection of the Burleys' antimajoritarian gambit was "simple and unambiguous" and not limited to the specific context of the BIA decisions challenged in *Miwok I* and *II*. *See Int'l Brotherhood of Teamsters v. U.S. Dep't of Transp.*, 861 F.3d 944, 955 (9th Cir. 2017) (finding issues identical although second suit challenged different agency action than first suit).

Miwok I necessarily decided the issue by upholding the 2004 and 2005 Decisions, which stated that the BIA still viewed the Tribe as unorganized and thus did not recognize *any* government for the Tribe 424 F.Supp.2d at 203. The D.C.

Circuit affirmed, resulting in a final judgment on the merits. *Miwok II*, 515 F.3d 1262.

It does not matter whether the Burleys explicitly argued in *Miwok I* that the 1998 Resolution was valid, because that argument is subsumed in the issue of whether the Burleys had "lawfully organized" the Tribe and established a Tribal government the BIA was required to recognize, 424 F.Supp.2d at 201. "[O]nce an *issue* is raised and determined, it is the entire *issue* that is precluded, not just the particular arguments raised in support of it in the first case." *Kamilche Co.*, *supra*, 53 F.3d at 1063 (italics in original) (quoting *Yamaha Corp. of America v. United States,* 961 F.2d 245, 254 (D.C. Cir. 1992), *cert. denied,* 506 U.S. 1078 (1993)). *Miwok I* and *II* necessarily decided that the Burleys had not validly organized the Tribe under the 1998 Resolution — otherwise, the Burleys would have prevailed.[12] *See Miwok II*, 515 F.3d at 1266 (Burley "sued the United States for its failure to recognize the [T]ribe as organized").

2. *Miwok I* necessarily determined that three people are not a majority of the Tribe's members.

The issue of whether Tribal membership is limited to five people was also litigated and necessarily decided in *Miwok I*. The parties "raised and contested this

[12] In addition, a district court in this Circuit has relied on *Miwok I* and *II* to determine that the Tribe did not have a recognizable governing body. *California Valley Miwok Tribe v. Kempthorne*, No. S-08-3164, *23-24 (E.D. Cal. 2009) (*in*

issue in their pleadings," and the court addressed the issue in its judgment. *Kamilche Co.*, *supra,* 53 F.3d at 1062. In *Miwok I*, the BIA defended its refusal to recognize the Burleys' government on the grounds that they had failed to involve the larger Tribal community. 424 F.Supp.2d at 202. The Burleys responded in their brief that the "larger tribal community … are not now, nor have ever been Tribal members," and that "6 individuals … make up the membership of the Tribe."[13] (SER:76) In support, the Burleys made essentially the same arguments they make now — *i.e.*, that the BIA only recognized one member of the Tribe in 1935; that it recognized only one member in preparing the 1966 distribution plan; and that the BIA said in 1998 that the Burleys and Yakima Dixie had the right to participate in Tribal organization. (SER:76, 82)

Miwok I decided the issue, upholding the BIA's position that the Burleys' governing documents did not "reflect the will of a majority of the Tribe's members." 424 F.Supp.2d at 202. *Miwok II* affirmed, noting that the Burleys' tribal council was "handpicked by only a tiny minority," 515 F.3d at 1265, and rejecting the Burleys' "antimajoritarian gambit," *id.* at 1267. As the district court recognized in *this* case, *Miwok I* and *II* "necessarily decided whether three

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the record at ER:342-343) (dismissing action brought by Burley in the name of the Tribe).

[13] Presumably the sixth member the Burleys acknowledged at that time was Yakima's brother Melvin Dixie, who is now deceased. (SER:88)

members constituted a majority of the Tribe." (ER:12.) The Burleys cannot argue now that Tribal membership in 1998 "consisted of only five (5) in number," Burley Brief at 61.

The *Miwok III* court opined, in dicta, that *Miwok I* and *II* had *not* decided the membership issue. 5 F.Supp.3d at 101 n.15. But the district court in this case found that *Miwok III's* characterization of the issues decided by *Miwok I* and *II* was incomplete and not persuasive. (ER:14) Equally unpersuasive is the Burleys' claim that *Miwok III* precludes appellees from arguing that *Miwok I* and *II* have preclusive effect in this case. *See* Burley Brief, pp. 52-53. Among other reasons, *Miwok III* was not subject to appeal and thus was not a "final judgment" for purposes of preclusive effect — a point the Burleys conceded in the district court (ER:1267). *American Hawaii Cruises v. Skinner*, 893 F.2d 1400, 1403 (D.C. Cir. 1990); *see also Alsea Valley All. v. Dep't of Commerce*, 358 F.3d 1181, 1184 (9th Cir. 2004) (order remanding agency action generally not a final decision for purposes of appeal).

B. The AS-IA correctly affirmed the rights of the whole Tribal community to participate in Tribal organization.

Even if *Miwok I* and *II* did not preclude the Burleys from relitigating the central issues in this case, their attack on the 2015 Decision would fail. The Decision implemented fundamental principles of majoritarian rule that the Burleys do not challenge.

The BIA stated in its 2004 Decision that, "[w]here a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of *the whole tribal community*." (ER:242 (italics added).) *Miwok I* upheld the 2004 Decision, citing the IRA's requirement that "tribal actions reflect the will of a majority of the tribal community." *Miwok I*, 424 F.Supp.2d at 201. The D.C. Circuit affirmed, holding that, "as Congress has made clear, tribal organization … must reflect majoritarian values." *Miwok II*, 515 F.3d at 1267-1268. *Miwok III* reaffirmed that the federal government "must ensure that it is dealing with a duly constituted [tribal] government that represents the tribe *as a whole*." *Miwok III*, 5 F.Supp.3d. at 97 (citations omitted; italics added).

The 2015 Decision acknowledged those binding decisions and applied them, concluding that "the actual reorganization of the Tribe can be accomplished only via a process open to the whole tribal community." (ER:895, citing *Miwok II* and *III*.) The Burleys do not contest this principle.

C. The AS-IA reasonably identified the Tribal community as consisting of the Eligible Groups.

Determining whether the Tribe had been successfully organized under the 1998 Resolution necessarily required the AS-IA to identify the "whole Tribal community" that the BIA recognized as eligible to take part in the Tribe's organization. *See Miwok III*, 5 F.Supp.3d at 100 (where a tribe seeks to organize

for the first time, BIA must ensure "the initial tribal government is organized by individuals who properly have the right to do so") (quotation marks and citation omitted). At the same time, the strong federal policy in favor of encouraging tribal independence required that the AS-IA "act so as to avoid any unnecessary interference with [the] tribe's right to self-government." *Wheeler v. United States Dept. of the Interior*, 811 F.2d 549, 553 (10th Cir. 1987). The AS-IA reasonably balanced these requirements by identifying an inclusive Tribal community — the Eligible Groups — and deferring to the Eligible Groups to determine the Tribe's membership criteria as part of the organization process. (ER:894-895) *See Harjo v. Andrus*, 581 F.2d 949, 952 (D.C. Cir. 1978) (affirming district court's order calling for a constitutional referendum by all Creek adults, as an appropriate means to restore "democratic self-government … with maximum participation by tribal members and minimum intrusion by the court").

Consistent with the historical evidence, the BIA's 100-year relationship with the Tribe, and the means by which tribal communities such as this one have traditionally defined themselves, the Eligible Groups consist of all lineal descendants of historical Tribal members (ER:894).

1. Tribal communities typically define themselves through lineal descent from a base roll of historical members.

Tribes are free to establish whatever membership criteria they choose, but the Solicitor of the Interior summarized the usual practice more than 70 years ago:

"In the absence of Congressional legislation, tribal membership is usually acquired by birth into, affiliation with, and recognition by the tribe." 2 Ops. Sol. Int. 1253, 1254 (Mar. 10, 1944). The foremost treatise on Indian law concurs:

> [T]ribal membership or citizenship typically turns on *descent from an individual on a base list or roll*, possession of a specified degree of ancestry from such an individual, domicile at the time of one's birth, or some combination of these criteria.

COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 3.03[2] (2012 ed.) (italics added). *See also Harjo*, *supra*, 581 F.2d at 952 n.7 ("Membership in a [Creek tribal] town is a matter of birthright rather than residence…."). Tribes may impose additional requirements, but they are not required to do so. *See*, *e.g.*, *Lewis v. Norton*, 424 F.3d 959, 960 (9th Cir. 2005) (tribal constitution defining members as lineal descendants of persons named on base roll, with added requirement of one-quarter degree California Indian blood).

"Rancheria" tribes in California are no exception. A California court of appeal explained the traditional membership practices of the Dry Creek Rancheria of Pomo Indians of Northern California prior to organization: "Before the adoption of the articles of association in 1973, the Tribe was governed solely by custom and tradition, under which *any lineal descendant of a historic tribal member was automatically a member* of the Tribe and was recognized as such from birth." *In RE Bridget R.*, 41 Cal.App.4th 1483, 1493 (1996) (superseded by statute on other grounds) (italics added).

2. The BIA's practice of assisting other tribes with initial organization also relies on lineal descent from a base roll.

When other similarly situated Indian tribes have required assistance with the initial organization process, the BIA has advised them in accordance with these principles. For example, AS-IA Ada Deer advised the Ione Band of Miwok Indians in 1994:

> An essential initial step to fully organizing a tribal government and a full relationship with the Federal government is the development of a preliminary membership roll [that] would serve to define the voters on the tribal constitution. The roll should be based on descent from the Miwok families historically associated with the Ione band, as defined by base documents …. [and] should include … the descendants of those on the 1915 [BIA census] list which are still maintaining relations with the Ione Band. … Once a constitution is adopted, the membership criteria and procedures in the constitution would govern the membership.

(ER:1148)

In 2012, AS-IA Kevin Washburn wrote to the Tejon Indian Tribe, reaffirming the government-to-government relationship with the tribe. (ER:1157) He wrote that he was not "attempting [] to decide who are the current citizens of the Tribe. Central to my decision, however, was a determination that the Tribe's citizens were enumerated on and are descended from the 1915 Terrell BIA Census and have maintained their tribal affiliation to 1979 [when the tribe was inadvertently left off the list of federally recognized tribes]." (ER:1157) That is the same census the AS-IA relies on in this case. (ER:892, SER:89-90.)

3. In 2004 and 2007, the BIA recognized the Tribal community as defined through lineal descent from a base roll.

In 2004, the Burleys submitted to the BIA a constitution defining the membership base roll of the Tribe as limited to the four Burleys and Yakima Dixie. The BIA responded in the 2004 Decision that the Burleys' base roll "suggests that this tribe did not exist until the 1990s [when the Burleys contacted Yakima Dixie], with the exception of Yakima Dixie. However, BIA's records indicate … otherwise." (ER:243) The BIA informed the Burleys that the base roll "typically constitutes the cornerstone of tribal membership and … has been the basic starting point and foundation for each of the Miwok tribes in our jurisdiction … ." (ER:243-244) The BIA went on to explain that the base roll "would normally contain the names of individuals listed on historical documents which confirm Native American tribal relationships … [such as] old census rolls, Indian agency rolls, voter rolls, etc." (ER:243)

The BIA further explicated the concept in its 2007 public notice that attempted to facilitate a meeting of the Tribal community (ER:331). The notice defined a base roll that included the persons on the 1915 Census roll, the 1935 IRA voter roll, and the 1966 Sheep Ranch distribution plan. (ER:331)

The method that the BIA recommended to the Burleys in 2004, that it used to identify the Tribal community in its 2007 public notice, and that it consistently recommended to other tribes, is exactly the method the 2015 Decision used to

identify the Eligible Groups. Like the 2007 public notice, the 2015 Decision defined a base roll that included the known historical members of the Tribe, beginning with those named on the 1915 Census and including others derived from the 1935 IRA voter roll and the 1966 Rancheria Act voter list. (ER:894) The Decision then included all lineal descendants of these known members among the Eligible Groups, and deferred to the Eligible Groups to define the Tribe's membership criteria as part of the Tribal organization process. (ER:894-895)

The AS-IA's identification of the Eligible Groups was reasonable in light of the record, appropriately minimized interference in Tribal self-determination, and is entitled to deference. *See Aguayo*, *supra*, 827 F.3d at 1227.

4. The AS-IA was not required to limit the Eligible Groups to Rancheria residents.

The Burleys argue that the AS-IA acted arbitrarily by *not* limiting the Eligible Groups to Rancheria residents, claiming that the BIA had a policy of doing so for rancheria tribes generally, and for this Tribe specifically. Not only does the record refute the Burleys' claims of historic practice, but binding legal authority shows that the BIA lacks the authority to restrict the Tribe's membership or to limit participation in Tribal organization, even if it wanted to.

a. The BIA does not have the authority to limit the Tribe's membership.

A bedrock principle of federal Indian law is that each Indian tribe has the sovereign right to define its own membership unless limited by treaty or federal statute. *E.g.*, *Montana v. U.S.*, 450 U.S. 544, 564 (1981) ("Indian tribes retain their inherent power to determine tribal membership") (citing *U.S. v. Wheeler*, 435 U.S. 313, 322 n.18 (1978)); *Williams v. Gover*, 490 F.3d 785, 789 (9th Cir. 2007); *Adams v. Morton*, 581 F.2d 1314, 1320 (9th Cir. 1978). The BIA has no power to limit that right of tribal self-determination.

(1) *Williams v. Gover* refutes the Burleys' claims.

This Court held in *Williams v. Gover*, *supra*, that the BIA has no authority to limit the membership of a rancheria tribe to residents of the rancheria or to distributees of the rancheria property. In *Williams*, the plaintiffs alleged the BIA had a "policy amounting to a 'rule'" limiting membership in restored rancheria tribes to distributees of the rancheria property and their descendants. 490 F.3d at 790. The court found no evidence that the BIA "had any rule governing tribal membership or suggesting tribal membership criteria in restored rancherias … [or] any rule … regarding who could attend tribal meetings and participate in organizing a tribal government."[14] *Id.* at 791. Furthermore, the court held, "given

[14] In *Williams*, the tribal community organized itself at a meeting that was not limited to distributees, and at which "anyone interested in attending [wa]s

a tribe's sovereign authority to define its own membership, it is unclear how the BIA *could* have any such policy." *Id.* at 790 (italics added).

(2) The IRA prohibits the BIA from limiting the Tribe's membership to Rancheria residents.

Not only has Congress not given the BIA authority to limit the membership of rancheria tribes, as *Williams* recognized, but Congress added subsections 5123(f) and (g) to the IRA in 1994 specifically to prevent the BIA from limiting the membership of tribes like this one. Prior to 1994, the BIA sometimes attempted to impose membership limitations on tribes, such as this one, for which reservations had been established in locations other than their traditional lands.[15] *See Rosales v. Sacramento Area Dir., Bureau of Indian Affairs*, 32 IBIA 158, 164-165, 1998 WL 233748 (1998). *See also* 140 Cong. Rec. S6144, p. 7 (May 19, 1994) (colloquy between Sen. McCain and Sen. Inouye, co-sponsors of S.1654, enacted as P.L. 103-263). In response, Congress enacted P.L. 103-263, adding two provisions to the IRA that were intended to end the BIA's practice and put all tribes on "equal footing." *Rosales*, *supra*, 32 IBIA at 165. Subsection 5123(f) provides:

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welcome." 490 F.3d at 790. Eleven years later, the tribe revised its own membership criteria to "squeeze[] out" the plaintiffs, giving rise to the *Williams* lawsuit. *Id.*

[15] A rancheria is a type of "Indian reservation" for purposes of federal Indian law. (ER:46)

> Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the [IRA], as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe *relative to other federally recognized tribes* by virtue of their status as Indian tribes.

25 U.S.C. §5123(f) (italics added). Subsection 5123(g) contains similar language that applies to administrative decisions already in effect when the law was enacted. *See* 25 U.S.C. § 5123(g). Restricting the Tribe's membership, or participation in Tribal organization, to residents of the Sheep Ranch Rancheria would violate subsection 5123(f). *Rosales*, 32 IBIA at 165 (holding that BIA's attempt to impose blood quantum requirement for membership in the Jamul Indian Village tribe violated subsection (f)).

(3) *Alan-Wilson* and the *Hardwick* settlement do not apply to this Tribe.

Without acknowledging, much less distinguishing, these controlling legal authorities, the Burleys argue the BIA *did* have a historic policy of limiting the membership and organization of California rancheria tribes to those who resided on the rancherias, Burley Brief at 57, which the AS-IA should have applied in his 2015 Decision. The Burleys erroneously rely on an IBIA decision, *Alan-Wilson v.*

Bureau of Indian Affairs, 30 IBIA 241, 1997 WL 215308 (1997), that does not apply to this Tribe.[16]

Alan-Wilson involved the Cloverdale Rancheria, a tribe that was terminated under the California Rancheria Act and later restored to federal recognition under a settlement in *Hardwick v. United States*, No. C 79–1710 SW (N.D.Cal.1983), a class action brought by members of multiple terminated rancherias. 30 IBIA at 245-246. The question in *Alan-Wilson* was who had the right to participate in organization of the tribes that were parties to the *Hardwick* settlement. *Id.* at 253-254. The BIA regarded the answer as determined solely by the *Hardwick* stipulated judgment, which defined a class consisting of distributees who had received assets of the rancherias, and their descendants. *Id.* *Alan-Wilson* says nothing about the organization of *this* Tribe, which was never terminated and was not a party to the *Hardwick* stipulated judgment.

The Burleys cite *Smith v. U.S.* and *Duncan v. Andrus* as evidence that the BIA restricted organization of rancheria tribes to distributees or residents, consistent with the *Hardwick* settlement, "whether or not [the tribes] were terminated" and irrespective of their participation in *Hardwick*. Burley Brief at 59.

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[16] Even if the Burleys *were* correct that the BIA had a historic practice of limiting membership in rancheria tribes like this Tribe, it would show, at most, a past pattern of illegal behavior by the BIA that the AS-IA properly declined to continue in the 2015 Decision. *See Williams*, *supra*, 490 F.3d at 790 (BIA could not have a policy restricting membership in rancheria tribes).

See Smith v. U.S., 515 F.Supp. 56 (N.D. Cal. 1978); *Duncan v. Andrus*, 517 F.Supp. 1 (N.D. Cal. 1977). This claim is incorrect, as the IBIA found in *Alan-Wilson*:

> The *Smith* decision did not concern the reorganization of a tribal government; instead, it dealt with questions of whether the Hopland Rancheria was properly terminated and to whom the United States was liable for rancheria property lost or destroyed … . On its face, *Smith* does not address the question of who could reorganize the tribal government of the Hopland Rancheria or any other rancheria.

30 IBIA at 254. *See Smith*, *supra*, 515 F.Supp. at 59-60.

Likewise, *Duncan* addressed restoration of federal benefits, not tribal organization. *See Duncan*, *supra*, 517 F.Supp. at *6 ("[D]istributees and their families must be given the opportunity to regain federal benefits lost through termination.").

The Burleys' claim that *Alan-Wilson* demonstrates a BIA policy equating tribal membership with rancheria residence, Burley Brief at 57, also fails. Although the *Alan-Wilson* panel discussed the historic practices of the BIA in managing the California rancherias, the panel discussed only the BIA's assignment of allotments (the right to occupy certain portions of a rancheria), not criteria for membership. *See Alan-Wilson*, 30 IBIA at 243 ("The record shows that the Department managed the Cloverdale Rancheria through, for example, revoking assignments to individuals who failed to use the assigned lot for a period of time…"). The historic practice for determining *membership* in rancheria tribes that

were not parties to *Hardwick* is summed up seven pages later: "Unorganized Federally recognized tribes would look to historical records and rolls to determine recognized membership for organizational purposes." *Id.* at 250 (quoting BIA Regional Director's decision).

In any case, to the extent the Burleys suggest that *Alan-Wilson*, *Smith* or *Duncan* establishes a "rule" or "policy" limiting the organization of rancheria tribes, *Williams* forecloses their argument.[17] *Williams*, supra, 490 F.3d at 790.

(4) *Montoya* does not limit Tribal membership to Rancheria residents.

Because the BIA did not have, and could not legally have, a practice of restricting membership in rancheria tribes, the Burleys' argument that the AS-IA erroneously failed to *apply* such a practice to the Tribe, because of his mistaken focus on the Rancheria's size, also fails. *See* Burley Brief at 70-73. Moreover, the Burleys' citation to *Montoya v. United States* does not support their claim that the Tribe's members needed to move onto the one-acre Sheep Ranch Rancheria in order to become part of a recognized "tribe" rather than a "band." *Montoya* provided an early definition of a "tribe" for purposes of the Indian Depredation

[17] The Burleys explicitly argued, before the district court, that *Hardwick* established a "rule" that limits membership and organization of rancheria tribes, including this Tribe, to distributees and their descendants. They have abandoned that argument in their opening brief on appeal and have thus waived it. *Farmer v. McDaniel*, 666 F.3d 1228, 1233 n.5 (9th Cir. 2012), *vacated on other grounds*, 692 F.3d 1052.

Act, defining it, in part, as a body of Indians "inhabiting a particular though sometimes ill-defined territory." *Montoya v. United States*, 180 U.S. 261, 266 (1901). This Tribe's members already *did* inhabit a particular though ill-defined territory in 1915: they were "living in and near the old decaying mining town known and designated on the map as 'Sheepranch.'" (ER:27)

In addition, Montoya's distinction between a "tribe" and a "band" is not relevant here. This case is controlled not by the Indian Depredation Act but by the IRA, which defines a "tribe" as, *inter alia*, "any Indian tribe [*or*] organized band." 25 U.S.C. § 5129. *Montoya* is also irrelevant because there is no dispute about whether the United States recognizes this Tribe as a "tribe," and *Montoya* says nothing about whether any individual Indian is a member of a particular tribe.

(5) The IRA does not limit Tribal membership to Rancheria residents.

Finally, the Burleys' claim that the IRA defines a "tribe" as the "Indians residing on one reservation," Burley Brief at 73, misleads the Court by omission. The IRA defines a "tribe" as "any Indian tribe, organized band, pueblo, *or* the Indians residing on one reservation." 25 U.S.C. § 5129 (italics added). Residence on a reservation is not a prerequisite for tribal status under the IRA.

b. The BIA has never attempted to limit Tribal membership to Rancheria residents.

The Burleys make several attempts to show that, for *this* Tribe, the BIA historically recognized only residents of the Rancheria as Tribal members. Each of their claims is incorrect.

(1) The 1935 IRA referendum did not limit the Tribe's membership to Rancheria residents.

The record shows that Jeff Davis was the only voter in the 1935 IRA referendum. (ER:40) It does not follow, and the record does not show, that the BIA "recognized [Davis] as having the sole authority to organize the Tribe," as the Burleys claim, Burley Brief at 54. The IRA referenda were held to determine whether tribes would "exclude themselves from the application of the [IRA]" (ER:38), not for the purpose of organizing, *see* 25 U.S.C. § 5125, and the Burleys concede that Davis' vote did not have the effect of organizing the Tribe, Burley Brief at 54.

The IRA prescribes that eligible voters for the referenda include only the adults living on a reservation, 25 U.S.C. § 5125, but it does not purport to restrict any tribe's membership, or those eligible to participate in any subsequent tribal organization process, to reservation residents. On its face, the IRA voter list for the Tribe determined nothing other than who was eligible to vote in the IRA

referendum (ER:40), and the Burleys have not shown that the list should be given any greater significance.

(2) The 1966 distribution plan did not limit the Tribe's membership to Rancheria residents.

The Sheep Ranch distribution plan that the BIA prepared in 1966 also did not limit the Tribe's membership or determine who had authority to organize the Tribe, as the Burleys argue. *See* Burley Brief at 54. The purpose of a distribution plan was to wind up the United States' relationship with a rancheria by distributing property the federal government held in trust for the tribe — not to define its membership or provide for tribal organization. *See Hopland Band of Pomo Indians v. U.S.*, 855 F.2d 1573, 1574-1575 (Fed. Cir. 1988). Under the regulations in effect at the time, distribution plans for unorganized rancheria tribes like this one were based on those individuals who held formal or informal allotments or assignments to use the rancheria property (*i.e.*, residents), *not* on the membership of the tribe. *Compare* 25 C.F.R. § 242.3(a) (1965) *with* 25 C.F.R. § 242.3(b) (1965) (*in the record at* ER:61). (*See also* ER:70-71.)

Moreover, in enacting the California Rancheria Act, Congress disclaimed any intent to define the membership of rancherias. A 1958 Senate Report discussing the Act states, "Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well

defined." Sen. Report 1874, pp. 3, 6, 10 (July 22, 1958). *See also* House Report 1129, pp. 4, 8, 23 (Aug. 13, 1957) (same). The Senate Report also shows that it was common for members of California rancherias to come and go as residents of the rancheria properties, Sen. Report 1874, pp. 13-50, and this did not prevent non-residents from being considered members of those tribes, *id.* at 39 (discussing Redwood Rancheria).

As discussed in Part II.C.4.a.(3), *infra*, some Rancheria tribes that were terminated under the California Rancheria Act and later restored to federal recognition under the stipulated judgment in the *Hardwick* case did use distribution plans to identify the individuals entitled to participate in the subsequent reorganization of those tribes. But the *Hardwick* judgment does not apply here because (i) this Tribe was not a party to the *Hardwick* case; (ii) unlike the tribes involved in *Hardwick*, this Tribe was never terminated; and (iii) the BIA could not impose the requirements of the *Hardwick* settlement agreement on other rancheria tribes seeking to organize, even if it sought to do so. *Williams*, *supra*, 490 F.3d at 791.

The distribution plan prepared for this Tribe identified Ms. Dixie as "the only Indian entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria" (ER:49), indicating that she was the only Miwok resident of the Rancheria in 1966 — nothing more. (ER:61) It granted no authority to Ms. Dixie

or her heirs. Likewise, the fact that other Tribal members were not allowed to vote on the preparation of the distribution plan indicates only that they were *not* residents of the Rancheria. (ER:69-75) It says nothing about their membership status or their right to participate in Tribal organization. The Burleys' current argument that the distribution plan defined the Tribe's membership contradicts their representations to this Court in 2004, when they argued that the BIA unlawfully "excluded tribal *members* from participating in the distribution plan, electing instead to allow only one person to participate." (ER:257, italics added; *see also* ER:308)

The 1971 probate order determining Mabel Dixie's heirs also proves nothing. The order only identified the heirs to Ms. Dixie's estate (ER:82); it said nothing about Tribal membership or organization — nor could it. Because Mabel Dixie never had the sole power to determine Tribal membership and governance, her sons could not inherit that power from her, regardless of what the probate order said.[18] The Burleys' attempt to equate a "vested interest" in the Rancheria property

[18] That the BIA may have erroneously stated in 1998 that Ms. Dixie's heirs could initially organize the Tribe (ER:124) makes no difference now; the BIA has long since corrected its error and clarified that organization must "reflect the involvement of the whole tribal community." (ER:242) In any case, the BIA's 1998 letter did not state that Ms. Dixie's heirs were the *only* individuals with the right to participate in Tribal organization; it stated the BIA's understanding that Yakima and Melvin Dixie, and the Burleys, would "identify *other* persons eligible to participate in the initial organization of the Tribe." (ER:124, italics added)

with membership rights, Burley Brief at 61, is also at odds with their pleadings before this Court in 2004. They argued then that Yakima Dixie was *not* a Tribal member in 1993 because "Tribal membership cannot be dictated by inheritance rights to land" (SER:98).

D. The 1998 Resolution did not reflect the involvement of a majority of the Eligible Groups.

Having reasonably identified the Eligible Groups, the AS-IA determined that they include "far more than five people" (ER:894), and, accordingly, "the people who approved the 1998 Resolution (Mr. Dixie, Ms. Burley, and possibly Ms. Burley's daughter Rashel Reznor) are not a majority of those eligible to take part in the reorganization of the Tribe" (ER:895). He concluded that the BIA could not recognize the 1998 Resolution as establishing a "tribal governing structure" or as defining the Tribe's membership." (ER:895)

The AS-IA based his conclusion on both the prior court decisions and the record before him. (ER:895) As explained in Part II.A, *infra*, *Miwok I* and *II* necessarily determined that the Burleys did not constitute a majority of the Tribal community, and the D.C. Circuit took judicial notice that the Burleys themselves estimated the Tribal community to include 250 people, *Miwok II*, 515 F.3d at 1265 n.5. The AS-IA properly took those decisions into account.

The record confirms the courts' conclusions, showing that the BIA has been aware, for a century, of a Tribal community of Eligible Group members, most of

whom did not reside on the Rancheria. The 1915 Census identified 13 Tribal members living in and near Sheepranch, even before the Rancheria was acquired. A 1935 Indian Office memorandum showed the "total population" of the Tribe as 16 people, even though only one person, Jeff Davis, was found to reside on the Rancheria around the same time. (ER:379, 894, 894 n.19, 904) In 1966, the BIA corresponded with Lena Hodge Shelton and Dora Mata, who lived in Sheepranch, adjacent to the Rancheria, regarding the omission of Lena, Dora, and Tom Hodge, Josie Mata, and Valerie Mata from the list of those eligible to vote on the distribution plan for the Rancheria. (ER:69-75) Lena Hodge and Tom Hodge are individuals named in the 1915 Census (ER:29), and Dora, Josie and Valerie are Lena's daughter and granddaughters, respectively (ER:73) — *i.e.*, all five are Eligible Group members (*see* ER:894).[19]

In 2004, BIA official Brian Golding testified that the BIA in 1997 was aware of the continued existence of the Tribe as a "community of Indians in Calaveras County." (ER:250) Also in 2004, when the Burleys submitted a membership base roll that included only themselves and Yakima Dixie, the BIA responded that the Burleys' document "suggests that this tribe did not exist until the 1990s, with the exception of Yakima Dixie. However, BIA's records indicate … otherwise."

[19] The correspondence did not reject the status of the Sheltons, Hodges and Matas as part of the Tribe; it only found they did not live on the Rancheria.

(ER:243) Citing the BIA's "relations over the last several decades with members of the tribal community in and around Sheep Ranch," the BIA identified various groups that should have been included in Tribal organization efforts, including the descendants of Merle Butler, Tilly Jeff, Lenny Jeff and Lena Shelton. (ER:243)

After publishing its 2007 public notice soliciting members of what the 2015 Decision called the Eligible Groups (ER:331), the BIA received and reviewed genealogies from 503 Tribal community members (the BIA did not say how many of those were children). (ER:398) That number is consistent with the Tribal roster that the appellee Tribal Council provided the AS-IA as part of a briefing in May 2011, which included 242 adult members and more than 300 children (names of children withheld for privacy reasons). (ER:456) At least 83 of those adults were over the age of 18 in 1998. (ER:596) Declarations submitted with the 2011 briefing provided genealogical information for each of the individual Tribal Council members and, by extension, for their descendants, and for several other members. (ER:408, 417, 426, 432, 439, 446, 465, 471, 477)

The information in the record amply supports the AS-IA's determination that the Burleys and Yakima Dixie did not constitute a majority of the Tribe in 1998. As a result, they could not organize the Tribe — whether under the IRA's election procedures, or "outside the IRA framework" under IRA subsection

5123(h), as the Burleys claim to have done, Burley Brief at 76, 79.[20] *See Miwok I*, 424 F.Supp.2d at 202-203 ("[IRA] Subsection [5123](h) did not … repeal or water down the protections afforded by the IRA when tribes organize: notice, a defined process, and minimum levels of tribal participation.").

E. The 2015 Decision was not time-barred.

Relying on the six-year statute of limitations for claims against the United States, found at 28 U.S.C. § 2401(a), the Burleys argue that both the 2015 Decision and *Miwok III* erred by considering an untimely challenge to the validity of the 1998 Resolution that the Tribe first raised in *Miwok III*. Burley Brief at 62, 66. The Burleys' argument fails because (*i*) the statute of limitations does not apply to the 2015 Decision; (*ii*) the Burleys cannot obtain review of *Miwok III* in this Court, and (*iii*) the Tribe timely challenged the AS-IA's 2011 Decision — not the 1998 Resolution — in *Miwok III*.

1. The statute of limitations does not apply to the 2015 Decision.

On its face, the statute of limitations does not apply to the 2015 Decision or to any claim presented to an agency decision maker; it applies to "civil action[s] commenced against the United States" in federal court. 28 U.S.C. § 2401(a); *see*, *e.g.*, *Cedars-Sinai Med. Ctr. v. Shalala*, 125 F.3d 765, 770 (9th Cir. 1997). Thus,

[20] IRA subsection 5123(h) had not been enacted when the 1998 Resolution was adopted. *See* P.L. 108-204, 118 Stat. 542 (Mar. 2, 2004) (adding subsection).

the Burleys have not raised, and cannot raise, a genuine statute-of-limitations issue with regard to the 2015 Decision.

2. The Burleys cannot obtain review of *Miwok III* in this Court.

Although cast as a challenge to the 2015 Decision, the Burleys' statute-of-limitations argument plainly asks this Court to overturn *Miwok III* on the ground that "there was no legal basis for the U.S. District Court … to vacate the AS-IA's 2011 Decision." Burley Brief at 67. But the Ninth Circuit lacks jurisdiction to review an order by the D.C. District Court. *Posnanski v. Gibney*, 421 F.3d 977, 979-980, 980 n.2 (9th Cir. 2005) (no jurisdiction to review transfer order by out-of-circuit district court). The D.C. Circuit Court of Appeals is the exclusive forum for review of the *Miwok III* decision. 28 U.S.C. § 1294(1).

The Burleys complain that they were unable to immediately appeal the decision in *Miwok III*, because an order remanding an agency decision is ordinarily not final for purposes of appeal. That is true, see *Pueblo of Sandia v. Babbitt*, 231 F.3d 878, 880 (D.C. Cir. 2000), but it does not expand the jurisdiction of this Court. If the Burleys sought appellate review of the *Miwok III* decision, the proper procedure was to challenge the 2015 Decision in the D.C. district court, and then appeal the district court's decision to the D.C. Circuit, if necessary — at which time the Burleys could present any challenges arising from the *Miwok III*

proceedings. *American Hawaii Cruises*, *supra*, 893 F.2d at 1403; *accord*, *Alsea Valley All., supra,* 358 F.3d at 1185.

Instead of pursuing that relief, the Burleys made a calculated choice to challenge the 2015 Decision in the Eastern District of California, rather than in the District of Columbia, where the courts had twice rejected their claims. To the extent appellate review of *Miwok III* is not available to the Burleys, they have waived it through their tactical forum selection. Even if this Court had jurisdiction to relieve the Burleys from the consequences of their decision by reviewing the *Miwok III* decision — which it does not — equity would not demand that the Court do so. *See*, *e.g.*, *In re Pac. Far E. Lines, Inc.*, 889 F.2d 242, 250 (9th Cir. 1989) (denying review to a "litigant who has let the normal appeals channels lapse" and "seeks to have a second bite at the apple"). "There must be an end to litigation someday, and free, calculated, deliberate choices are not to be relieved from." *Ackerman v. United States*, 340 U.S. 193 (1950).

The Burleys' claim that *Miwok III* erroneously overturned the 2011 Decision is not properly before this Court.[21]

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[21] Likewise, the Burleys' request that this Court reinstate the 2011 Decision, *see* Burley Brief at 83, reflects a misunderstanding of the role of a reviewing court. Under the APA, if the record does not support the agency's decision, then the court must remand to the agency for additional explanation. *See Florida Power & Light Co. v. Lorion,* 470 U.S. 729, 743–44 (1985). "The reviewing court is not entitled to conduct a de novo inquiry into the matter being reviewed and to reach its own conclusions based on such an inquiry." *Id*. at 744.

3. The Tribe's challenge in *Miwok III* was timely.

The statute of limitations requires that all civil actions against the United States be filed within six years after the right of action first accrues. 28 U.S.C. § 2401(a). "The moment at which a cause of action first accrues within the meaning of Section 2401(a) is when 'the person challenging the agency action can institute and maintain a suit in court.'" *Muwekma Ohlone Tribe v. Salazar*, 813 F.Supp.2d 170, 190–191 (D.D.C. 2011), *aff'd*, 708 F.3d 209 (D.C. Cir. 2013) (quoting *Spannaus v. U.S. Dep't of Justice,* 824 F.2d 52, 56 (D.C.Cir.1987)).

In *Miwok III*, the Tribe and its Tribal Council challenged the 2011 Decision by the AS-IA, which made a "180-degree change of course from positions defended by [the BIA] in administrative and judicial proceedings over the [prior] seven years" (ER:382). Specifically, the 2011 Decision reversed the BIA's prior determinations that it did not recognize the Burleys' tribal government, which the courts had upheld in *Miwok I* and *II*, and recognized the 1998 Resolution and 1998 Council as a valid Tribal government. (ER:388) In doing so, the 2011 Decision caused a new injury to the Tribe, its members and the Tribal Council.

The Tribe's right of action accrued when the AS-IA issued the 2011 Decision, on August 31, 2011 (ER:381). *See Muwekma Ohlone Tribe*, *supra*, 813 F.Supp.2d at 190-191. The Tribe had no right of action prior to August 31, 2011, because (*i*) the 2011 Decision had not yet been issued, and (*ii*) the agency decisions

in effect before that date, including the 2004 and 2005 Decisions, did not recognize the 1998 Resolution or 1998 Council. (ER:264-265) The Tribe filed its first amended complaint on October 17, 2011, less than seven weeks after the right of action accrued. (ER:516)

The Burleys appear to argue that the 2011 Decision did not make a new decision subject to legal challenge, because the BIA already recognized the 1998 Council — presumably intending to suggest that the Tribe should have challenged that recognition earlier.[22] *See* Burley Brief at 65-66. This strained reading finds no support in the record. The 2005 Decision determined that the BIA "[did] not recognize *any* tribal government" for the Tribe; that Decision "rendered moot" any prior challenge to the BIA's acknowledgment of Tribal leadership. (ER:264-265, italics added) *See also California Valley Miwok Tribe v. Jewell*, 967 F.Supp.2d 84, 93 (D.D.C. Sept. 6, 2013) (denying Burleys' motion to dismiss claims in *Miwok III* on statute of limitations grounds). In recognizing the 1998 Council six years later, the 2011 Decision acknowledged that it marked a complete reversal from the BIA's prior position.[23] (ER:382)

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[22] The Burleys do not actually offer any date on which they believe the Tribe's right of action first accrued, *see* Burley Brief at 62-67, and have thus waived whatever argument they might have made. *Farmer*, *supra*, 666 F.3d at 1233 n.5.

[23] The Burleys rely heavily on the AS-IA's comment, in the 2015 Decision, that the 1998 Resolution "undoubtedly *seemed* a reasonable, practical mechanism for establishing a tribal body to manage the process of organizing the tribe." (ER:895)

The Burleys also argue the Tribe's action in *Miwok III* was untimely because it raised "the *issue* of the validity of the 1998 Resolution." Burley Brief at 63 (italics added, underlining omitted). The Burleys confuse the statute of limitations with the doctrine of issue preclusion. The statute of limitations does not bar issues, or arguments; it bars "civil actions[] commenced against the United States." 28 U.S.C. § 2401(a).

4. The BIA is free to deny recognition of a Tribal government at any time.

Even if the BIA had not previously rejected the 1998 Resolution, that would not prevent the 2015 Decision from doing so. The BIA can, and must, withdraw recognition of a tribal government if it determines that the government was not adopted by those with a right to do so. *See Timbisha Shoshone Tribe v. U.S. Department of Interior*, 824 F.3d 807, 809-810 (9th Cir. 2016) (summarizing BIA's recognition and subsequent repudiation of several governments for the Timbisha Shoshone tribe). *See also Alan-Wilson*, *supra*, 30 IBIA at 247-248 ("By letter dated August 19, 1994, the [BIA] Superintendent withdrew his recognition of Wilson's government," stating that the recognition had been "administratively in error…."). Recognition of a Tribal government in error, regardless of the justification, cannot convert an illegitimate power grab into a valid government.

That remark does not indicate approval of the 1998 Resolution — as the very next sentence clarifies: "But the actual reorganization of the Tribe can be accomplished

Ransom v. Babbitt, 69 F.Supp.2d 141, 143-45, 151-53 (D.D.C. 1999) (tribal constitution, though recognized for a time by the BIA, never established a valid tribal government because it was not ratified by a majority of the tribe's members).

F. The AS-IA had the authority to deny recognition of the 1998 Council.

In finding that the United States does not recognize a Tribal government based on the 1998 Resolution, the AS-IA properly exercised his plenary authority over Indian affairs. The Burleys argue that the IBIA never referred the issue to the AS-IA for decision, but they fail to explain why this would deprive the AS-IA of the authority to address the issue, *see* Burley Brief at 67-70, and have thereby waived any legal argument they might have. *Farmer v. McDaniel*, 666 F.3d 1228, 1233 n.5 (9th Cir. 2012), *vacated on other grounds*, 692 F.3d 1052 ("This court reviews only issues which are argued specifically and distinctly in a party's opening brief ... and a bare assertion does not preserve a claim." (quotation marks and citation omitted)).

In any case, the AS-IA acted well within his authority. Congress has charged the Secretary of the Interior with comprehensive authority over Indian affairs, 43 U.S.C. § 1457, and the Secretary has delegated this responsibility to the BIA, which is headed by the AS-IA. *See Miwok I*, 424 F.Supp.2d at 201 n.6. The AS-IA is the final decision maker for the Department of Interior on matters

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only via a process open to the whole tribal community." (ER:895)

regarding Indian affairs, 25 C.F.R. § 2.6(c), with authority to review or take jurisdiction over any decision made by any official within the BIA, including appeals directed to the IBIA, 25 C.F.R. §§ 2.4(c), 2.20. His responsibilities under the IRA include "supervising tribal elections and ensuring their fundamental integrity." *Miwok I*, 424 F.Supp.2d at 202 (citation omitted).

Indeed, *Miwok III* rejected the argument that the AS-IA lacked jurisdiction to address issues in the 2011 Decision that were not referred to him by the IBIA, including whether to recognize the 1998 Council. 5 F.Supp.3d at 101 n.5. The court ruled that a "wealth of authority … establishes the Secretary's 'plenary administrative authority in discharging the federal government's trust obligations to Indians.'" *Id.* (quoting *Udall v. Littell,* 366 F.2d 668, 672 (D.C.Cir.1966)).

Finally, the AS-IA's determination that the 1998 Resolution did not establish a valid Tribal government responded directly to the remand order in *Miwok III*, which found that the 2011 Decision had unreasonably assumed the legitimacy of the 1998 Council. 5 F.Supp.3d at 99-100.

III. Mr. Dixie's conduct could not ratify the 1998 Council.

The Burleys claim that Yakima Dixie has admitted he resigned as chairman of the 1998 Council in 1999, and they argue the 2015 Decision should have considered this claim as evidence that Mr. Dixie previously believed the 1998 Resolution to be valid. Burley Brief at 82. But it is irrelevant whether Mr. Dixie

resigned from the 1998 Council, or whether he considered the 1998 Resolution valid at the time. The AS-IA's decisions to *not* recognize the 1998 Council — in 2005 and again in 2015 — did not depend on who claimed to lead the Council or on Mr. Dixie's opinion of its validity. The decisions were based on the failure to include the whole Tribal community in forming a Tribal government. (ER:895) In light of that failure, no act by Mr. Dixie could ratify the 1998 Council.

IV. The Court should not consider the Burleys' extra-record materials.

The Burleys have included in their Excerpts of Record hundreds of pages of extra-record documents that they asked the district court to take judicial notice of (ER:1321-1334, 1496-1744), or that they submitted without any explanation (ER:1801-2196). The district court denied the requests for judicial notice, observing that the Burleys offered no explanation of "how the supplemented documents qualify under any exception" to the rule that review of agency action is limited to the administrative record. (ER:10-11) The Burleys do not challenge that denial in their opening brief and have waived the opportunity to do so. *Farmer*, *supra*, 666 F.3d at 1233 n.5. This Court should not consider the extra-record materials in reviewing the 2015 Decision.[24] *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 975 (9th Cir. 2006).

[24] Much of the extra-record material was offered for the purpose of arguing that Mr. Dixie falsely claimed not to have resigned as chairman of the 1998 Council.

V. Conclusion

The Burleys have failed to show that the 2015 Decision was arbitrary, capricious or an abuse of discretion. Appellees request that the Court affirm the judgment of the district court in favor of the BIA and the Tribe.

November 29, 2017

Respectfully submitted,

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By */s James F. Rusk*
JAMES F. RUSK

See, *e.g.*, Burley Brief at 15. This argument is irrelevant, as explained in Part III, *infra*.

STATEMENT OF RELATED CASES

Appellees the California Valley Miwok Tribe, et al., are unaware of any related case pending in the Ninth Circuit.

/s James F. Rusk
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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2017, I electronically filed the foregoing Answering Brief by Appellees The California Valley Miwok Tribe, *et al.*, with the Clerk of the Court by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Respectfully submitted,

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☐ This brief is accompanied by a motion for leave to file a longer brief pursuant to Ninth Circuit Rule 32-2 (a) and is [ ] words or [ ] pages, excluding the portions exempted by Fed. R. App. P. 32 (f), if applicable. The brief's type size and type face comply with Fed. R .App. P. 32(a)(5) and (6).

☐ This brief is accompanied by a motion for leave to file a longer brief pursuant to Ninth Circuit Rule 29-2 (c)(2) or (3) and is [ ] words or [ ] pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

☐ This brief complies with the length limits set forth at Ninth Circuit Rule 32-4.
The brief is [ ] words or [ ] pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

Signature of Attorney or Unrepresented Litigant: s/ James F. Rusk

Date: Nov 29, 2017

("s/" plus typed name is acceptable for electronically-filed documents)

ADDENDUM

5 U.S.C. § 706 1

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140 Cong. Rec. S6144 (May 19, 1994) 35

House Report 1129 (Aug. 13, 1957) 44

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KeyCite Yellow Flag - Negative Treatment
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KeyCite Yellow Flag - Negative TreatmentProposed Legislation

United States Code Annotated
Title 5. Government Organization and Employees (Refs & Annos)
Part I. The Agencies Generally
Chapter 7. Judicial Review (Refs & Annos)

5 U.S.C.A. § 706

§ 706. Scope of review

Currentness

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall--

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be--

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

CREDIT(S)

(Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

Notes of Decisions (3855)

5 U.S.C.A. § 706, 5 USCA § 706
Current through P.L. 115-84.

End of Document

United States Code Annotated
Title 25. Indians (Refs & Annos)
Chapter 45. Protection of Indians and Conservation of Resources (Refs & Annos)

25 U.S.C.A. § 5123
Formerly cited as 25 USCA § 476

§ 5123. Organization of Indian tribes; constitution and bylaws and amendment thereof; special election

Currentness

(a) Adoption; effective date

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.

(b) Revocation

Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) of this section for the adoption of a constitution or bylaws.

(c) Election procedure; technical assistance; review of proposals; notification of contrary-to-applicable law findings

(1) The Secretary shall call and hold an election as required by subsection (a) of this section--

(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or

(B) within ninety days after receipt of a tribal request for election to ratify an amendment to the constitution and bylaws.

(2) During the time periods established by paragraph (1), the Secretary shall--

(A) provide such technical advice and assistance as may be requested by the tribe or as the Secretary determines may be needed; and

(B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws.

(3) After the review provided in paragraph (2) and at least thirty days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws.

(d) Approval or disapproval by Secretary; enforcement

(1) If an election called under subsection (a) of this section results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within forty-five days after the election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws.

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) Vested rights and powers; advisement of presubmitted budget estimates

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

(f) Privileges and immunities of Indian tribes; prohibition on new regulations

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

(g) Privileges and immunities of Indian tribes; existing regulations

Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on May 31, 1994, and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.

(h) Tribal sovereignty

Notwithstanding any other provision of this Act--

(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).

CREDIT(S)

(June 18, 1934, c. 576, § 16, 48 Stat. 987; Pub.L. 100-581, Title I, § 101, Nov. 1, 1988, 102 Stat. 2938; Pub.L. 103-263, § 5(b), May 31, 1994, 108 Stat. 709; Pub.L. 106-179, § 3, Mar. 14, 2000, 114 Stat. 47; Pub.L. 108-204, Title I, § 103, Mar. 2, 2004, 118 Stat. 543.)

Notes of Decisions (162)

25 U.S.C.A. § 5123, 25 USCA § 5123
Current through P.L. 115-84.

End of Document

United States Code Annotated
Title 25. Indians (Refs & Annos)
Chapter 45. Protection of Indians and Conservation of Resources (Refs & Annos)

25 U.S.C.A. § 5125
Formerly cited as 25 USCA § 478

§ 5125. Acceptance optional

Currentness

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

CREDIT(S)

(June 18, 1934, c. 576, § 18, 48 Stat. 988.)

Notes of Decisions (5)

25 U.S.C.A. § 5125, 25 USCA § 5125
Current through P.L. 115-84.

End of Document

United States Code Annotated
Title 25. Indians (Refs & Annos)
Chapter 45. Protection of Indians and Conservation of Resources (Refs & Annos)

25 U.S.C.A. § 5129
Formerly cited as 25 USCA § 479

§ 5129. Definitions

Currentness

The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

CREDIT(S)

(June 18, 1934, c. 576, § 19, 48 Stat. 988.)

Notes of Decisions (36)

25 U.S.C.A. § 5129, 25 USCA § 5129
Current through P.L. 115-84.

End of Document

United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part IV. Jurisdiction and Venue (Refs & Annos)
Chapter 83. Courts of Appeals (Refs & Annos)

28 U.S.C.A. § 1294

§ 1294. Circuits in which decisions reviewable

Currentness

Except as provided in sections 1292(c), 1292(d), and 1295 of this title, appeals from reviewable decisions of the district and territorial courts shall be taken to the courts of appeals as follows:

(1) From a district court of the United States to the court of appeals for the circuit embracing the district;

(2) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

(3) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

(4) From the District Court of Guam, to the Court of Appeals for the Ninth Circuit.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 930; Oct. 31, 1951, c. 655, § 50(a), 65 Stat. 727; Pub.L. 85-508, § 12(g), July 7, 1958, 72 Stat. 348; Pub.L. 86-3, § 14(c), Mar. 18, 1959, 73 Stat. 10; Pub.L. 87-189, § 5, Aug. 30, 1961, 75 Stat. 417; Pub.L. 95-598, Title II, § 237, Nov. 6, 1978, 92 Stat. 2667; Pub.L. 97-164, Title I, § 126, Apr. 2, 1982, 96 Stat. 37.)

Notes of Decisions (18)

28 U.S.C.A. § 1294, 28 USCA § 1294
Current through P.L. 115-84.

End of Document

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part VI. Particular Proceedings
Chapter 161. United States as Party Generally (Refs & Annos)

28 U.S.C.A. § 2401

§ 2401. Time for commencing action against United States

Effective: January 4, 2011
Currentness

(a) Except as provided by chapter 71 of title 41, every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas at the time the claim accrues may be commenced within three years after the disability ceases.

(b) A tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 971; Apr. 25, 1949, c. 92, § 1, 63 Stat. 62; Pub.L. 86-238, § 1(3), Sept. 8, 1959, 73 Stat. 472; Pub.L. 89-506, § 7, July 18, 1966, 80 Stat. 307; Pub.L. 95-563, § 14(b), Nov. 1, 1978, 92 Stat. 2389; Pub.L. 111-350, § 5(g)(8), Jan. 4, 2011, 124 Stat. 3848.)

Notes of Decisions (1261)

28 U.S.C.A. § 2401, 28 USCA § 2401
Current through P.L. 115-84.

End of Document

United States Code Annotated
Title 43. Public Lands (Refs & Annos)
Chapter 31. Department of the Interior (Refs & Annos)

43 U.S.C.A. § 1457

§ 1457. Duties of Secretary

Currentness

The Secretary of the Interior is charged with the supervision of public business relating to the following subjects and agencies:

1. Alaska Railroad.

2. Alaska Road Commission.

3. Bounty-lands.

4. Bureau of Land Management.

5. United States Bureau of Mines.

6. Bureau of Reclamation.

7. Division of Territories and Island Possessions.

8. Fish and Wildlife Service.

9. United States Geological Survey.

10. Indians.

11. National Park Service.

12. Petroleum conservation.

13. Public lands, including mines.

CREDIT(S)

(R.S. § 441; Mar. 3, 1879, c. 182, 20 Stat. 394; Jan. 12, 1895, c. 23, 28 Stat. 601; June 17, 1902, c. 1093, 32 Stat. 388; Feb. 14, 1903, c. 552, § 4, 32 Stat. 826; Mar. 4, 1911, c. 285, § 1, 36 Stat. 1422; July 1, 1916, c. 209, § 1, 39 Stat. 309; Aug. 25, 1916, c. 408, 39 Stat. 535; Ex. Ord. No. 3861, eff. June 8, 1923; Ex. Ord. No. 4175, eff. Mar. 17, 1925; Ex. Ord. No. 5398, eff. July 21, 1930; June 30, 1932, ch. 320, § 1, 47 Stat. 446; Ex. Ord. No. 6611, eff. Feb. 22, 1934; Ex. Ord. No. 6726, eff. May 29, 1934; June 28, 1934, c. 865, § 1, 48 Stat. 1269; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1236; 1946 Reorg. Plan No. 3, § 403(a), eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; June 17, 1957, Pub.L. 85-56, Title XXII, § 2201(1), 71 Stat. 157; May 18, 1992, Pub.L. 102-285, § 10, 106 Stat. 171.)

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 9633

Ex. Ord. No. 9633, eff. Sept. 28, 1945, 10 F.R. 12305, which reserved and placed certain resources of the Continental Shelf under the control and jurisdiction of the Secretary of the Interior, was revoked by Ex. Ord. No. 10426, eff. Jan. 16, 1953, 18 F.R. 405.

EXECUTIVE ORDER NO. 12906

<Apr. 11, 1994, 59 F.R. 17671, as amended Ex. Ord. No. 13286, Sec. 25, Feb. 28, 2003, 68 F.R. 10624>

COORDINATING GEOGRAPHIC DATA ACQUISITION AND ACCESS: THE NATIONAL SPATIAL DATA INFRASTRUCTURE

Geographic information is critical to promote economic development, improve our stewardship of natural resources, and protect the environment. Modern technology now permits improved acquisition, distribution, and utilization of geographic (or geospatial) data and mapping. The National Performance Review has recommended that the executive branch develop, in cooperation with State, local, and tribal governments, and the private sector, a coordinated National Spatial Data Infrastructure to support public and private sector applications of geospatial data in such areas as transportation, community development, agriculture, emergency response, environmental management, and information technology.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America; and to implement the recommendations of the National Performance Review; to advance the goals of the National Information Infrastructure; and to avoid wasteful duplication of effort and promote effective and economical management of resources by Federal, State, local, and tribal governments, it is ordered as follows:

Section 1. Definitions. (a) "National Spatial Data Infrastructure" ("NSDI") means the technology, policies, standards, and human resources necessary to acquire, process, store, distribute, and improve utilization of geospatial data.

(b) "Geospatial data" means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth. This information may be derived from, among other things, remote sensing, mapping, and surveying technologies. Statistical data may be included in this definition at the discretion of the collecting agency.

(c) The "National Geospatial Data Clearinghouse" means a distributed network of geospatial data producers, managers, and users linked electronically.

Sec. 2. Executive Branch Leadership for Development of the Coordinated National Spatial Data Infrastructure. (a) The Federal Geographic Data Committee ("FGDC"), established by the Office of Management and Budget ("OMB") Circular No. A-16 ("Coordination of Surveying, Mapping, and Related Spatial Data Activities") and chaired by the Secretary of the Department of the Interior ("Secretary") or the Secretary's designee, shall coordinate the Federal Government's development of the NSDI.

(b) Each member agency shall ensure that its representative on the FGDC holds a policy-level position.

(c) Executive branch departments and agencies ("agencies") that have an interest in the development of the NSDI are encouraged to join the FGDC.

(d) This Executive order is intended to strengthen and enhance the general policies described in OMB Circular No. A-16. Each agency shall meet its respective responsibilities under OMB Circular No. A-16.

(e) The FGDC shall seek to involve State, local, and tribal governments in the development and implementation of the initiatives contained in this order. The FGDC shall utilize the expertise of academia, the private sector, professional societies, and others as necessary to aid in the development and implementation of the objectives of this order.

Sec. 3. Development of a National Geospatial Data Clearinghouse. (a) Establishing a National Geospatial Data Clearinghouse. The Secretary, through the FGDC, and in consultation with, as appropriate, State, local, and tribal governments and other affected parties, shall take steps within 6 months of the date of this order, to establish an electronic National Geospatial Data Clearinghouse ("Clearinghouse") for the NSDI. The Clearinghouse shall be compatible with the National Information Infrastructure to enable integration with that effort.

(b) Standardized Documentation of Data. Beginning 9 months from the date of this order, each agency shall document all new geospatial data it collects or produces, either directly or indirectly, using the standard under development by the FGDC, and make that standardized documentation electronically accessible to the Clearinghouse network. Within 1 year of the date of this order, agencies shall adopt a schedule, developed in consultation with the FGDC, for documenting, to the extent practicable, geospatial data previously collected or produced, either directly or indirectly, and making that data documentation electronically accessible to the Clearinghouse network.

(c) Public Access to Geospatial Data. Within 1 year of the date of this order, each agency shall adopt a plan, in consultation with the FGDC, establishing procedures to make geospatial data available to the public, to the extent permitted by law, current policies, and relevant OMB circulars, including OMB Circular No. A-130 ("Management of Federal Information Resources") and any implementing bulletins.

(d) Agency Utilization of the Clearinghouse. Within 1 year of the date of this order, each agency shall adopt internal procedures to ensure that the agency accesses the Clearinghouse before it expends Federal funds to collect or produce new geospatial data, to determine whether the information has already been collected by others, or whether cooperative efforts to obtain the data are possible.

(e) Funding. The Department of the Interior shall provide funding for the Clearinghouse to cover the initial prototype testing, standards development, and monitoring of the performance of the Clearinghouse. Agencies shall continue to fund their respective programs that collect and produce geospatial data; such data is then to be made part of the Clearinghouse for wider accessibility.

Sec. 4. Data Standards Activities. (a) General FGDC Responsibility. The FGDC shall develop standards for implementing the NSDI, in consultation and cooperation with State, local, and tribal governments, the private and academic sectors, and, to the extent feasible, the international community, consistent with OMB Circular No. A-119 ("Federal Participation in the Development and Use of Voluntary Standards"), and other applicable law and policies.

(b) Standards for Which Agencies Have Specific Responsibilities. Agencies assigned responsibilities for data categories by OMB Circular No. A-16 shall develop, through the FGDC, standards for those data categories, so as to ensure that the data produced by all agencies are compatible.

(c) Other Standards. The FGDC may from time to time identify and develop, through its member agencies, and to the extent permitted by law, other standards necessary to achieve the objectives of this order. The FGDC will promote the use of such standards and, as appropriate, such standards shall be submitted to the Department of Commerce for consideration as Federal Information Processing Standards. Those standards shall apply to geospatial data as defined in section 1 of this order.

(d) Agency Adherence to Standards. Federal agencies collecting or producing geospatial data, either directly or indirectly (e.g. through grants, partnerships, or contracts with other entities), shall ensure, prior to obligating funds for such activities, that data will be collected in a manner that meets all relevant standards adopted through the FGDC process.

Sec. 5. National Digital Geospatial Data Framework. In consultation with State, local, and tribal governments and within 9 months of the date of this order [Apr. 11, 1994], the FGDC shall submit a plan and schedule to OMB for completing the initial implementation of a national digital geospatial data framework ("framework") by January 2000 and for establishing a process of ongoing data maintenance. The framework shall include geospatial data that are significant, in the determination of the FGDC, to a broad variety of users within any geographic area or nationwide. At a minimum, the plan shall address how the initial transportation, hydrology, and boundary elements of the framework might be completed by January 1998 in order to support the decennial census of 2000.

Sec. 6. Partnerships for Data Acquisition. The Secretary, under the auspices of the FGDC, and within 9 months of the date of this order, shall develop, to the extent permitted by law, strategies for maximizing cooperative participatory efforts with State, local, and tribal governments, the private sector, and other nonfederal organizations to share costs and improve efficiencies of acquiring geospatial data consistent with this order.

Sec. 7. Scope. (a) For the purposes of this order, the term "agency" shall have the same meaning as the term "Executive agency" in 5 U.S.C. 105, and shall include the military departments and components of the Department of Defense.

(b) The following activities are exempt from compliance with this order:

(i) national security-related activities of the Department of Defense as determined by the Secretary of Defense;

(ii) national defense-related activities of the Department of Energy as determined by the Secretary of Energy;

(iii) intelligence activities as determined by the Director of Central Intelligence; and

(iv) the national security-related activities of the Department of Homeland Security as determined by the Secretary of Homeland Security.

(c) The NSDI may involve the mapping, charting, and geodesy activities of the Department of Defense relating to foreign areas, as determined by the Secretary of Defense.

(d) This order does not impose any requirements on tribal governments.

(e) Nothing in the order shall be construed to contravene the development of Federal Information Processing Standards and Guidelines adopted and promulgated under the provisions of section 111(d) of the Federal Property and Administrative Services Act of 1949 [former 40 U.S.C.A. § 759(d)], as amended by the Computer Security Act of 1987 (Public Law 100-235), or any other United States law, regulation, or international agreement.

Sec. 8. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON

Notes of Decisions (75)

43 U.S.C.A. § 1457, 43 USCA § 1457
Current through P.L. 115-84.

End of Document

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2004

Public Law 108–204
108th Congress

An Act

Mar. 2, 2004
[S. 523]

To make technical corrections to laws relating to Native Americans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American Technical Corrections Act of 2004.
25 USC 461 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

Sec. 101. Bosque Redondo Memorial Act.
Sec. 102. Navajo-Hopi Land Settlement Act.
Sec. 103. Tribal sovereignty.
Sec. 104. Cow Creek Band of Umpqua Indians.
Sec. 105. Pueblo de Cochiti; modification of settlement.
Sec. 106. Four Corners Interpretive Center.
Sec. 107. Mississippi Band of Choctaw Indians.
Sec. 108. Rehabilitation of Celilo Indian Village.

Subtitle B—Other Provisions Relating to Native Americans

Sec. 121. Barona Band of Mission Indians; facilitation of construction of pipeline to provide water for emergency fire suppression and other purposes.
Sec. 122. Conveyance of Native Alaskan objects.
Sec. 123. Pueblo of Acoma; land and mineral consolidation.
Sec. 124. Quinault Indian Nation; water feasibility study.
Sec. 125. Santee Sioux Tribe; study and report.
Sec. 126. Shakopee Mdewakanton Sioux Community.
Sec. 127. Agua Caliente Band of Cahuilla Indians.
Sec. 128. Saginaw Chippewa Tribal College.
Sec. 129. Ute Indian Tribe; oil shale reserve.

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

Sec. 201. Definitions.
Sec. 202. Trust for the Pueblo of Santa Clara, New Mexico.
Sec. 203. Trust for the Pueblo of San Ildefonso, New Mexico.
Sec. 204. Survey and legal descriptions.
Sec. 205. Administration of trust land.
Sec. 206. Effect.
Sec. 207. Gaming.

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

Sec. 301. Distribution of judgment funds.
Sec. 302. Conditions for distribution.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, except as otherwise provided in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Subtitle A—Technical Amendments

SEC. 101. BOSQUE REDONDO MEMORIAL ACT.

Section 206 of the Bosque Redondo Memorial Act (16 U.S.C. 431 note; Public Law 106–511) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "2000" and inserting "2004"; and

(B) in paragraph (2), by striking "2001 and 2002" and inserting "2005 and 2006"; and

(2) in subsection (b), by striking "2002" and inserting "2007,".

SEC. 102. NAVAJO-HOPI LAND SETTLEMENT ACT.

Section 25(a)(8) of Public Law 93–531 (commonly known as the "Navajo-Hopi Land Settlement Act of 1974") (25 U.S.C. 640d–24(a)(8)) is amended by striking "annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000" and inserting "for each of fiscal years 2003 through 2008".

SEC. 103. TRIBAL SOVEREIGNTY.

Section 16 of the Act of June 18, 1934 (25 U.S.C. 476), is amended by adding at the end the following:

"(h) TRIBAL SOVEREIGNTY.—Notwithstanding any other provision of this Act—

"(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

"(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).".

SEC. 104. COW CREEK BAND OF UMPQUA INDIANS.

Section 7 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712e) is amended in the third sentence by inserting before the period at the end the following: ", and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust".

SEC. 105. PUEBLO DE COCHITI; MODIFICATION OF SETTLEMENT.

Section 1 of Public Law 102–358 (106 Stat. 960) is amended—

(1) by striking "implement the settlement" and inserting the following: "implement—

"(1) the settlement;";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) the modifications regarding the use of the settlement funds as described in the agreement known as the 'First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution', executed—

"(A) on October 22, 2001, by the Army Corps of Engineers;

"(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

"(C) on November 8, 2001, by the Secretary of the Interior.".

SEC. 106. FOUR CORNERS INTERPRETIVE CENTER.

Section 7 of the Four Corners Interpretive Center Act (113 Stat. 1706) is amended—

(1) in subsection (a)(2), by striking "2005" and inserting "2008";

(2) in subsection (b), by striking "2002" and inserting "2005"; and

(3) in subsection (c), by striking "2001" and inserting "2004".

SEC. 107. MISSISSIPPI BAND OF CHOCTAW INDIANS.

Section 1(a)(2) of Public Law 106–228 (114 Stat. 462) is amended by striking "report entitled" and all that follows through "is hereby declared" and inserting the following: "report entitled 'Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Reservation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568', on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared".

SEC. 108. REHABILITATION OF CELILO INDIAN VILLAGE.

Section 401(b)(3) of Public Law 100–581 (102 Stat. 2944) is amended by inserting "and Celilo Village" after "existing sites".

Subtitle B—Other Provisions Relating to Native Americans

California.

SEC. 121. BARONA BAND OF MISSION INDIANS; FACILITATION OF CONSTRUCTION OF PIPELINE TO PROVIDE WATER FOR EMERGENCY FIRE SUPPRESSION AND OTHER PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to valid existing rights under Federal and State law, and to any easements or similar restrictions which may be granted to the city of San Diego, California, for the construction, operation and maintenance of a pipeline and related appurtenances and facilities for conveying water from the San Vicente Reservoir to the Barona Indian Reservation, or for conservation, wildlife or habitat protection, or related purposes, the land described in subsection (b), fee title to which is held by the Barona Band of Mission Indians of California (referred to in this section as the "Band")—

(1) is declared to be held in trust by the United States for the benefit of the Band; and

(2) shall be considered to be a portion of the reservation of the Band.

(b) LAND.—The land referred to in subsection (a) is land comprising approximately 85 acres in San Diego County, California, and described more particularly as follows: San Bernardino Base and Meridian; T. 14 S., R. 1 E.; sec. 21: W½ SE¼, 68 acres; NW¼ NW¼, 17 acres.

(c) GAMING.—The land taken into trust by subsection (a) shall neither be considered to have been taken into trust for gaming, nor be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SEC. 122. CONVEYANCE OF NATIVE ALASKAN OBJECTS.

Notwithstanding any provision of law affecting the disposal of Federal property, on the request of the Chugach Alaska Corporation or Sealaska Corporation, the Secretary of Agriculture shall convey to whichever of those corporations that has received title to a cemetery site or historical place on National Forest System land conveyed under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) all artifacts, physical remains, and copies of any available field records that—

(1)(A) are in the possession of the Secretary of Agriculture; and

(B) have been collected from the cemetery site or historical place; but

(2) are not required to be conveyed in accordance with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) or any other applicable law.

SEC. 123. PUEBLO OF ACOMA; LAND AND MINERAL CONSOLIDATION.

(a) DEFINITION OF BIDDING OR ROYALTY CREDIT.—The term "bidding or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(1) a bonus bid for a lease sale on the outer Continental Shelf; or

(2) a royalty due on oil or gas production;

for any lease located on the outer Continental Shelf outside the zone defined and governed by section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(2)).

(b) AUTHORITY.—Notwithstanding any other provision of law, the Secretary may acquire any nontribal interest in or to land (including an interest in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for the purpose of carrying out Public Law 107–138 (116 Stat. 6) by issuing bidding or royalty credits under this section in an amount equal to the value of the interest acquired by the Secretary, as determined under section 1(a) of Public Law 107–138 (116 Stat. 6).

(c) USE OF BIDDING AND ROYALTY CREDITS.—On issuance by the Secretary of a bidding or royalty credit under subsection (b), the bidding or royalty credit—

(1) may be freely transferred to any other person (except that, before any such transfer, the transferor shall notify the Secretary of the transfer by such method as the Secretary may specify); and

Notification.

(2) shall remain available for use by any person during the 5-year period beginning on the date of issuance by the Secretary of the bidding or royalty credit.

Washington.

SEC. 124. QUINAULT INDIAN NATION; WATER FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary is authorized to carry out, in accordance with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), a water source, quantity, and quality feasibility study for land of the Quinault Indian Nation to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Quinault Indian Nation on the Olympic Peninsula, Washington.

(b) PUBLIC AVAILABILITY OF RESULTS.—As soon as practicable after completion of a feasibility study under subsection (a), the Secretary shall—

Federal Register, publication.

(1) publish in the Federal Register a notice of the availability of the results of the feasibility study; and

(2) make available to the public, on request, the results of the feasibility study.

Nebraska.

SEC. 125. SANTEE SIOUX TRIBE; STUDY AND REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary, acting through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (referred to in this subtitle as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

Deadline.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this subtitle, the Secretary shall submit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000, to remain available until expended.

Minnesota.

SEC. 126. SHAKOPEE MDEWAKANTON SIOUX COMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further authorization by the United States, the Shakopee Mdewakanton Sioux Community in the State of Minnesota (referred to in this section as the "Community") may lease, sell, convey, warrant, or otherwise transfer all or any part of the interest of the Community in or to any real property that is not held in trust by the United States for the benefit of the Community.

(b) NO EFFECT ON TRUST LAND.—Nothing in this section—

(1) authorizes the Community to lease, sell, convey, warrant, or otherwise transfer all or part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affects the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in that trust land.

SEC. 127. AGUA CALIENTE BAND OF CAHUILLA INDIANS.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any restrictive covenant in effect under, or required by operation of, a State law), title to land that the Secretary of the Interior agrees is to be acquired by the United States in accordance with the Act of June 18, 1934 (25 U.S.C. 465), for the Agua Caliente Band of Cahuilla Indians shall be taken in the name of the United States.

(b) COVENANTS.—A restrictive covenant referred to in subsection (a) shall be unenforceable against the United States if the land to which the restrictive covenant is attached was held in trust by the United States for, or owned by, the Agua Caliente Band of Cahuilla Indians, or an individual member of the Band, before the date on which the restrictive covenant attached to the land.

SEC. 128. SAGINAW CHIPPEWA TRIBAL COLLEGE.

Section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by redesignating paragraphs (22) through (31) as paragraphs (23) through (32), respectively; and

(2) by inserting after paragraph (21) the following:

"(22) Saginaw Chippewa Tribal College.".

SEC. 129. UTE INDIAN TRIBE; OIL SHALE RESERVE.

Section 3405(c) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 7420 note; Public Law 105–261) is amended by striking paragraph (3) and inserting the following:

"(3) With respect to the land conveyed to the Tribe under subsection (b)—

"(A) the land shall not be subject to any Federal restriction on alienation; and

"(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.".

TITLE II—PUEBLO OF SANTA CLARA AND PUEBLO OF SAN ILDEFONSO

New Mexico.

SEC. 201. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term "Agreement" means the agreement entitled "Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract", entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term "boundary line" means the boundary line established under section 204(a).

(3) GOVERNORS.—The term "Governors" means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term "Pueblos" means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) TRUST LAND.—The term "trust land" means the land held by the United States in trust under section 202(a) or 203(a).

SEC. 202. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., sec. 25, excluding the 5-acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 203. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 204. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 3102(b) and 3103(b), the boundaries of the trust land. Deadline.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register— Federal Register, publication.

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 3102(b) and 3103(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions shall be the official legal descriptions of the trust land.

SEC. 205. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Effective beginning on the date of enactment of this Act— Effective date.

(1) the land held in trust under section 202(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 203(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the "Pueblo Lands Act") (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

Effective date.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 206. EFFECT.

Nothing in this title—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

SEC. 207. GAMING.

Land taken into trust under this title shall neither be considered to have been taken into trust for, nor be used for, gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

TITLE III—DISTRIBUTION OF QUINAULT PERMANENT FISHERIES FUNDS

SEC. 301. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

Deadline.

(1) IN GENERAL.—Subject to section 302, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772–71, 773–71, 774–71, and 775–71 before the United States

Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this title as the "Tribe") in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

(i) establish an account for the principal amount of the judgment funds; and

(ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

(i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

(ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.

(3) ACCOUNT FOR INVESTMENT INCOME.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—

(i) subject to subparagraph (C), to carry out fisheries enhancement projects; and

(ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).

(C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.

(4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—

(A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).

(B) USE OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.

(ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.

(b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).

(c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—

(1) be maintained separately by the Tribe; and

(2) be subject to an annual audit.

Deadline.

(d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 302. CONDITIONS FOR DISTRIBUTION.

(a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 301(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.

(b) APPLICATION OF OTHER LAW.—All funds distributed under this title shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

Approved March 2, 2004.

LEGISLATIVE HISTORY—S. 523:

HOUSE REPORTS: No. 108–374, Pt. 1 (Comm. on Resources).
SENATE REPORTS: No. 108–49 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 149 (2003): July 30, considered and passed Senate.
Vol. 150 (2004): Feb. 11, considered and passed House.

○

Code of Federal Regulations
Title 25. Indians
Chapter I. Bureau of Indian Affairs, Department of the Interior
Subchapter A. Procedures and Practice
Part 2. Appeals from Administrative Actions (Refs & Annos)

25 C.F.R. § 2.4

§ 2.4 Officials who may decide appeals.

Currentness

The following officials may decide appeals:

(a) An Area Director, if the subject of appeal is a decision by a person under the authority of that Area Director.

(b) An Area Education Programs Administrator, Agency Superintendent for Education, President of a Post Secondary School, or the Deputy to the Assistant Secretary--Indian Affairs/Director (Indian Education Programs), if the appeal is from a decision by an Office of Indian Education Programs (OIEP) official under his/her jurisdiction.

(c) The Assistant Secretary--Indian Affairs pursuant to the provisions of § 2.20 of this part.

(d) A Deputy to the Assistant Secretary--Indian Affairs pursuant to the provisions of § 2.20(c) of this part.

(e) The Interior Board of Indian Appeals, pursuant to the provisions of 43 CFR part 4, subpart D, if the appeal is from a decision made by an Area Director or a Deputy to the Assistant Secretary--Indian Affairs other than the Deputy to the Assistant Secretary--Indian Affairs/Director (Indian Education Programs).

SOURCE: 54 FR 6480, Feb. 10, 1989, unless otherwise noted.

AUTHORITY: R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. 2, 9.

Notes of Decisions (6)

Current through November 22, 2017; 82 FR 55526, with the exception of Title 30.

End of Document

Code of Federal Regulations
Title 25. Indians
Chapter I. Bureau of Indian Affairs, Department of the Interior
Subchapter A. Procedures and Practice
Part 2. Appeals from Administrative Actions (Refs & Annos)

25 C.F.R. § 2.6

§ 2.6 Finality of decisions.

Currentness

(a) No decision, which at the time of its rendition is subject to appeal to a superior authority in the Department, shall be considered final so as to constitute Departmental action subject to judicial review under 5 U.S.C. 704, unless when an appeal is filed, the official to whom the appeal is made determines that public safety, protection of trust resources, or other public exigency requires that the decision be made effective immediately.

(b) Decisions made by officials of the Bureau of Indian Affairs shall be effective when the time for filing a notice of appeal has expired and no notice of appeal has been filed.

(c) Decisions made by the Assistant Secretary Indian Affairs shall be final for the Department and effective immediately unless the Assistant Secretary Indian Affairs provides otherwise in the decision.

Credits
[54 FR 7666, Feb. 22, 1989]

SOURCE: 54 FR 6480, Feb. 10, 1989, unless otherwise noted.

AUTHORITY: R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. 2, 9.

Notes of Decisions (83)

Current through November 22, 2017; 82 FR 55526, with the exception of Title 30.

Code of Federal Regulations
Title 25. Indians
Chapter I. Bureau of Indian Affairs, Department of the Interior
Subchapter A. Procedures and Practice
Part 2. Appeals from Administrative Actions (Refs & Annos)

25 C.F.R. § 2.20

§ 2.20 Action by the Assistant Secretary—Indian Affairs on appeal.

Currentness

(a) When a decision is appealed to the Interior Board of Indian Appeals, a copy of the notice of appeal shall be sent to the Assistant Secretary Indian Affairs.

(b) The notice of appeal sent to the Interior Board of Indian Appeals shall certify that a copy has been sent to the Assistant Secretary Indian Affairs.

(c) In accordance with the provisions of § 4.332(b) of title 43 of the Code of Federal Regulations, a notice of appeal to the Board of Indian Appeals shall not be effective until 20 days after receipt by the Board, during which time the Assistant Secretary Indian Affairs shall have authority to decide to:

(1) Issue a decision in the appeal, or

(2) Assign responsibility to issue a decision in the appeal to a Deputy to the Assistant Secretary Indian Affairs.

The Assistant Secretary Indian Affairs will not consider petitions to exercise this authority. If the Assistant Secretary Indian Affairs decides to issue a decision in the appeal or to assign responsibility to issue a decision in the appeal to a Deputy to the Assistant Secretary Indian Affairs, he/she shall notify the Board of Indian Appeals, the deciding official, the appellant, and interested parties within 15 days of his/her receipt of a copy of the notice of appeal. Upon receipt of such notification, the Board of Indian Appeals shall transfer the appeal to the Assistant Secretary Indian Affairs. The decision shall be signed by the Assistant Secretary Indian Affairs or a Deputy to the Assistant Secretary Indian Affairs within 60 days after all time for pleadings (including all extensions granted) has expired. If the decision is signed by the Assistant Secretary Indian Affairs, it shall be final for the Department and effective immediately unless the Assistant Secretary Indian Affairs provides otherwise in the decision. Except as otherwise provided in § 2.20(g), if the decision is signed by a Deputy to the Assistant Secretary Indian Affairs, it may be appealed to the Board of Indian Appeals pursuant to the provisions of 43 CFR part 4, subpart D.

(d) A copy of the decision shall be sent to the appellant and each known interested party by certified or registered mail, return receipt requested. Such receipts shall become a permanent part of the record.

(e) If the Assistant Secretary Indian Affairs or the Deputy to the Assistant Secretary Indian Affairs to whom the authority to issue a decision has been assigned pursuant to § 2.20(c) does not make a decision within 60 days after all time for pleadings (including all extensions granted) has expired, any party may move the Board of Indian Appeals to

assume jurisdiction subject to 43 CFR 4.337(b). A motion for Board decision under this section shall invest the Board with jurisdiction as of the date the motion is received by the Board.

(f) When the Board of Indian Appeals, in accordance with 43 CFR 4.337(b), refers an appeal containing one or more discretionary issues to the Assistant Secretary Indian Affairs for further consideration, the Assistant Secretary Indian Affairs shall take action on the appeal consistent with the procedures in this section.

(g) The Assistant Secretary Indian Affairs shall render a written decision in an appeal from a decision of the Deputy to the Assistant Secretary Indian Affairs/Director (Indian Education Programs) within 60 days after all time for pleadings (including all extensions granted) has expired. A copy of the decision shall be sent to the appellant and each known interested party by certified or registered mail, return receipt requested. Such receipts shall become a permanent part of the record. The decision shall be final for the Department and effective immediately unless the Assistant Secretary Indian Affairs provides otherwise in the decision.

SOURCE: 54 FR 6480, Feb. 10, 1989, unless otherwise noted.

AUTHORITY: R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. 2, 9.

Notes of Decisions (78)

Current through November 22, 2017; 82 FR 55526, with the exception of Title 30.

End of Document

PART 242—CALIFORNIA RANCHERIAS AND RESERVATIONS—DISTRIBUTION OF ASSETS

Sec.
242.1 Purpose and scope.
242.2 Definitions.
242.3 Requests for distribution.
242.4 Plan of distribution.
242.5 General notice.
242.6 Objections to plan.
242.7 Referendum.
242.8 Modification of plan.
242.9 Beneficial interest.
242.10 Organized rancheria or reservation.
242.11 Sale of unoccupied land.
242.12 Notice of termination.
242.13 Special instructions.

AUTHORITY: Sec. 12 of the Act of August 18, 1958 (72 Stat. 619), as amended by the Act of August 11, 1964 (78 Stat. 390).

SOURCE: 30 FR 10099, Aug. 13, 1965, unless otherwise noted.

§ 242.1 Purpose and scope.

The purpose of this part is to provide policies and procedures governing distribution of the assets of rancherias and reservations lying wholly within the State of California.

§ 242.2 Definitions.

As used in this Part 242, terms shall have the meanings set forth in this section.

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Director" means the Area Director, Bureau of Indian Affairs, Sacramento Area Office, Sacramento, Calif., or his authorized representative.

(d) "Adult Indian" means any Indian who is an adult under the laws of the State in which he is domiciled.

(e) "Distributee" means any Indian who is entitled to receive any assets of a rancheria or reservation under a plan prepared and approved pursuant to section 2 of the Act of August 18, 1958 (72 Stat. 619), as amended by the Act of August 11, 1964 (78 Stat. 390).

(f) "Dependent members," as used in the phrase "dependent members of their immediate families," means all persons of Indian descent not sharing directly in the distribution of rancheria or reservation assets who: (1) Are related to the distributee by blood or adoption or by marriage, including common law or Indian custom marriage; (2) are domiciled in the household of the distributee; (3) are not members of any other tribe or band of Indians; and (4) receive more than one-half of their support from such distributee or for whose support a distributee is legally liable according to the laws of the State in which he is domiciled.

(g) "Formal assignment" means any privilege of use and/or occupancy of the real property of a rancheria or reservation which is evidenced by an instrument in writing.

(h) "Informal assignment" means any privilege of use and/or occupancy of the real property of a rancheria or reservation, not based on an instrument in writing.

(i) "Organized rancheria or reservation" means any tribe, band, or community of Indians conducting its affairs pursuant to an organic document containing membership criteria approved by the Secretary.

(j) "Unorganized rancheria or reservation" means any tribe, band, or community of Indians which does not have an organic document containing membership criteria approved by the Secretary.

§ 242.3 Requests for distribution.

(a) *Unorganized rancheria or reservation.* Upon receipt of a written request from an adult Indian or Indians of an unorganized rancheria or reservation for the distribution of the assets of the rancheria or reservation.

the Director shall prepare a list of Indians in the following categories:

(1) Those who have allotments on the rancheria or reservation;

(2) Those who hold formal assignments;

(3) Those who reside on the rancheria or reservation pursuant to an informal assignment;

(4) Those not in the above categories who have resided for a period of at least three consecutive years immediately preceding receipt of the request as provided for in the introductory text of this paragraph, on the rancheria or reservation not set aside for a designated group of Indians;

(5) The dependent members of the immediate families of those Indians in subparagraphs (1), (2), (3), and (4) of this paragraph.

(b) *Organized rancheria or reservation.* Upon a formal request from the official governing body of the rancheria or reservation, the Director shall prepare a list of the members of such organized group in accordance with the criteria set forth in the approved organic document of the group.

(c) *Eligibility to participate.* The adults whose names appear on a list prepared in accordance with paragraph (a) or (b) of this section shall constitute those persons eligible to vote on the issue of whether a distribution plan is to be developed. A list shall not include the name of any person who is a member of any Indian tribe, band, or community other than the one associated with the rancheria or reservation which has requested the distribution program.

(d) When the Director is satisfied that the list is complete, he shall publish it once weekly for 3 successive weeks in a local newspaper. Within 15 days after the date of the last publication of the list, anyone may protest in writing the omission of a name from the list or the inclusion of any name thereon. His written protest together with arguments to sustain it shall be presented to the Director who will render his decision, which shall be final. After all protests have been heard and have been duly disposed of, the Director shall hold an election on whether the distribution of rancheria or reservation assets shall be made. Except as otherwise provided in section 1 of the Act of August 18, 1958, as amended,[1] if a majority of the eligible voters vote for distribution, a distribution plan shall be prepared in accordance with the applicable portions of this Part 242.

§ 242.4 Plan of distribution.

(a) The plan of distribution provided for in section 2 of the Act of August 18, 1958, as amended, shall be in writing and may be prepared by:

(1) Those adult Indians whose names appear on the final list as provided for in § 242.3; or

(2) By the governing body in the case of an organized rancheria or reservation; or

(3) By the Secretary of the Interior after consultation with such Indians.

(b) The primary source of distributees shall be those persons whose names appear on the list prepared in accordance with § 242.3. Additional names may be added to the list upon the approval of a majority of the adults included on the original list referred to above: *Provided,* That no new name shall be added without the approval of the individual and of the Director. In the event of a per capita distribution of any rancheria or reservation funds, all persons whose names appear on the final list prepared pursuant to § 242.3, and all persons whose names have been added thereto, shall be entitled to participate. Any distribution plan must be approved by the Secretary before it is submitted to the adult distributees for approval. Such plan shall provide for a description of

[1] Sec. 1 of the Act of August 18, 1958 (72 Stat. 619), as amended makes mandatory the distribution of the land and assets of the following rancherias and reservations: Alexander Valley, Auburn, Big Sandy, Big Valley, Blue Lake, Buena Vista, Cache Creek, Chicken Ranch, Chico, Cloverdale, Cold Springs, Elk Valley, Guidiville, Graton, Greenville, Hopland, Indian Ranch, Lytton, Mark West, Middletown, Montogomery Creek, Mooretown, Nevada City, North Fork, Paskenta, Picayune, Pinoleville, Potter Valley, Quartz Valley, Redding, Redwood Valley, Robinson, Rohnerville, Ruffeys, Scotts Valley, Smith River, Strawberry Valley, Table Bluff, Table Mountain, Upper Lake, Wilton.

the assets and shall identify, by name and last known address, those persons to be distributees under the plan and the dependent member of their immediate families: *Provided*, That for the purpose of this section, any person who is a member of any other tribe or band of Indians shall not be considered a dependent member of a distributee's immediate family.

§ 242.5 General notice.

When the Secretary has approved a plan for the distribution of the assets of a rancheria or reservation, notice of the contents of such plan shall be given in the following manner;

(a) A copy of the plan shall be delivered in person or mailed to the last known address of those who participated in the drafting of the plan and the distributees named in the plan.

(b) A copy of the plan shall be delivered in person or mailed to the last known address of all other persons who have indicated by a letter addressed to the Director that they claim an interest in the assets of the rancheria or reservation involved.

(c) Posting a copy of the plan in a public place on the rancheria or reservation and in the post office serving the rancheria or reservation.

(d) Publication of the general contents of the plan once weekly for three successive weeks in one or more local newspapers.

§ 242.6 Objections to plan.

Any Indian who feels that he is unfairly treated in the proposed distribution of the assets of a rancheria or reservation as set forth in a plan prepared and approved in accordance with the regulations of this Part 242 may, within thirty (30) days after the date of last publication under § 242.5(d), submit his views and arguments in writing to the Director. The Director shall act for persons who are minors or non compos mentis if he finds that such persons are unfairly treated in the proposed distribution of the assets. Such views and arguments shall be promptly forwarded by the Director for consideration by the Secretary.

§ 242.7 Referendum.

After consideration by the Secretary of all views and arguments, a copy of the plan or a revision thereof and a notice of a referendum meeting shall be sent by certified mail, return receipt requested, to each distributee. Thereafter, the Secretary shall cause a referendum to be held at a general meeting of the distributees, at the time and place set forth in the notice of the meeting. Each adult Indian distributee may indicate acceptance or rejection of the plan by depositing his or her ballot in a ballot box at the meeting place or by mailing his or her ballot to the Director, in which case the envelope shall be clearly marked to identify the rancheria or reservation referendum for which the ballot is being submitted. All ballots which are mailed must be received by the Director at least 2 days before the date set for the referendum meeting. Ballots received thereafter shall not be accepted. At the close of the meeting all ballots shall be counted and if the plan is approved by a majority vote of the adult Indian distributees, it shall be effective on the date approved. Subject to modification as provided in § 242.8 the plan shall thereupon be put into effect and its provisions carried out as expeditiously as possible, including distribution of assets as therein provided.

§ 242.8 Modification of plan.

If after approval by the Secretary and the adult distributees it is determined by an appropriate resolution approved by a majority of the adult distributees that a plan of distribution is not in conformity with the wishes of the proposed distributees or that it contemplates acts or actions determined to be unfeasible and if modification of the plan of distribution is required to correct the circumstances, such resulotion shall be submitted to the Secretary for approval. Approval of the resolution by the Secretary shall be final and the plan of distribution shall be considered modified as of the date of such approval.

§ 242.9 Beneficial interest.

Upon approval of a plan, revision, or modification thereof by the Secretary and acceptance by a majority of the adult distributees, the distributees listed in the plan, revision, or modification shall be the final list of Indians entitled to participate in the distribution of the assets of the rancheria or reservation, and the rights or beneficial interests of each person whose name appears on this list may be inherited or bequeathed, but shall not otherwise be subject to assignment, alienation or encumbrance before the transfer by the United States of full legal title to such assets, except with the approval of the Secretary.

§ 242.10 Organized rancheria or reservation.

When a plan for the distribution of the assets of an organized rancheria or reservation has been approved and adopted at a referendum held for that purpose, the governing body of such rancheria or reservation shall cause a final financial statement to be prepared including a certificate that all obligations and debts of said rancheria or reservation have been liquidated or adjusted and that all the assets have been or are simultaneously therewith conveyed to persons, associations, corporations, or other groups authorized by law to receive them. Upon receipt of a satisfactory certificate of completion, the organization document and/or charter shall be revoked by the Secretary.

§ 242.11 Sale of unoccupied land.

Sale of any rancheria or reservation by the Secretary pursuant to the authority contained in section 5(d) of the Act of August 18, 1958, as amended, shall be conducted as nearly as practicable in the manner prescribed in that portion of Part 121 of this title which applies to the sale of individually owned trust or restricted land.

§ 242.12 Notice of termination.

When the provisions of a plan have been carried out to the satisfaction of the Secretary, he shall publish in the FEDERAL REGISTER a notice declaring that the special relationship of the United States to the rancheria or reservation and to the distributees and the dependent members of their immediate families is terminated. The notice shall list the names of the distributees and the dependent members of their immediate families who are no longer entitled to any services performed by the United States for Indians because of their status as Indians, the fact that all restrictions and tax exemptions applicable to trust or restricted land or interests therein owned by them are terminated, the fact that all statutes of the United States which affect Indians because of their status as Indians shall be inapplicable to them, and that State laws shall apply to them in the same manner as they apply to other citizens.

§ 242.13 Special instructions.

To facilitate the work of the Director, the Commissioner may issue special instructions not inconsistent with the purpose of the regulations in this Part 242 and within any authority delegated to him.

140 Cong. Rec. S6144-03, 1994 WL 196882
Congressional Record --- Senate
Proceedings and Debates of the 103rd Congress, Second Session
Thursday, May 19, 1994

*S6144 TECHNICAL CORRECTIONS ACT OF 1994

Mr. FORD.

Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1654, a bill to make certain technical corrections.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1654) entitled "An Act to make certain technical corrections", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.-Section 7(e) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374, 106 Stat. 1186 et seq.) is amended by adding at the end thereof the following new sentences: "All costs of environmental compliance and mitigation associated with the Compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States. All moneys appropriated pursuant to the authorization under this subsection are in addition to amounts appropriated pursuant to the authorization under section 7(b)(1) of this Act, and shall be immediately available.".

(b) AUTHORIZATIONS.-The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B) and 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.".

(c) EFFECTIVE DATE.-The amendments made by this section shall be considered to have taken effect on September 30, 1992.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) AMENDMENT.-Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102-575) is amended by deleting " reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.-The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads " Provided further, That any funds provided under this head or previously provided for tribally-controlled community colleges which are distributed prior to September 30, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 5. AMENDMENTS.

Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended as follows:

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5817 All 640.00" and insert in lieu thereof the following:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

Mr. FORD.

Madam President, I move that the Senate concur in the House amendments with two further amendments that I now send to the desk on behalf of Senators MCCAIN and INOUYE, and I ask unanimous consent that the amendments be agreed to en bloc, and that the motions to reconsider en bloc be laid upon the table; and, further that any statements relating to the measure appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER.

Without objection, it is so ordered.

***S6145** The amendments were agreed to as follows:

AMENDMENT NO. 1736

Mr. FORD offered an amendment No.
1736 for Mr. MCCAIN and Mr. INOUYE.

The amendment is as follows:

(Purpose: To clarify provisions of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992)

On page 1, strike all of Section 1 and insert in lieu thereof the following:

(a) ENVIRONMENTAL COSTS.-Section 7 of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374, 106 Stat. 1186 et seq.) is amended by adding the following new subsections (f) and (g) and redesignating the succeeding subsections accordingly:

"(f) ENVIRONMENTAL COSTS.-All costs associated with the Tongue River Dam Project for environmental compliance mandated by federal law and fish and wildlife mitigation measures adopted by the Secretary are the sole responsibility of the United States. Funds for such compliance shall be appropriated pursuant to the authorization in subsection (e), and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act. The Secretary is authorized to expend not to exceed $625,000 of funds appropriated pursuant to subsection (e) for fish and wildlife mitigation costs associated with Tongue River-Dam construction authorized by the Act, and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act.

"(g) REIMBURSEMENT TO STATE.-The Secretary shall reimburse Montana for expenditures for environmental compliance activities, conducted on behalf of the United States prior to enactment of this subsection (g), which the Secretary determines to have been properly conducted and necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this subsection (g), the Secretary may not reimburse Montana for any such environmental compliance activities undertaken without the Secretary's prior approval."

(b) AUTHORIZATIONS.-The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(B)(1)(B), and the authorization for environmental compliance activities for the Tongue River Dam Project contained in subsection 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section."

(c) EFFECTIVE DATE.-The amendments made by this section shall be considered to have taken effect on September 30, 1992.

AMENDMENT NO. 1737

Mr. FORD offered an amendment No.
1737 for Mr. MCCAIN and Mr. INOUYE.

The amendment is as follows:

(Purpose: To prohibit regulations that classify, enhance, or diminish the privileges and immunities of an Indian tribe relative to other federally recognized Indian tribes, and for other purposes)

At the end of the bill add the following: "Section 16 of the Act of June 18, 1934 (25 U.S.C. 476) is amended by adding at the end of the following new subsections:

"(f) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.-Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934, (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

"(g) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.-Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.".

Mr. MCCAIN.

Madam President, I am pleased to join the chairman of the Committee on Indian Affairs, Senator INOUYE, in offering an amendment to S. 1654, a bill to make certain technical corrections. The purpose of this amendment is to clarify provisions of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992.

Not long after enactment of the settlement act, representatives of the State of Montana and the Interior Department found themselves in disagreement over their respective responsibilities for costs of compliance with environmental laws and fish and wildlife mitigation under the terms of a water rights compact signed by the State, the tribe, and the Department, and under the language of the settlement act (Public Law 102-374, 106 Stat. 1186 et seq.).

Article VI(C) of the water rights compact states that "The Secretary of the Interior shall comply with all aspects of the National Environmental Policy Act and the Endangered Species Act and other applicable environmental acts and regulations in implementing this Compact". Accordingly, the Congress, in section 7(e) of the settlement act, authorized "such sums as are necessary to carry out all necessary environmental compliance associated with the water rights compact entered into by the Northern Cheyenne Tribe, the State of Montana, and the United States, including mitigation measures adopted by the Secretary".

The centerpiece of the settlement is the Tongue River Dam Project, which includes repairing the dam to cure safety defects and enlarging it to provide additional water for the Northern Cheyenne Tribe. The bulk of the contemplated environmental compliance and fish and wildlife mitigation is associated with this project. However, because funds for the project are authorized under section 7(b) of the settlement act, the Department and Montana were unclear as to what work would be considered funded under that section and what would be funded under section 7(e).

In 1993, the Senate passed S. 1654, which included language intended to clarify the language of the settlement act. Section 1 of S. 1654 was drafted to accomplish three purposes, described in Senate Report 103-191 as to make clear that first, "all costs of environmental compliance and mitigation associated with the compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States"; second, "section 7(e) environmental compliance funds are authorized in addition to funds authorized in section 7(b)(1) for the Tongue River Dam Project"; and, third, " section 7(e) funds can be expended prior to the Montana water court's issuance of a settlement decree".

Subsequent to the Senate's action, the administration, while agreeing to sole responsibility for environmental compliance associated with the Tongue River Dam Project, expressed concern that the new language might preclude the Secretary from seeking third party, nontribal cost-sharing for environmental compliance and mitigation for development projects on the Northern Cheyenne Reservation, unrelated to the Tongue River Dam Project, that would use water secured to the tribe under the compact. Efforts to address these concerns while S. 1654 was pending in the House of Representatives failed to produce agreement prior to the House passing the bill and returning it to the Senate.

Subsequently, all parties to the settlement have worked with the staffs of the Committee on Indian Affairs and the House Natural Resource Committee to develop an amendment that would resolve the major issues in disagreement. I am pleased to state that the amendment Chairman INOUYE and I offer today achieves that end.

Our amendment makes clear that the costs associated with the Tongue River Dam Project for environmental compliance mandated by Federal law and fish and wildlife mitigation measures adopted by the Secretary of the Interior are the sole responsibility of the United States.

The amendment limits the amount of money authorized by the settlement act which the Secretary may spend on fish and wildlife mitigation associated with the Tongue River Dam Project to $625,000. It further provides that these funds, as well as funds for compliance with Federal environmental laws, are authorized by section 7(e) and are in addition to funds authorized for the Tongue River Dam Project in section 7(b)(1).

The amendment authorizes the Secretary to reimburse Montana for expenditures of State funds for environmental compliance activities undertaken prior to enactment of the amendment. The Secretary is required to reimburse the State only for those compliance activities that the Secretary determines have been properly conducted and are necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this amendment, the Secretary could not reimburse Montana for environmental compliance activities undertaken without his prior approval.

***S6146** The amendment also corrects references in section 4(c) of the settlement act to reflect the intent of Congress and the settlement parties that, except for a total of $1,400,000 authorized for the Tongue River Dam Project for fiscal year 1993 and 1994, and the funds authorized under section 7(e) for environmental compliance, no funds could be appropriated for the project until the Montana water court enters and approves a settlement decree.

I would like to emphasize that the amendment neither adds to nor eliminates or reduces any existing authorization of appropriations in the settlement act, nor does it provide any new authorization of appropriations for any purpose.

The amendment leaves intact the language in 7(e) of the settlement authorizing such sums necessary for the Secretary to comply with applicable environmental law associated with implementing the compact. The Secretary can rely on this authority to request necessary funds in cases such as where the Northern Cheyenne Tribe seeks to use its right to water in Yellowtail Reservoir, or to develop facilities for irrigated agriculture, or to develop coal or other minerals on the reservation. Such requests would necessarily be within the discretion of the Secretary, and of course, the relevant congressional appropriations committees.

I would like to make the point that neither the language of the existing section 7(e) nor the language of the amendment would preclude the Secretary from following existing policy and practice of requiring nontribal third parties involved in development of a tribe's natural resources to contribute to the costs of environmental compliance or fish and wildlife mitigation.

Madam President, this amendment has been reviewed and agreed to by the Montana delegation, the State of Montana, and the leadership of the Northern Cheyenne Tribe. Today we received from the Department of the Interior a letter, cleared by the Office of Management and Budget, expressing the administration's support for the amendment.

The Northern Cheyenne Indian reserved water rights settlement, together with the water rights compact it ratifies, are major accomplishments that reflect great credit on the tribal, State, and Federal representatives who negotiated and assembled them. Having been involved in efforts to achieve several such settlements in my State of Arizona, I can attest to the aggravation and difficulty that the settlement process entails.

I commend all of the parties involved for their good will and cooperation, and join them in the hope and belief that adoption of this amendment, together with the other agreements required by compact and by the settlement act, will clear the way for expedited work on Tongue River Dam and full implementation of the Northern Cheyenne settlement.

Madam President, I am pleased to offer an amendment to S. 1654, a bill to make certain technical corrections. The amendment I am offering will amend section 16 of the Indian Reorganization Act of 1934 <IRA> and it is cosponsored by my good friend, the chairman of the Committee on Indian Affairs, Senator INOUYE.

This amendment is similar to S. 2017, which Senator INOUYE and I introduced on April 14, 1994. The purpose of the amendment is to clarify that section 16 of the Indian Reorganization Act was not intended to authorize the Secretary of the Department of the Interior to create categories of federally recognized Indian tribes. In the past year, the Pascua Yagui Tribe of Arizona has brought to our attention the fact that the Department of the Interior has interpreted section 16 to authorize the Secretary to categorize or classify Indian tribes as being either created or historic. According to the Department, created tribes are only authorized to exercise such powers of self-governance as the Secretary may confer on them.

After careful review, I can find no basis in law or policy for the manner in which section 16 has been interpreted by the Department of the Interior. One of the reasons stated by the Department for distinguishing between created and historic tribes is that the created tribes are new in the sense that they did not exist before they organized under the IRA. At the same time, the Department insists that it cannot tell us which tribes are created and which are historic because this is determined through a case-by-case review.

All of this ignores a few fundamental principles of Federal Indian law and policy. Indian tribes exercise powers of self-governance by reason of their inherent sovereignty and not by virtue of a delegation of authority from the Federal Government. In addition, neither the Congress nor the Secretary can create an Indian tribe where none previously existed. Congress itself cannot create Indian tribes, so there is no authority for the Congress to delegate to the Secretary in this regard. Not only is this simple common sense, it is also the law as enunciated by the Federal courts.

The recognition of an Indian tribe by the Federal Government is just that-the recognition that there is a sovereign entity with governmental authority which predates the U.S. Constitution and with which the Federal Government has established formal relations. Over the years, the Federal Government has extended recognition to Indian tribes through treaties, executive orders, a course of dealing, decisions of the Federal courts, acts of Congress and administrative action. Regardless of the method by which recognition was extended, all Indian tribes enjoy the same relationship with the United States and exercise the same inherent authority. All that section 16 was intended to do was to provide a mechanism for the tribes to interact with other governments in our Federal system in a form familiar to those governments through tribal adoption and Secretarial approval of tribal constitutions for those Indian tribes that choose to employ its provisions.

Clearly the interpretation of section 16 which has been developed by the Department is inconsistent with the principle policies underlying the IRA, which were to stabilize Indian tribe governments and to encourage self-government. These policies have taken on additional vitality in the last 20 years as the Congress has repudiated and repealed the policy of termination and enacted the Indian Self-Determination and Education Assistance Act and the Tribal Self-Governance Demonstration Project. The effect of the Department's interpretation of section 16 has been to destabilize Indian tribal

governments and to hinder self-governance of the Department's unilateral and often arbitrary decisions about which powers of self-governance a tribal government can exercise.

Mr. INOUYE.

Madam President, will my good friend, the distinguished vice chairman of the Committee on Indian Affairs yield for the purpose of a colloquy on the amendment?

Mr. MCCAIN.

I would be pleased to engage in a colloquy on the amendment with the chairman of the Committee on Indian Affairs.

Mr. INOUYE.

I thank the Senator. I have reviewed section 16 of the Indian Reorganization Act <IRA> and have reached the conclusion that on its face it does not authorize or require the Secretary to establish classifications between tribes or to categorize them based on their powers of self-governance. As the legal scholar Felix Cohen noted in his 1942 Handbook on Federal Indian Law, the IRA-" had little or no effect upon the substantive powers on tribal self-government vested in the various Indian tribes." I believe that the Federal courts have also consistently construed the IRA to have had no substantive effect on inherent tribal sovereign authority.

Apparently, the Department of the Interior began making this distinction on the basis of whether reservations had been established for those tribes that were removed from their aboriginal homesteads by the Federal Government. Tribes for whom reservations were established in areas to the west of their traditional lands suddenly became created tribes, even though such tribes had existed for hundreds of years prior to the arrival of Europeans on this continent. Strangely, although the Department was apparently making this distinction amongst tribes, it appears that the Department never notified the affected tribes or the Congress of their new status. Had they done so, we would have acted to correct this unauthorized arbitrary and unreasonable ***S6147** differentiation of tribal status long ago.

The amendment which we are offering to section 16 will make it clear that the Indian Reorganization Act does not authorize or require the Secretary to establish classifications between Indian tribes. As my good friend, the Senator from Arizona has noted, the Department cannot even tell us how many Indian tribes have been placed in each classification. As I understand it, our amendment would void any past determination by the Department that an Indian tribe is created and would prohibit any such determinations in the future. Is that also the understanding of the Senator from Arizona?

Mr. MCCAIN.

The Senator from Hawaii is correct. I would also state that our amendment is intended to prohibit the Secretary or any other Federal official from distinguishing between Indian tribes or classifying them based not only on the IRA but also based on any other Federal law. We have been advised that other agencies of the Federal Government may have developed distinctions or classifications between federally recognized Indian tribes based on information provided to those agencies by the Department of the Interior. In addition, we have been advised that the Secretary of the Interior may have carried these erroneous classifications into decisions authorized by other Federal statutes such as sections 2 and 9 of title 25 of the United States Code. Accordingly, our amendment to section 16 of the IRA is intended to address all instances where such categories or classifications of Indian tribes have been applied and any statutory basis which may have been used to establish, ratify or implement the categories or classifications.

Mr. INOUYE.

I thank the Senator. I also believe that our amendment will correct any instance where any federally recognized Indian tribe has been classified as " created" and that it will prohibit such classifications from being imposed or used in the future. Our amendment makes it clear that it is and has always been Federal law and policy that Indian tribes recognized by the Federal Government stand on an equal footing to each other and to the Federal Government. That is, each federally recognized Indian tribe has the same governmental status as other federally recognized tribes by virtue

of their status as Indian tribes with a government-to-government relationship with the United States. Each federally recognized Indian tribe is entitled to the same privileges and immunities as other federally recognized tribes and has the right to exercise the same inherent and delegated authorities. This is true without regard to the manner in which the Indian tribe became recognized by the United States or whether it has chosen to organize under the IRA. By enacting this amendment to section 16 of the IRA, we will provide the stability for Indian tribal governments that the Congress thought it was providing 60 years ago when the IRA was enacted. I thank the vice chairman of the Committee on Indian Affairs for his leadership on this matter.

Mr. MCCAIN. I thank the chairman of the Committee on Indian Affairs for his assistance on this legislation. I certainly agree with all of his remarks. I would like to add just a few comments. First, our amendment will also remove what appears to be a substantial barrier to the full implementation of the policies of self-determination and self-governance. It is my expectation that the Department will act as promptly as possible after enactment of this amendment to seek out and notify every Indian tribe which has been classified or categorized as ”created” that the classification no longer applies and to take any other steps which are necessary to implement the amendment.

Lastly, Madam President, I want to express my gratitude to the Pasdua Yaqui Tribe of Arizona for bringing this matter to our attention and for providing the leadership necessary to focus the attention of the Congress and other Indian tribal governments on a solution. I would note for my colleagues that the Committee on Indian Affairs has reported H.R. 734 to the Senate for its consideration. This bill would amend the legislation which extended Federal recognition to the Pascua Yaqui Tribe to prohibit the Department of the Interior from classifying the tribe as ”created.” H.R. 734 also enables the Tribe to complete the process of enrolling its members and authorizes several studies intended to assist the tribe in providing basic services and developing their tribal economy. H.R. 734 will soon be before the Senate and I urge all of my colleagues to support this long overdue legislation.

Mr. BAUCUS.

Madam President, the Senate will soon consider S. 1654, technical amendments proposed by the Senate Indian Affairs Committee, which includes technical amendments to the Northern Cheyenne-Montana Water Rights Compact. I urge my colleagues to support this legislation.

The Northern Cheyenne-Montana Water Rights Compact was ratified by the Montana Legislature in June of 1991. Federal legislation ratifying this compact passed the Congress in September of 1992. The compact quantifies the Northern Cheyenne Tribe's water rights and provides for the enlargement and seriously needed repair of the dangerously deteriorated Tongue River Dam in Montana.

Legislation that passed the Congress in 1992 required technical correction to allow the Department of the Interior to reimburse the State of Montana for environmental compliance and fish and wildlife mitigation work associated with the rehabilitation of Tongue River Dam.

The purpose of these amendments is to clarify the relationships and responsibilities among the parties to this compact as they relate to environmental compliance and mitigation. It should be stated that these amendments, like the Northern Cheyenne-Montana compact, are the result of extensive negotiations among the Northern Cheyenne Tribe, the State of Montana and the Federal Government. It is my understanding that all parties have agreed to these technical corrections.

I encourage the parties to continue their efforts to work cooperatively together to implement the compact and allow the Northern Cheyenne Tribe to develop their water resources and to proceed with the critical task of expansion and safety improvement of the Tongue River Dam. I want to thank the able staff of the Senate Indian Affairs Committee for their assistance with this effort. I offer my support for these amendments and encourage my colleagues to do the same.

End of Document

85TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1129

PROVIDING FOR THE DISTRIBUTION OF THE LAND AND ASSETS OF CERTAIN INDIAN RANCHERIAS AND RESERVATIONS IN CALIFORNIA

AUGUST 13, 1957.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 2824]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 2824) to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following language:

That the lands, including minerals, water rights, and improvements located on the lands, and other assets of the following rancherias and reservations in the State of California shall be distributed in accordance with the provisions of this Act: Blue Lake, Graton, Guidiville, Mark West, Pinoleville, Potter Valley, Redwood Valley, Robinson, Rohnerville, Strawberry Valley, Table Bluff, Table Mountain, Upper Lake, Wilton.

SEC. 2. (a) The Indians who hold formal or informal assignments on each reservation or rancheria, or the Indians of such reservation or rancheria, or the Secretary of the Interior after consultation with such Indians, shall prepare a plan for distributing to individual Indians the assets of the reservation or rancheria, including the assigned and the unassigned lands, or for selling such assets and distributing the proceeds of sale, or for conveying such assets to a corporation or other legal entity organized or designated by the group, or for conveying such assets to the group as tenants in common. The Secretary shall provide such assistance to the Indians as is necessary to organize a corporation or other legal entity for the purposes of this Act.

(b) General notice shall be given of the contents of a plan prepared pursuant to subsection (a) of this section and approved by the Secretary, and any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary. After such consideration, the plan or a revision thereof shall be submitted for the approval of the adult Indians who will par-

ticipate in the distribution of the property, and if the plan is approved by a majority of such Indians who vote in a referendum called for that purpose by the Secretary the plan shall be carried out.

(c) Any grantee under the provisions of this section shall receive an unrestricted title to the property conveyed, and the conveyance shall be recorded in the appropriate county office.

(d) No property distributed under the provisions of this Act shall at the time of distribution be subject to any Federal or State income tax. Following any distribution of property made under the provision of this Act, such property and any income derived therefrom by the distributee shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

SEC. 3. Before making the conveyances authorized by this Act on any rancheria or reservation, the Secretary of the Interior is directed:

(a) To cause surveys to be made of the exterior or interior boundaries of the lands to the extent that such surveys are necessary or appropriate for the conveyance of marketable and recordable titles to the lands.

(b) To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof. The Secretary is authorized to contract with the State of California or political subdivisions thereof for the construction or improvement of such roads and to expand under such contracts moneys appropriated by Congress for the Indian road system. When such roads are transferred to the State or local government the State is authorized to convey rights-of-way for such roads, including any improvements thereon.

(c) To install or rehabilitate such irrigation or domestic water systems as he and the Indians affected agree, within a reasonable time, should be completed by the United States.

(d) To cancel all reimbursable indebtedness owing to the United States on account of unpaid construction, operation, and maintenance charges for water facilities on the reservation or rancheria.

(e) To exchange any lands within the rancheria or reservation that are held by the United States for the use of Indians which the Secretary and the Indians affected agree should be exchanged before the termination of the Federal trust for non-Indian lands and improvements of approximately equal value.

SEC. 4. Nothing in this Act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any water right appurtenant to any lands involved herein they shall continue to be inapplicable while the water right is in Indian ownership for a period not to exceed fifteen years after the conveyance pursuant to this Act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law. During the time such State law is not applicable the Attorney General shall represent the Indian owner in all legal proceedings, including proceedings before administrative bodies, involving such water right, and in any necessary affirmative action to prevent adverse appropriation of water which would encroach upon the Indian water right.

SEC. 5. (a) The Secretary of the Interior is authorized to convey without consideration to Indians who receive conveyances of land pursuant to this Act, or to a corporation or other legal entity organized by such Indians, or to a public or nonprofit body, any federally owned property on the reservations or rancherias subject to this Act that is not needed for the administration of Indian affairs in California.

(b) For the purposes of this Act, the assets of the Upper Lake Rancheria shall include the one hundred and sixty acre tract set aside as a wood reserve for the Upper Lake Indians by secretarial order dated February 15, 1907.

SEC. 6. The Secretary of the Interior shall disburse to the Indians of the rancherias and reservations that are subject to this Act all funds of such Indians that are in the custody of the United States.

SEC. 7. Nothing in this Act shall affect any claim filed before the Indian Claims Commission, or the right, if any, of the Indians subject to this Act to share in any judgment recovered against the United States or behalf of the Indians of California.

SEC. 8. Before conveying or distributing property pursuant to this Act, the Secretary of the Interior shall protect the rights of individual Indians who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs, by causing the appointment of guardians for such Indians in courts of competent jurisdiction, or by such other means as he may deem adequate, without application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for such Indians.

SEC. 9. Prior to the termination of the Federal trust relationship in accordance with the provisions of this Act, the Secretary of the Interior is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the Indians to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction, and subsistence during the course of training or instruction. For the purposes of such program, the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

SEC. 10. (a) The plan for the distribution of the assets of a rancheria or reservation, when approved by the Secretary and by the Indians in a referendum vote as provided in subsection 2 (b) of this Act, shall be final, and the distribution of assets pursuant to such plan shall not be the basis for any claim against the United States by an Indian who receives or is denied a part of the assets distributed.

(b) After the assets of a rancheria or reservation have been distributed pursuant to this Act, the Indians who receive any part of such assets, and the members of their immediate families, 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 be inapplicable 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 Act, however, shall affect the status of such persons as citizens of the United States.

SEC. 11. The constitution and corporate charter adopted pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended, by any rancheria or reservation subject to this Act shall be revoked by the Secretary of the Interior when a plan is approved by a majority of the adult Indians thereof pursuant to subsection 2 (b) of this Act.

SEC. 12. The Secretary of the Interior is authorized to issue such rules and regulations and to execute or approve such conveyancing instruments as he deems necessary to carry out the provisions of this Act.

SEC. 13. There is authorized to be appropriated not to exceed $110,100 to carry out the provisions of this Act.

H. R. 2824

The purpose of H. R. 2824, as amended, introduced by Congressman Moss, is to provide for the distribution of lands, minerals, water rights and improvements on 14 Indian rancherias and reservations in California. The bill also provides that either the Indians who hold assignments on or occupy each reservation or rancheria, or the Secretary of the Interior, shall prepare a plan for distributing the assets of these properties by (1) transfer to individual Indians, (2) selling such assets and distributing the proceeds to the Indians, (3) conveying such assets to the corporation or legal entity organized or designated by the group, or (4) conveying such assets to the group as tenants in common.

Four bills in addition to H. R. 2824 were introduced as follows: H. R. 2576 by Congressman Scudder, H. R. 6364 by Congressman

Engle, and H. R. 2838 and H. R. 8072 by Congressman Sisk. Following extended hearings in the Subcommittee on Indian Affairs, Congressmen Engle and Sisk withdrew their bills from further consideration, the remaining two bills were combined and the language contained therein was incorporated into H. R. 2824, as amended.

The language contained in H. R. 2824, as amended, was requested by formal resolutions from each of the following rancherias and reservations in California: Blue Lake, Graton, Guidiville, Mark West, Pinoleville, Potter Valley, Redwood Valley, Robinson, Rohnerville, Strawbery Valley, Table Bluff, Table Mountain, Upper Lake, and Wilton.

For several years Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property and for the 36,000 Indians in California. Earlier congressional hearings were held during the 82d and 83d Congresses, both in the field and in Washington, but no positive action was taken. The State Legislature memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, ch. 123, California Statutes, May 18, 1951), and a representative of the Governor's office testified in favor of the termination of the Federal supervision program as early as 1952. Since that time, the State senate interim committee on California Indian affairs (created by S. Res. No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and sent its representative to speak at subcommittee hearings on behalf of this legislation.

Members of the 14 rancherias and reservations fully understand that H. R. 2824, as amended, is purely permissive, and does not impose any kind of a program on the rancherias involved unless the individual groups approve the legislation. It is not the intention of Congress to force the legislation upon any group and any rancheria desiring to withdraw may do so.

SECTIONAL ANALYSIS

Section 1 of the bill specifies the 14 rancherias and reservations involved and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the Indians affected have been given an opportunity to object, the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the con-

sistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 10 specifies that after the Indians have accepted the termination plan and the lands are deeded to them, they shall not be eligible to participate in other Federal Indian programs. No Federal programs are planned for the benefit of California Indians. Provisions entitling the Indians of the affected rancherias to continue to participate in any future awards in pending cases are retained in section 7 of the bill.

Section 11 provides that the constitution and corporate charter of 1934 adopted by certain rancherias subject to this act shall be revoked by the Secretary of the Interior when a plan is approved by a majority of the adult Indians concerned.

Section 12 authorizes the Secretary of the Interior to issue rules and regulations and to execute or approve such conveyancing instruments as may be necessary under this act.

Section 13 authorizes the appropriation of a sum not in excess of $110,100 to carry out the provisions of this act. The Bureau of Indian Affairs has submitted the following costs believed necessary to terminate Federal trusteeship on the 14 rancherias in H. R. 2824, as amended:

Blue Lake, $4,700; Guidiville, $8,400; Graton, $4,000; Mark West, $1,300; Pinoleville, $17,900; Potter Valley, $5,200; Redwood Valley,

$16,500; Robinson, $6,500; Rohnerville, $3,750; Strawberry Valley, $700; Table Bluff, $3,550; Table Mountain, $6,700; Upper Lake, $23,900; Wilton, $7,000.

Resolutions requesting this legislation from each of the rancherias and reservations listed above and detailed background data on each are on file with the Committee on Interior and Insular Affairs.

The favorable reports on H. R. 2576 and H. R. 2824, each dated April 17, 1957, are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 17, 1957.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington 25, D. C.

DEAR MR. ENGLE: Your committee has requested a report on H. R. 2576, a bill to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes.

We recommend that the bill be enacted. A few minor amendments are suggested below.

Each of the Indian groups involved has requested by formal resolution the distribution of the rancheria assets, and we believe that the Indians are ready for such action. A background statement regarding each rancheria or reservation, and an analysis of the bill, are enclosed. A copy of the resolution from each group requesting the enactment of legislation along the lines of the bill will be furnished for committee files when hearings are held.

For several years the Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property in California. In response to House Concurrent Resolution 108, 83d Congress, this Department submitted to Congress on January 4, 1954, a proposed bill for that purpose. It was introduced as H. R. 7322 and S. 7249, and extensive hearings were held. Similar bills had been considered by the 82d Congress (H. R. 7490, H. R. 7491 and S. 3005). As was to be expected in connection with a proposal that involved so many people with differing interests (the Indian population of the State is approximately 36,000), a variety of opinions regarding the merits of the proposal were expressed.

Although the State legislature had memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, ch. 123, California Stats., May 18, 1951), and a representative of the Governor's office had testified in favor of the bills for that purpose in the 82d Congress, when the congressional hearings were held in 1954 the State representatives asked for a delay in order that some of the details might be considered further. Since that time the State senate interim committee on California Indian affairs (created by S. Res. No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and is currently preparing its recommendations. We understand that the recommendations will probably be in terms of a bill of statewide applicability, as were the bills before the 82d and 83d Congresses.

Meanwhile, plans were worked out for immediate action with selected groups in California who want an immediate termination of Federal trust responsibilities without waiting for the enactment of a bill

of statewide applicability. This is the purpose of H. R. 2576. It involves 11 rancherias, approximately 455 persons, and approximately 1,288 acres of trust land.

The most densely populated rancheria in this group is Pinoleville with 107 residents. All of the other rancheries have less than 100 residents. There are no people living on the Mark West Rancheria. Upper Lake is the largest rancheria with 561 acres, and Graton is the smallest with 15 acres. Guidiville has 243 acres and the 8 remaining rancherias have less than 100 acres each.

The following amendments are suggested:

1. On page 3, line 21 to page 4, line 1, delete the first sentence of subsection 3 (b) and insert in lieu thereof "To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof."

2. On page 6, line 9, change the period to a comma and add "without application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for such Indians." This addition clarifies but does not change the meaning of the original language.

3. On page 6, lines 12 and 13, delete "as amended, are hereby revoked" and insert in lieu thereof "shall be revoked by the Secretary when a plan is approved by a majority of the adult Indians of the community pursuant to subsection 2 (b) of this Act."

4. On page 3, between lines 13 and 14, insert a new subsection (e) as follows:

"(e) For the purposes of this Act, the assets of the Upper Lake Rancheria shall include the one hundred and sixty acre tract set aside as a wood reserve for the Upper Lake Indians by secretarial order dated February 15, 1907."

5. On page 1, line 9, delete "and", change the period to a comma, and add "Smith River, Cache River, Alexander Valley, Hopland, and Scotts Valley." Each of these groups has asked to be included in the bill, and background statements regarding them are enclosed.

6. On page 4, line 22, revise section 4 to read as follows:

"SEC. 4. Nothing in this Act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any water right appurtenant to any lands involved herein they shall continue to be inapplicable while the water right is in Indian ownership for a period not to exceed fifteen years after the conveyance pursuant to this Act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law."

This change avoids an ambiguity in the phrase "Indian water right." It also makes clear that at the end of the time specified (a matter of 15 years) the priority of any right based upon Federal law will not be prejudiced. Finally, the authority of the Attorney General to represent the Indians during the 15-year interim period in connection with water right controversies is made permissive rather than mandatory.

The expenditures contemplated by this bill for roads and training will be absorbed in the regular appropriation requests for the Bureau of Indian Affairs. The additional expenditures involved in this bill, together with those involved in the three similar bills before your committee with respect to different rancherias, are estimated at approximately $222,450 for all 4 bills.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

O. HATFIELD CHILSON,
Acting Secretary of the Interior.

ANALYSIS OF H. R. 2576

Section 1 of the bill specifies the rancherias and reservations involved and directs the distribution of their assets in acordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the Indians affected have been given an opportunity to object the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill revokes a constitution and charter issued under the Indian Reorganization Act.

Section 10 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 11 of the bill authorizes the issuance of necessary rules, regulations, and conveyancing instruments.

Section 12 of the bill authorizes necessary appropriations.

BLUE LAKE

Background data on the Blue Lake Rancheria—Humboldt County

History—The residents of the rancheria belong to the Wiyot Tribe of California Indians, and are generally known as the Humboldt Bay Indians. As far as is known, they have always lived on the northern California coast in the vicinity of Humboldt Bay. At the present time, there are very few fullbloods among the group. The Blue Lake Rancheria was established in 1908 when a 26-acre tract was purchased for $1,500 with funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat. 70–76); which made available funds "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The Indians are not organized under the Indian Reorganization Act.

People.—When the rancheria was established by purchase in 1908, there were 45 Indians in the group. By 1933, this number had increased to 70, but at the present time only 27 Indians are living on the rancheria. Of this group, 14 are minors and 3 are over 65 years of age. All of the children attend public school. The Indians use the rancheria primarily for homesites. The group does not have a current approved roll.

Land.—The 26 acres of the Blue Lake Rancheria are held in trust by the United States Government for the Indians in California. The domestic water for the group living here is obtained from the city of Blue Lake. The roads on the rancheria are maintained by Humboldt County. The lower end of the rancheria is subject to occasional floods by the Mad River. There are five informal assignments to the lands. The quality of the land is such that it can be used only for homesites, and there is a very little subsistence gardening.

Sources of income.—The principal source of income for the group is from seasonal farm work. Those who qualify receive social security aids and categorical welfare assistance from Humboldt County with no distinction being made because they are Indians.

Bureau services.—The only service that the Bureau renders the group is in connection with the trust status of the 26 acres of land.

There is a Johnson-O'Malley educational contract with the State of California and the Blue Lake school district receives funds under this contract because of the Indian children attending its public school. For the fiscal year 1958, the Bureau has an item of $11,000 on its budget for roads on the rancheria.

Attitude toward termination of Federal trusteeship.—The Indians on the Blue Lake Rancheria passed a resolution on December 15, 1955, requesting that the residents of this rancheria be given an unencumbered fee patent to the rancheria lands. They request that their rancheria be surveyed in order that each assignee may have a legal description of his assignment.

Special problems in connection with the termination of Federal relationships.—As of December 1955, the estimated funds necessary to carry out the wishes of the group were:

Domestic water system	$2,000
Land surveys	1,000
Property appraisals	400
Soil and moisture conservation	2,000
Assistance to set up legal entity in conformance with California laws	500
Programing and planning	1,500
Total	7,400

ELK VALLEY

Background data on the Elk Valley Rancheria (Crescent City), Del Norte County

History.—The 100-acre rancheria was purchased in 1909 with funds made available under the acts of June 21, 1906, and April 30, 1908, "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The cost was $3,500. There were 50 people living on the land when the rancheria was purchased. The tribal group belongs to the Smith River Tribe and the Athapaskon group, which has always made its home in the area where the rancheria is now located. These people have an informal tribal organization with elected officers, but they are not organized under the Indian Reorganization Act.

People.—In 1933, there were as few as 10 people on the rancheria. Today, 61 people make their home on the land. The total acreage is assigned to 24 assignees, and none of it is used as community property. These people do not ordinarily function as an Indian community. Each assignee uses his plot of ground as a homesite. The water system is not communal. Nine of the wage earners living on the rancheria are non-Indians. Nine of the assignees are not living on their assignments; and two plots have been rented to non-Indians. The group does not have a current approved roll.

Land.—The rancheria is surveyed into 20 plots, about 5 acres each. The survey does not seem satisfactory for title purposes. There is an improved county road on two sides of the rancheria. The land is generally of poor quality. Except for homesite clearings, it is covered with scattered brush growth.

Sources of income.—The wage earners work away from the rancheria in the lumber industry. This is practically the only type of work available in the area, and those who want other employment

must go elsewhere for it. Those who work in the lumber industry make wages adequate to support their families, since none of them have requested categorical aids from the county. Five of the people here receive old-age assistance.

Bureau services.—Services are extended by the Bureau because of the trust status of the land; no social services are performed by the Bureau for the people living on the rancheria. Del Norte County receives payments under the Johnson O'Malley educational contract because Indian pupils are attending its public schools. The county furnishes bus service. A road costing $19,700 was completed by the Bureau within the past 2 years, which brings the road system on the rancheria up to county standards.

Attitudes toward withdrawal of Federal trusteeship.—On August 31, 1955, at a general council meeting, the group voted (21 of the 24 assignees were present) to request the Government to issue to them fee title to their assignments. They asked that water be made available to each of the plots and that an internal survey be made in order that each assignee may have the legal description of his land. It was further requested that the lien of $765.07 against the rancheria be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—On August 31, 1955, it was estimated that the following sums must be expended to meet the needs of the Indians:

Land survey	$1,000
Domestic water supply	12,000
Legal assistance	500
Property appraisals	400
Programing and planning	1,500
Total	15,400

GUIDIVILLE

Background data on the Guidiville Rancheria—Mendocino County

History.—Guidiville Rancheria was established in 1909 when a 50-acre tract was purchased for $2,000. The plot was enlarged by the purchase of another 34 acres in 1912 for $2,100. Executive Order of 1912 added further to the lands. The present acreage is 243. The people living here belong to the Pomo Tribe. This general area is the traditional homeland of these Indians and the rancheria was established where they have always lived. The group living here now has an informal tribal organization with elected officers. They are not formally organized.

People.—There were 92 people on the rancheria when it was established. By 1933, the number had dropped to 38, and today 32 people make their home on the land. They consist of 7 family groups with 11 wage earners. They are using the land for homesites with limited agricultural enterprises. Four of the residents are over 65. The group does not have a current approved roll.

Land.—Thirty-eight acres of the rancheria are used for homesites and limited agricultural enterprises by 11 assignees. They have informal assignments to the plots that they are using. These individual assignments have the approval of the group. The remaining 213 acres are leased to a non-Indian. There is a domestic water system built several years ago with a lien of $1,867.22 against the land because

of this improvement. An access road is being built during the present fiscal year which will meet the standards set by the county.

Sources of income.—Several of the residents have vineyards and make part of their livelihood by this means. They augment this income with wages from seasonal agricultural work and other miscellaneous type of rural employment. If they qualify for public assistance, it is granted to them with no distinction being made because they are Indians.

Bureau services.—An appropriation of $40,176 was made to build an adequate road which will be finished in 1957. Payments are made to the school district under the Johnson O'Malley contract for the Indian children attending public school. The Bureau renders services in connection with leasing the grazing land and at the present time an IIM account ($300) is maintained by the Bureau from funds derived from this leasing.

Attitudes toward withdrawal of Federal trusteeship.—On October 20, 1955, the residents of the rancheria passed a resolution requesting that the United States Government transfer to the individuals the fee title to their individual tracts, and that the mountain and grazing land be patented to the group. They further ask that a survey be made so that each assignee will receive a legal description of his property, that the lien against the land be canceled, and that a legal entity be established to accept and maintain the land that will be leased.

Estimated cost to effect withdrawal of Federal trusteeship.—In December of 1955, the local Bureau of Indian Affairs estimated that the following sums would be necessary to effect withdrawal.

Land survey	$3,000
Assistance to form a legal entity	1,500
Property appraisals	500
Programing and planning	2,500
Total	7,500

GRATON

Background data on the Graton Rancheria (Sebastopol), Sonoma County

History.—The land of the Graton Rancheria was purchased for $2,100 in 1915 with funds appropriated by the act of August 1, 1914 (38 Stat., 582–589), "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The Pomo Indians who live here are in their traditional homeland. The group is not organized, either formally or informally.

People.—There were 76 Indians of the Pomo Tribe living on the land when the rancheria was established. A check in 1933 revealed no Indians to be living on the land, but at the present time there are seven people making their home here. They are all adults except for one 10-year-old girl. Four people have informal assignments; 2 of them are over 65. They use the land only as a rural homesite. The group does not have a current approved roll.

Land.—The rancheria contains only 15.45 acres. The land is steep timber land and there are probably a few merchantable trees on the tract. It is adequately served by a paved road. There are no liens against the rancheria because of any improvements.

Sources of income.—The three wage earners work in the lumber industry of the area. They do not augment their income with subsistence gardening. Their income is only adequate to maintain essential homesites with no modern improvements.

Bureau services.—The Bureau renders no services to the group as people; it is only responsible for the trust status of the land.

Attitude toward withdrawal of Federal trusteeship.—The people who have assignments to this 15-acre tract asked on December 13, 1955, that they be given fee title to the parcel and that it be surveyed so that each assignee might have legal description to his assignment.

Estimated cost of withdrawal of Federal trusteeship.—It was estimated in December of 1955 that the following funds would be necessary to effect the transfer of title:

Land survey	$1,000
Legal assistance	1,000
Property appraisals	500
Programing and planning	1,500
Total	4,000

MARK WEST

Background data on the Mark West Rancheria—Sonoma County

The records indicate that this rancheria was acquired in 1916. It consists of 35 acres assigned to Mr. William B. Steele. Mr. Steele has a wife, a stepson who is 24 years old, two daughters (15 and 10 years old), and a son 12 years of age. The family live at 126 Scott Street, Santa Rosa, Calif. Mr. Steele is the sole assignee to the rancheria.

The acreage is brush-hillside land with some trees and grazing land. The external boundaries need to be surveyed. Water is obtained from a spring and there are no apparent water-right problems. There are no roads and there is no lien. The rancheria has been unoccupied for several years. The Steele family recently did some improvement work on the rancheria and apparently intends to build a home there and use the land within the near future. Mr. Steele is employed in Santa Rosa and expects to keep his regular job if he uses the rancheria as a homesite.

On December 12, 1955, Mr. Steele requested that he be given fee title to this tract of land after a survey had been made to determine the legal description of the property. At that time it was estimated that the following amount would be necessary to effect transfer of title:

Land survey	$400
Appraisal of property	200
Legal assistance	200
Programing and planning	500
Total	1,300

PINOLEVILLE

Background data on the Pinoleville Rancheria, Mendocino County

History.—This rancheria was established in 1911 when 95.28 acres were purchased for $8,500 with funds appropriated by the acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76);

"to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *" The 130 Indians who were living in the area at the time of purchase belonged to the Pomo Tribe, and this rancheria was established in their traditional homeland. By 1933, the number had dropped to 75. At the present time there are 107 Indians living at Pinoleville.

People.—There are 15 family groups on the land, each with an assignment (one being to the school lot). They form a well-organized community with elected officers who speak for the group. At the present time they hold, through a trustee, additional land adjacent to the rancheria that is not in trust. These Indians have displayed initiative by developing and improving their land into very good vineyards. They live in well-kept homes. At one time the Bureau maintained a school at the rancheria, but now all of the children of school age attend public school in the county. The group prepared a tribal roll in 1947, but it has not been kept current. There are some tribal members who do not live on the rancheria, having left to work in jobs in the surrounding area.

Land.—The land is a short distance from the town of Ukiah, Calif. It is considered improved land with vineyards and orchards. A creek runs through the land, which is subject to annual floods. Some work has been done in cooperation with the other landowners in the area, but the flood conditions are not completely controlled by the revetments. A water system was installed at the rancheria several years ago in connection with the school and teacherage. It remains today and a lien of $2,585.65 is against the property because of this work. United States Highway No. 101 runs along the east edge of the land and there are access roads to the homesites from the highway. These roads need to be brought up to county standards. The assignees have installed and maintained their own pressure water systems, but it could be improved considerably. The United States Government buildings on the rancheria are being used by the Indians, the schoolhouse as a community building, and the teacherage as a residence, and the shop buildings for storage purposes.

Sources of income.—The sources of income for the heads of families are extremely varied and include income from the sale of grapes from the assigned land. Several members of the group have specific trades including welders, mechanics, carpenters, plumbers, etc. One member has been a postal service employee for a number of years. Several members are contractors of farm work including pruning and crop harvesting. Probably one-half of the adult members receive most of their income through wage work on the local farms and in the local timber industry. The economic position of this rancheria has improved since 1934. Many of the assignments have been made productive and many of the families now have substantial homes. Also, work is available for most everyone throughout the year due to a great influx of industry into the immediate vicinity during the last few years.

Bureau services.—The public school which the rancheria children attend receives financial assistance under the Johnson O'Malley educational contract. The Bureau has a cooperative fire control agreement with the California Division of Forestry. The Bureau has an agreement with Mendocino County in which the county agrees to accept full responsibility for future construction and maintenance on

Indian roads after these have been constructed and to a mutually agreed standard and rights transferred to the county. There is an item in the Bureau's budget for 1958 amounting to $17,000 for road building on this rancheria.

Attitude toward withdrawal of Federal trusteeship.—At a general council meeting held at their rancheria on September 23, 1955, the group voted to have the United States Government transfer the fee title to their individual tracts. They asked that the roads on the land be brought up to the county standards; that a survey be made of their land so that each assignee could have a legal description of his property; that the lien against the land be canceled. They also ask that a domestic water system be installed.

Estimated cost to effect withdrawal of Federal trusteeship.—(By local Bureau of Indian Affairs' officials in September of 1955:)

Land survey	$1,500
Water system	10,000
Legal assistance	1,000
Property appraisal	400
Soil and moisture conservation	2,000
Programing and planning	3,000
Total	17,900

POTTER VALLEY

Background data on the Potter Valley Rancheria, Mendocino County

History.—In 1909, 16 acres of land were bought for $2,000 for the 72 Pomo Indians in the area, under the acts of June 21, 1906 (31 Stat., 325–333), and April 30, 1908 (35 Stat., 70–76), which made available funds "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." An Executive order a few years later set aside for this group an additional 80 acres which was not contiguous to the original purchase tract and has never been used by these people as a homesite. The 16-acre tract is located in the general area where the tribe has always made its home. In 1933, the number of people using this land for homesites dropped to 15, and at the present time 18 people live here. The group is not organized under the Indian Reorganization Act.

People.—The 16-acre plot is assigned to 7 family groups under informal assignments. One of the assignees is married to a non-Indian. There are only two children of school age living on the rancheria. One of the assignees is over 65 years of age. These people do not have a current roll of their membership.

Land.—The 16-acre tract that is used for homesites is in need of access roads to adequately serve the homesites. There are no roads or other improvements on the 80-acre mountain plot. The homesite tract is not especially good land, but the occupants do have family truck gardens. Each assignee has his own water supply from individual wells, and they are not interested in a community water system. At one time the sum of $233 was collected by the Bureau because of either a lease or a tresspass and that amount is held in the individual money account of the group in Sacramento. There is no regular source of income for this group. There is no lien against the land because of any improvement.

Source of income.—One of the seven family heads is on an old-age assistance grant; the others work for wages in the surrounding area. The work is seasonal and the average income is only adequate to meet the minimum needs. Their income is augmented somewhat by gardening produce.

Bureau services.—The Bureau renders services only because of the trust status of the land; all other services are provided to the people by the county. There is an item of $19,000 in the Bureau's 1958 budget to build necessary roads on the rancheria. The local school district receives payments under the Johnson O'Malley educational contract for the two children who attend public school.

Attitude toward withdrawal of Federal trusteeship.—All of the Indians who have assignments on the rancheria asked by resolution dated December 11, 1955, that they be given fee title to their assignments after the road system has been completed. They also asked that the land that they be given legal assistance in forming a corporation to accept and manage their mountain property.

Estimated cost to effect withdrawal of Federal trusteeship.—The local Bureau of Indian Affairs' officials estimated that the following amounts would be necessary to effect withdrawal as of December 14, 1955:

Land survey	$1,500
Legal assistance	200
Appraisal of property	500
Programing and planning	3,000
Total	5,200

REDWOOD VALLEY

Background data on the Redwood Valley Rancheria, Mendocino County

History.—In 1909, 80 acres of land were purchased for $2,000 to form the Redwood Valley Rancheria. There were about 51 Pomo Indians in the area at that time. The rancheria was established in that part of California where the group had always lived. Funds for the purchase of this land were appropriated by the acts of June 21, 1906 (31 Stat., 325–333), and April 30, 1908 (35 Stat., 70–76), which provided money "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The people living on the Redwood Valley Rancheria are organized informally, but not under the Indian Reorganization Act.

People.—The rancheria population in 1933 was 31. Today it is 56, comprising 11 families. There is no approved roll for this group, but they consider people who do not have assignments and who live elsewhere as members. Four of the assignees are 65 years of age or over. There are only 6 children of school age in this group, and the same number of preschool children. The housing standards of this group are poor.

Land.—In the past 5 years the Bureau of Indian Affairs has built internal roads on this rancheria at a cost of $15,900. The land is divided into homesite plots of 4.98 acres each and there is no central water system. There is no lien against the land because of any im-

provement. The land is of a poor quality and affords only homesites with no produce from gardening.

Sources of income.—Employment opportunities are nonexistent on this rancheria and are scarce in the area. This makes it necessary for the wage earners to depend upon seasonal work, mostly of an agricultural nature. As a consequence, their annual income is not always adequate and they apply for social welfare from the county.

Bureau services.—Services are rendered by the Bureau only because of the trust status of the land.

Attitude toward withdrawal of Federal trusteeship.—By resolution dated October 19, 1955, these people asked that the present assignees be given title to their parcels after a survey has been made. They also requested that a water system be installed on the rancheria, and that they be given assistance in the formulation of an entity to take over and manage this improvement.

Estimated cost to effect withdrawal of Federal trusteeship.—The local officials of the Bureau of Indian Affairs estimated the following amounts would be necessary to effect transfer:

Land survey	$1,500
Domestic water system	10,000
Legal assistance	1,000
Appraisal of property	500
Soil and moisture conservation	2,000
Programing and planning	1,500
Total	16,500

ROHNERVILLE

Background data on the Rohnerville Rancheria—Humboldt County

History.—In 1922, 16 acres were purchased with appropriated funds at a cost of $434. An estimated 15 Indians of the Wiyot Tribe, were living on this land at the time the land was purchased. Today, there are 40 people making their homes on the rancheria.

People.—There are eight wage earners on the rancheria and each of them has an assignment. Four of them are over 65 years of age. There are 11 children of school age. There are 10 homes (low standard) on the rancheria, constructed by the assignees. These people do not have an approved current membership roll, but they work together as a group and have arrived at the land use by mutual consent.

Land.—On the rancheria an assignment consists of a homesite of about 1 acre, and a wood lot of about the same area. The homesites are on the upper half of the strip of land, with the wood lots on the lower half. An adequate road is needed through the wood lot to the homesites. A domestic water system was installed recently and there is a lien against the land in the amount of $1,981.34 because of this improvement. This rancheria does not have a cemetery, and the group holds no other property in common.

Sources of income.—The workers depend upon miscellaneous work in the adjacent area, usually in the woods and the lumber industry. They receive welfare aid from the county with no distinction being made because they are Indians.

Bureau services.—The Bureau renders services only because the land is in a trust status. A domestic water system was installed recently and there is an item in the 1958 budget in the amount of $23,000 to

build a standard road for the rancheria. The local school district receives Johnson-O'Malley educational contract funds.

Attitude toward withdrawal of Federal trusteeship.—On September 1, 1955, this group, through their informal organization passed a resolution asking that the United States Government transfer to them the fee title to their individual shares of this tract. They asked that the road system be completed before this is done, and that the land be surveyed so that each assignee may have a legal description of his land. They want the lien to be canceled, and assistance to form a legal entity to take over and manage their water system.

Estimated costs to effect withdrawal of Federal trusteeship.—The local Bureau of Indian Affairs' officials at Sacramento estimated that the following amounts would be necessary to transfer title:

Land survey	$1,000
Legal assistance	1,000
Property appraisal	250
Programing and planning	1,500
Total	3,750

TABLE BLUFF

Background data on the Table Bluff Rancheria—Humboldt County

History.—This 20-acre plot was bought in 1908 for $3,000 for the 60 Indians reputed to be living in the area at that time. Appropriated funds were used to buy the land. These funds were made available under the acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76), which provided money "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *."

People.—In 1933, the number of people using the land had increased to 75, but at the present time there are 38 people living here. They comprise 14 family groups with 14 wage earners. All of the children of school age attend public school at the town of Lighthouse near the rancheria. These people have no formal tribal organization, but they operate informally in making land assignments. There is no approved current membership roll for these Indians.

Land.—This 20 acres of land is served by two county roads, with access roads maintained by the users of the homesites. The land serves primarily for rural homesites, but there are some cultivated family gardens. Each assignee has installed and maintains his own well. There are no liens against the property because of any former improvements.

Sources of income.—The wage earners here must leave home to find work. They work for wages in the lumber industry and in other miscellaneous work. If the family needs welfare assistance, they receive it from the county on the same basis as other applicants.

Bureau services.—The Bureau renders no services to these people except in connection with the trust status of the land. No improvements on the land were made and there is no lien against it. The local school district receives payments under the Johnson-O'Malley contract because of the Indian children who attend their public schools.

Attitude toward withdrawal of Federal trusteeship.—On September 21, 1955, this group asked by resolution that they be given fee title

to their individual tracts after a survey had been made to ascertain the legal description of each assignment.

Estimated cost to effect withdrawal of Federal trusteeship.—At that time, the local Bureau of Indian Affairs' officials estimated that the amounts needed to effect transfer of title would be as follows:

Land survey	$1,000
Legal assistance	500
Property appraisal	550
Programing and planning	1,500
Total	3,550

UPPER LAKE

Background data on the Upper Lake Rancheria—Lake County

In 1908, 143 acres were bought for the 285 Pomo Indians making their home at Upper Lake at a cost of $5,000. This land forms the nucleus of the present rancheria. Ninety-nine acres were added in 1936 and another 159 acres in 1941, under the Indian Reorganization Act. Each of these parcels cost $11,000. By secretarial order of February 15, 1907, a 160-acre tract was set aside "as a woodlot for the Upper Lake Indians until such time as it may be secured to them either by Executive order or congressional action." Another rancheria was subsequently established in 1909 at Robinson for a number of Upper Lake Indians. Neither the Upper Lake group nor the Robinson group made exclusive use of the woodlot until 1953 when the group at Upper Lake negotiated to sell some timber on the tract. If proposed legislation designates the parcel as part of the Upper Lake Rancheria there would be no question of title. This group is organized under the Indian Reorganization Act and has an approved roll. The following resolution is quoted to give facts about the rancheria:

Be it resolved by the Upper Lake Pomo Indian Community, Upper Lake, Calif., a legal community organization established and approved by the Secretary of the Interior November 5, 1941:

"Whereas 'Federal responsibility for administering the affairs of individual Indian tribes should be terminated as rapidly as the circumstances of each tribe will permit. This should be accomplished by arrangements with the proper public bodies of the political subdivisions to assume responsibility for the services customarily enjoyed by non-Indian residents of such political subdivisions and by distribution of tribal assets among the individual members, or to the tribe as a unit, whichever may appear to be the better plan in each case. In addition, responsibility for trust properties should be transferred to the Indians themselves, either as groups or individuals, as soon as feasible';

"Whereas it is not right to claim that the tribes being subjected to the termination bill are competent to handle their own affairs while the bills vest in the Secretary of Interior final authority to determine in what manner the Indians shall be made to handle their own affairs.

"Now, therefore, the tribal members of the Upper Lake Pomo Indian Community, a legal community organized under the Reorganization Act of June 18, 1934, under the corporate name, Upper Lake Pomo Indian Community, has worked successfully in managing and financing their business and homes under this organized setup, so now

we believe we have advanced to where we are competent enough to handle our community and individual affairs when released from under Federal supervision.

"I. Membership consists of 76 adults and children. Adults, 39; 37 children; 11 of these children are entered in the local public schools; the rest are under school age.

"II. Tribal property consists of 2 parcels of land which total 561 acres of land. One parcel of land consist of 401 acres; this is where the homesites, farming and hill pastureland is situated. There are 21 homes on this place; 17 are I. R. and R. houses. One member purchased a small house from the tribe, which was included with the purchase of the property; two other members have built their homes on house lots approved through the council. All homes are equipped with modern inside facilities. The domestic water is piped from two deep wells which all houseowners share the right-of-way and pay equally accumulated bills resulting from usage and repairs.

"Farmable land consists of approximately 110 acres of land, of which all the land has been assigned through the council to individual tribal members who have qualified under the bylaws and land code set up by the community. Forty-eight acres are planted in pear trees, 20 acres in walnut trees; 42 acres are used for seasonal crops and garden lots.

"Hill pastureland consists of approximately 240 acres, which is rented on yearly basis for pasture to neighboring farmers or stockowners, and the money is used as a tribal fund, handled through tribal officers of whom the tribal treasurer is bonded, and the money is deposited in our local bank.

"The second parcel of land is a 160-acre woodlot, situated approximately 5 miles north of Upper Lake town, section 15, township 16 north, range 10 west, south half of northeast quarter; and east half of southeast quarter Mount Diablo meridian. It is used as a wood reserve for fuel and timber growing.

"In July 1953, we assumed the responsibility of cutting timber from a place to build a community building for the tribe; after cutting started we were stopped by the area office in Sacramento, stating we were not owners of the woodlot. After all these years, they have given us the impression of ownership. We have signed, through our community executive committee, annual liability and asset report sheets determining valuation and title of property to our tribal organization. Now it stands as an unsettled question, awaiting ownership approval from the Secretary of the Interior.

"III. The Government roads running through the tribal property have been repaired and oiled within the year, and the council has approved by a resolution to turn these roads over to the county, which now is awaiting approval by the county and State for acceptance. These roads, we believe, are used more by the non-Indian or public than the tribe, and we believe the care and maintenance should be the county's responsibility. The school buses drive into the reservation for the Indian schoolchildren, who all attend the public schools. The county provides bus shelters which consist of two for the Indian children. School lunches are paid for by the parent or guardian, and those who need assistance are cared for the same as the non-Indians. Hot lunches are served at the school at a nominal fee.

"IV. The older Indians, which total 11, all have and live in I. R. and R. houses, and either receive social security, veterans', or county old-age benefits: Now, therefore, be it

"*Resolved*, To release the enrolled tribal members of the Upper Lake Pomo Indian Community from under Federal supervision and to assume responsibility like non-Indian residents. Responsibility of trust property to be transferred over to the members of our tribal roll of the Upper Lake Pomo Indian Community.

"The above resolution was duly passed and adopted by the executive committee of the Upper Lake Pomo Indian Community, a duly elected body to represent and transact business for the Upper Lake Pomo Indian Community, by a unanimous vote of seven for, none against, at a meeting assembled at which a quorum was present on this 16th day of November 1954."

There is a lien of $20,568.40 against the lands of the Upper Lake Rancheria because of irrigation and domestic water system installations.

In addition to the above resolution, this group passed a resolution, on September 22, 1955, reiterating their desire for fee title conditioned upon an internal survey, establishment of water rights, cancellation of liens against the land, and asisstance to form a legal entity to manage their community property.

It was estimated in September 1955, by local Bureau of Indian Affairs officials, that the following amounts would be necessary to effect withdrawal of Federal trusteeship:

Land survey	$3,500
Legal assistance	2,500
Water system	2,000
Irrigation system	1,000
Establishment of water rights	2,000
Soil and moisture conservation	7,300
Property appraisal	600
Programing and planning	5,000
Total	23,900

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 17, 1957.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. ENGLE: Your committee has requested a report on H. R. 2824, a bill to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes.

We recommend that the bill be enacted. A few minor amendments are suggested below.

Each of the two Indian groups involved has requested by formal resolution the distribution of the rancheria assets, and we believe that the Indians are ready for such action. A background statement regarding each rancheria, and an analysis of the bill, are enclosed. A copy of the resolution from each group requesting the enactment of legislation along the lines of the bill will be furnished for committee files when hearings are held.

For several years the Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property in California. In response to House Concurrent Resolution 108, 83d Congress, this Department submitted to Congress on January 4, 1954, a proposed bill for that purpose. It was introduced as H. R. 7322 and S. 7249, and extensive hearings were held. Similar bills had been considered by the 82d Congress (H. R. 7490, H. R. 7491, and S. 3005). As was to be expected in connection with a proposal that involved so many people with differing interests (the Indian population of the State is approximately 36,000), a variety of opinions regarding the merits of the proposal were expressed.

Although the State legislature had memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, Chap. 123, Calif. Stats., May 18, 1951), and a representative of the Governor's office had testified in favor of the bills for that purpose in the 82d Congress, when the congressional hearings were held in 1954 the State representatives asked for a delay in order that some of the details might be considered further. Since that time the State Senate Interim Committee on California Indian Affairs (created by Senate Resolution No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and is currently preparing its recommendations. We understand that the recommendations will probably be in terms of a bill of statewide applicability, as were the bills before the 82d and 83d Congresses.

Meanwhile, plans were worked out for immediate action with selected groups in California who want an immediate termination of Federal trust responsibilities without waiting for the enactment of a bill of statewide applicability. This is the purpose of H. R. 2824. It involves the two rancherias of Strawberry Valley and Wilton. There are two people living at Strawberry Valley and 33 people at Wilton. Strawberry Valley consists of one city lot, and Wilton consists of 39 acres.

The following technical amendments are suggested.

1. On page 2, line 20, before "Indians" insert "adult."

2. On page 3, line 21 to page 4, line 1, delete the first sentence of subsection 3 (b) and insert in lieu thereof "To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof."

3. On page 6, line 10, change the period to a comma and add "without application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for such Indians." This addition clarifies but does not change the meaning of the original language.

4. On page 6, lines 13 and 14, delete "as amended, is hereby revoked", and insert in lieu thereof "shall be revoked by the Secretary when a plan is approved by a majority of the adult Indians of the Community pursuant to subsection 2 (b) of this act."

5. On page 4, line 22, revise section 4 to read as follows:

"SEC. 4. Nothing in this act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any

water right appurtenant to any lands involved herein they shall continue to be inapplicable while the water right is in Indian ownership for a period not to exceed 15 years after the conveyance pursuant to this act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law."

This change avoids an ambiguity in the phrase "Indian water right." It also makes clear that at the end of the time specified (a matter of 15 years) the priority of any right based upon Federal law will not be prejudiced. Finally, the authority of the Attorney General to represent the Indians during the 15-year interim period in connection with water right controversies is made permissive rather than mandatory.

The expenditures contemplated by this bill for roads and training will be absorbed in the regular appropriation requests for the Bureau of Indian Affairs. The additional expenditures involved in this bill, together with those involved in the 3 similar bills before your Committee with respect to different rancherias, are estimated at approximately $222,450 for all 4 bills.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

O. HATFIELD CHILSON,
Acting Secretary of the Interior.

ANALYSIS OF H. R. 2824

Section 1 of the bill specifies the rancherias and reservations involved and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the Indians affected have been given an opportunity to object the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill revokes a constitution issued under the Indian Reorganization Act.

Section 10 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 11 of the bill authorizes the issuance of necessary rules, regulations, and conveyancing instruments.

Section 12 of the bill authorizes necessary appropriations.

STRAWBERRY VALLEY

Background data on the Strawberry Valley Rancheria—Yuba County

In 1914, a half-acre plot of ground was purchased with appropriated funds of $208.90. Title was taken in the name of the United States of America. This is the Strawberry Valley Rancheria. A Mr. Alex S. Picayune had proposed to buy this lot himself, but the local Bureau official at that time offered to buy it for him. Title was not taken in trust for Mr. Picayune, but he has always been the sole occupant of this lot. As far as can be ascertained, no other Indians claim the land.

Mr. Picayune has one daughter, Mrs. Sophia Wyman, who is married to a non-Indian, and a granddaughter, Josephine Williams whose parents are dead. Miss Williams makes her home with Mr. Picayune.

This one-half acre is part of the townsite of Strawberry Valley. Mr. Picayune built his own home and installed a well for his use. He had always made his own way without help from the Bureau and he is a respected member of the Strawberry Valley community. Mr. Picayune asked on December 6, 1955, that he be given a fee patent to this land. There are no liens against the lot. The local Bureau of Indian

Affairs' officials estimated that the following sums would be needed to transfer the title:

Land survey	$200
Legal assistance	100
Appraisal of property	100
Programing and planning	300
Total	700

WILTON

Background data on the Wilton Rancheria, Sacramento County

History.—In 1924, 38.81 acres were bought for the 150 Miwok Indians living in this area for $5,000. This is the Wilton Rancheria. The group is organized under the Indian Reorganization Act as the Me-wuk Indian community of the Wilton Rancheria, Calif. Their constitution was approved on January 15, 1936, and amended on May 21, 1946. They have no approved charter.

People.—By 1933, the number of Indians living on this rancheria had dropped to 40, and today 33 make their homes here. There are 9 families; 1 family has 10 children and another has 8. Five of the assignees are childless. This is a comparatively young group, although 3 of the assignees are over 65 years of age. The 13 children attend public school at Wilton. There is an official roll of membership under the Indian Reorganization Act, but it is not current.

Lands.—This tract is located near the little village of Wilton along the railroad tract. The Consumnes River adjoins the tract at the lower end. There are about 9 or 10 acres of agricultural land which has been cultivated in the past, but which is subject to floods from the river. There has been some effort on the part of the local district, or the adjoining landowners, to build a dike to protect the Indian land as well as the non-Indian land. The residents are served with water from a domestic well with an overhead tank and underground distribution system at each of the houses. There is a lien on account of the water development in the amount of $3,809.47. There has been no road improvement undertaken, but the Bureau has an item of $11,000 in the 1958 budget for some internal roads. The rancheria adjoins a paved highway.

Sources of income.—The sources of income for heads of the families are extremely varied and include work in nearby Government installations, farm labor, and miscellaneous wage work.

Bureau services.—The Bureau renders services only because of the trust status of the land. There are no payments to the local school district under the Johnson O'Malley contract. An item of $11,000 is in the Bureau's budget for 1958 for internal road constuction. These people receive their social services (extension, law and order, vital statistics, welfare, etc.) from the county with no distinction being made because they are Indians.

Attitude toward withdrawal of Federal trusteeship.—The 10 assignees on the rancheria asked by resolution dated October 13, 1955, that they be given fee title to their assignments after the road system has been completed, and an internal survey has been made on which to base the subdivision, and that the lien against the land be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—At that

time it was estimated by the local Bureau of Indian Affairs' officials that the following sums would be necessary to effect withdrawal of Federal trusteeship:

Land survey	$800
Domestic water system	1,000
Legal assistance	500
Appraisal of property	200
Levy construction	4,000
Programing and planning	500
Total	7,000

The Committee on Interior and Insular Affairs recommends the enactment of H. R. 2824, as amended.

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2 Ops. Sol. Int. 1253 (Mar. 10, 1944) (as transcribed at http://thorpe.ou.edu/sol_opinions/p1251-1275.html (last visited March 6, 2017))

EASTERN BAND OF CHEROKEE INDIANS--
POWER TO ESTABLISH MEMBERSHIP ROLL

March 10, 1944.

Syllabus

Re: Powers of Tribal Council of Eastern Band of Cherokee Indians to establish a new tribal membership roll in view of the provisions of the acts of June 4, 1924 (43 Stat. 376), an March 4, 1931 (46 Stat. 1518).

Held:
(1) The membership roll prepared under the act of June 4, 1924, was made final and conclusive for all purposes by the terms of the act.

(2) Under the amendatory act of March 4, 1931, all persons whose names appear on the roll prepared under the act of 1924 and who are now living must be recognized legally as members of the tribe unless it can be shown that they have voluntarily renounced their tribal membership.

(3) The only effect of the act of March 4, 1931, was to permit changes in this roll by additions of new-borns and deletions of deceased members subject to the limitation as to degree of blood established by the act.

(4) The Tribal Council derives no additional powers over tribal membership by virtue of the act of the State of North Carolina of March 8, 1895.

(5) In the absence of further legislation the Tribal Council can establish a roll for all current tribal purposes only by organizing under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), but the mere fact that the Eastern Band of Cherokee Indians has voted to accept the Indian Reorganization Act is not a sufficient basis for this authority.

(6) The Tribal Council may, however, strike from the existing membership roll any member who is found to have ***1254** severed his tribal relations, and taken up the habits of civilized life but such adjudications would not be conclusive, and would not deprive such member of the right to share in tribal property.

(7) The Tribal Council may by ordinances also condition the benefits and privileges of tribal membership upon residence on the reservation but such ordinances would have to be applicable to all members of the tribe irrespective of their degree of Indian blood.

Memorandum for the Commissioner of Indian Affairs:

There is returned to you herewith for further consideration your letter of October 27, 1943, to the Superintendent of the Cherokee Agency, discussing the power of the Eastern Band of Cherokee Indians to establish a new tribal membership roll.

This letter is occasioned by Resolution No. B-2 adopted by the Tribal Council of the Eastern Band of Cherokee Indians on February 6 or 7, 1940. This resolution in effect requested that the Department sponsor legislation to purge the tribal membership roll prepared under the act of June

4, 1924 (43 Stat. 376), of all persons who have less than 1/16 degree of Indian blood. This appears to be the second resolution on the question of tribal membership adopted by the Tribal Council. On November 20, 1940, it adopted Resolution No. 70 requesting the enactment of legislation to make it possible to admit into membership children born since June 4, 1924. The record shows that the tribe has long been dissatisfied with the roll prepared under the act of June 4, 1924.

No action to effectuate the wishes of the tribe has, however, been taken as yet pursuant to either resolution. You now in effect propose to advise the Tribal Council that no legislation is necessary to purge the tribal roll of persons of less than 1/16 degree of Indian blood, and that it may without any qualifications prepare a new roll for "current tribal purposes."

This legal position is, however, not in harmony with the act of March 4, 1931 (46 Stat. 1518), which amended the act of June 4, 1924, and is also based upon an unjustified extension of the opinion of this office dated May 17, 1941. Under the act of June 4, 1924, the Eastern Cherokee roll was made final and conclusive for all purposes, and therefore falls within the third category of tribal membership statutes discussed in this opinion. If the act had remained unaltered, there could have been no question but that the roll could not be altered or disregarded by the Tribal Council. The act of March 4, 1931, did not repeal the act of June 4, 1924, but only sought to modify it in certain respects. You seem virtually to take the position, however, that the effect of the amendatory act was to terminate the validity of the membership roll, and to convert it solely into an unalterable tribal document of interest for historical purposes but of no practical import. Such an interpretation finds no support in either the language of the act, or its legislative history, which shows that the tribe had long objected to the basis upon which the roll had been prepared under the 1924 act, and that it was the purpose of the 1931 act itself to settle the basis upon which membership should be determined in the future. Thus the departmental letter of December 4, 1930 (Senate Rep. No. 1479, p. 3) stated: "If enacted this proposed amendment would provide a membership roll of these Indians which would be authentic and would settle the enrollment problem at least, thereby determining the tribal rights of a large number of claimants and contestees who have for the past 23 years been urging that their cases be finally adjudicated." Congress itself having determined the basis of membership under the 1924 and 1931 acts, the tribal power is necessarily limited by the provisions of these statutes. There is certainly no support in either principle or authority, for the argument that statutes of the State of North Carolina can undo the effects of acts of Congress. Section 3 of the act of June 4, 1924, expressly declared indeed that in the preparation of the roll directed by the act the North Carolina statutes "shall be disregarded."

The amendatory act of 1931 very closely provides that the roll prepared pursuant to the act of 1924 shall be a final roll only for the purpose of showing the membership of the band as it existed on June 4, 1924. In other words, that roll constitutes the legal membership of the band as it existed on that date and is subject to change only by Congress, and not by the Tribal Council or by administrative officials. The roll prepared under the act of 1924 is not, however, final for any other purpose. Accordingly, membership in the tribe would thereafter be subject to change by addition of new-borns and deletions of deceased members. The proviso takes cognizance of this by specifically prohibiting recognition thereafter of any person of less than 1/16 degree of Cherokee Indian blood. The limitation of such persons to the rights acquired by inheritance contemplates property rights which were vested in the deceased member at the time of his death. There is no such thing in Indian law as inheritance of tribal membership. In the absence of Congressional legislation, tribal membership is usually acquired by birth into, affiliation with, and recognition by the tribe. The tribal ***1255** authorities themselves of course are invested with primary authority to determine questions of membership.

Under the amendment of 1931 all persons shown on the roll prepared under the act of 1924 and now living must be recognized as legal members of the tribe, irrespective of their degree of blood and irrespective of their present residence, unless it can be shown that they have severed their tribal relations and this might be established by showing that they have taken up their residence

separate and apart from the tribe and have adopted the customs and habits of civilized life. In such a case their own rights to share in distributions of tribal property would not be lost in view of the familiar statutory provisions saving the rights of such persons in so far as sharing in distributions of the tribal property are concerned. (See *Handbook of Federal Indian Law*, pp. 167-68).

Thus, the only way in which the result desired by your office may legally be reached without further legislation is for the Eastern Cherokees to organize under the Indian Reorganization Act and prescribe membership rules which would control in all distributions of tribal property save where tribal property has been segregated or individualized so that the existing members may be said to have acquired vested property interests in shares set apart to them. However, the mere fact that the Eastern Band of Cherokee Indians has voted to accept the Indian Reorganization Act does not give the Tribal Council authority to prescribe membership rules to govern present day distributions of tribal income. Section 16 of (the act gives a right to organize and hence impliedly to determine membership but the right must be exercised in order to be effective. The reason for this is that the right to organize is given to "the adult members of the tribe." Unless the membership, as determined under the 1924 and 1931 acts, is given an opportunity to vote on a proposed constitution, it will be deprived of a right given under the statute.

However, while the tribe may not prepare a membership roll for "all current tribal purposes" the membership roll of the tribe may as already suggested be brought up to date by adding new-born children who possess at least 1/16 degree of Cherokee Indian blood, and by deleting the names of deceased members. The tribe may doubtless also strike from the roll members who have long been absent from the reservation, and who may be presumed to have severed their tribal relations and taken up the habits of civilized life, but this action, as already indicated, would not deprive such members of the right to share in the distributions of tribal property. Such cases would, however, have to be adjusted by the Tribal Council and even then it is doubtful that such adjudications would be conclusive. The tribe can also perhaps ameliorate the existing situation by adopting ordinances which would confine various tribal privileges such as the right to vote or to receive loans to members of the tribe who are residents of the reservation but such ordinances would have to apply to all members of the tribe irrespective of their degree of Indian blood. No member of the tribe on the roll prepared under the act of 1924 can be disfranchised, or disqualified from sharing in tribal benefits or activities merely on the ground that he is of less than 1/16 degree of Indian blood. If these suggestions do not satisfy the Tribal Council, and the tribe declines to organize under the Indian Reorganization Act, you should consider the advisability of further legislation along the lines indicated in the resolution of the Tribal Council.

FELIX S. COHEN, *Acting Solicitor*.

Calendar No. 1907

85TH CONGRESS 2d Session } SENATE { REPORT No. 1874

PROVIDING FOR THE DISTRIBUTION OF THE LAND AND ASSETS OF CERTAIN INDIAN RANCHERIAS AND RESERVATIONS IN CALIFORNIA

JULY 22, 1958.—Ordered to be printed

Mr. KUCHEL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 2824]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 2824) to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

On page 1, strike all of lines 7, 8, 9, and 10, and insert the following:

> Alexander Valley, Auburn, Big Sandy, Big Valley, Blue Lake, Buena Vista, Cache Creek, Chicken Ranch, Chico, Cloverdale, Cold Springs, Elk Valley, Guidiville, Graton, Greenville, Hopland, Indian Ranch, Lytton, Mark West, Middletown, Montgomery Creek, Mooretown, Nevada City, North Fork, Paskenta, Picayune, Pinoleville, Potter Valley, Quartz Valley, Redding, Redwood Valley, Robinson, Rohnerville, Ruffeys, Scotts Valley, Smith River, Strawberry Valley, Table Bluff, Table Mountain, Upper Lake, Wilton

On page 2, line 25, after the period, insert the following new sentence:

> It is the intention of Congress that such plan shall be completed not more than three years after it is approved.

On page 5, line 20, strike all of section 5 (b) and insert in lieu thereof the following:

> (b) For the purposes of this Act, the assets of the Upper Lake Rancheria and the Robinson Rancheria shall include the one-hundred-and-sixty-acre tract set aside as a wood

reserve for the Upper Lake Indians by Secretarial order dated February 15, 1907.

(c) The Secretary of the Interior is authorized to sell the five hundred and sixty acres of land, more or less, which were withdrawn from entry, sale, or other disposition, and set aside for the Indians of Indian Ranch, Inyo County, California, by the Act of March 3, 1928 (45 Stat. 162), and to distribute the proceeds of sale among the heirs of George Hanson.

On page 7, line 22, strike the word "members" and insert the words "dependent members".

On page 8, line 18, strike the figure "$110,100" and insert in lieu thereof the figure "$509,235".

PURPOSE OF THE BILL

The purpose of H. R. 2824, as amended, is to provide for the distribution of lands, minerals, water rights, and improvements on 41 Indian rancherias and reservations in California. The bill also provides that either the Indians who hold assignments on or occupy each reservation or rancheria, or the Secretary of the Interior, shall prepare a plan for distributing the assets of these properties by (1) transfer to individual Indians, (2) selling such assets and distributing the proceeds to the Indians, (3) conveying such assets to the corporation or legal entity organized or designated by the group, or (4) conveying such assets to the group as tenants in common. The bill would affect 1,390 Indians residing on 7,617 acres of trust land.

For several years, Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property and for the 36,000 Indians in California. Earlier congressional hearings were held during the 82d and 83d Congresses, both in the field and in Washington, but no positive action was taken. The State legislature memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, ch. 123, California Statutes, May 18, 1951), and a representative of the Governor's office testified in favor of the termination of the Federal supervision program as early as 1952. Since that time, the State senate interim committee on California Indian affairs (created by S. Res. No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and sent its representative to speak at hearings on behalf of this legislation.

As passed by the House on August 13, 1957, H. R. 2824 contained a total of 14 rancherias. During the 2d session of the 85th Congress, many requests have been received by the committee from other rancheria groups asking to be included in, or excluded from, this legislation. Within the past 3 years, 41 California rancherias have adopted resolutions, copies of which are on file with the committee, requesting that legislation to terminate Federal control over their lands be enacted. Therefore, the bill has been amended to include all 41 groups.

However, the committee wishes to emphasize that H. R. 2824, as amended, is purely permissive, and does not impose any kind of a program on the 41 rancherias involved unless the individual groups approve the legislation. It is not the intention of Congress to force

the legislation upon any group, and any rancheria desiring to withdraw may do so.

SECTIONAL ANALYSIS

Section 1 of the bill specifies the 41 rancherias and reservations involved, and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and, after the Indians affected have been given an opportunity to object, the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out within 3 years after such approval. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California, generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts, if advisable.

Section 9 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 10 specifies that, after the Indians have accepted the termination plan and the lands are deeded to them, they, and the dependent members of their immediate families, shall not be eligible to participate in other Federal Indian programs. No Federal programs are planned for the benefit of California Indians. Provisions entitling the Indians of the affected rancherias to continue to participate in any future awards in pending cases are retained in section 7 of the bill.

Section 11 provides that the constitution and corporate charter of 1934, adopted by certain rancherias subject to this act, shall be revoked by the Secretary of the Interior when a plan is approved by a majority of the adult Indians concerned.

Section 12 authorizes the Secretary of the Interior to issue rules and regulations and to execute or approve such conveyancing instruments as may be necessary under this act.

Section 13 authorizes the appropriation of a sum not in excess of $509,235 to carry out the provisions of this act. The Bureau of Indian Affairs has submitted the following costs believed necessary to terminate Federal trusteeship on the 41 rancherias in H. R. 2824, as amended:

Estimated costs to terminate Federal trusteeship on 41 rancherias in California

Alexander Valley	$1,400	Nevada City	$2,400
Auburn	5,900	North Fork	4,800
Big Sandy	30,400	Paskenta	5,200
Big Valley	9,700	Picayune	9,000
Blue Lake	7,400	Pinoleville	17,900
Buena Vista	4,700	Potter Valley	5,200
Cache Creek	1,500	Quartz Valley	73,825
Chicken Ranch	23,000	Redding	5,200
Chico	8,400	Redwood Valley	16,500
Cloverdale	4,700	Robinson	6,500
Cold Springs	5,500	Rohnerville	3,750
Elk Valley	15,400	Ruffeys	1,600
Guidiville	7,500	Scotts Valley	10,500
Graton	4,000	Smith River	71,100
Greenville	40,360	Strawberry Valley	700
Hopland	41,750	Table Bluff	3,550
Indian Ranch	3,000	Table Mountain	6,700
Lytton	2,000	Upper Lake	23,900
Mark West	1,300	Wilton	7,000
Middletown	11,000		
Montgomery Creek	2,000	Total	509,235
Mooretown	3,000		

Resolutions requesting this legislation from each of the rancherias and reservations listed above are on file with the Committee on Interior and Insular Affairs.

The favorable reports on H. R. 2824 and H. R. 2576, each dated April 17, 1957, together with two letters from the Commissioner of Indian Affairs to Senator Richard L. Neuberger, are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 17, 1957.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. ENGLE: Your committee has requested a report on H. R. 2824, a bill to provide for the distribution of the land and assets of

certain Indian rancherias and reservations in California, and for other purposes.

We recommend that the bill be enacted. A few minor amendments are suggested below.

Each of the two Indian groups involved has requested by formal resolution the distribution of the rancheria assets, and we believe that the Indians are ready for such action. A background statement regarding each rancheria, and an analysis of the bill, are enclosed. A copy of the resolution from each group requesting the enactment of legislation along the lines of the bill will be furnished for committee files when hearings are held.

For several years the Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property in California. In response to House Concurrent Resolution 108, 83d Congress, this Department submitted to Congress on January 4, 1954, a proposed bill for that purpose. It was introduced as H. R. 7322 and S. 7249, and extensive hearings were held. Similar bills had been considered by the 82d Congress (H. R. 7490, H. R. 7491, and S. 3005). As was to be expected in connection with a proposal that involved so many people with differing interests (the Indian population of the State is approximately 36,000), a variety of opinions regarding the merits of the proposal were expressed.

Although the State legislature had memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, Chap. 123, Calif. Stats., May 18, 1951), and a representative of the Governor's office had testified in favor of the bills for that purpose in the 82d Congress, when the congressional hearings were held in 1954 the State representatives asked for a delay in order that some of the details might be considered further. Since that time the State Senate Interim Committee on California Indian Affairs (created by Senate Resolution No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and is currently preparing its recommendations. We understand that the recommendations will probably be in terms of a bill of statewide applicability, as were the bills before the 82d and 83d Congresses.

Meanwhile, plans were worked out for immediate action with selected groups in California who want an immediate termination of Federal trust responsibilities without waiting for the enactment of a bill of statewide applicability. This is the purpose of H. R. 2824. It involves the two rancherias of Strawberry Valley and Wilton. There are two people living at Strawberry Valley and 33 people at Wilton. Strawberry Valley consists of one city lot, and Wilton consists of 39 acres.

The following technical amendments are suggested.

1. On page 2, line 20, before "Indians" insert "adult."

2. On page 3, line 21 to page 4, line 1, delete the first sentence of subsection 3 (b) and insert in lieu thereof "To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof."

3. On page 6, line 10, change the period to a comma and add "without application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for

such Indians." This addition clarifies but does not change the meaning of the original language.

4. On page 6, lines 13 and 14, delete "as amended, is hereby revoked", and insert in lieu thereof "shall be revoked by the Secretary when a plan is approved by a majority of the adult Indians of the Community pursuant to subsection 2 (b) of this act."

5. On page 4, line 22, revise section 4 to read as follows:

"SEC. 4. Nothing in this act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any water right appurtenant to any lands involved herein they shall continue to be inapplicable while the water right is in Indian ownership for a period not to exceed 15 years after the conveyance pursuant to this act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law."

This change avoids an ambiguity in the phrase "Indian water right." It also makes clear that at the end of the time specified (a matter of 15 years) the priority of any right based upon Federal law will not be prejudiced. Finally, the authority of the Attorney General to represent the Indians during the 15-year interim period in connection with water right controversies is made permissive rather than mandatory.

The expenditures contemplated by this bill for roads and training will be absorbed in the regular appropriation requests for the Bureau of Indian Affairs. The additional expenditures involved in this bill, together with those involved in the 3 similar bills before your Committee with respect to different rancherias, are estimated at approximately $222,450 for all 4 bills.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

O. HATFIELD CHILSON,
Acting Secretary of the Interior.

ANALYSIS OF H. R. 2824

Section 1 of the bill specifies the rancherias and reservations involved and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the Indians affected have been given an opportunity to object the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups

are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill revokes a constitution issued under the Indian Reorganization Act.

Section 10 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 11 of the bill authorizes the issuance of necessary rules, regulations, and conveyancing instruments.

Section 12 of the bill authorizes necessary appropriations.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 17, 1957.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

DEAR MR. ENGLE: Your committee has requested a report on H. R. 2576, a bill to provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes.

We recommend that the bill be enacted. A few minor amendments are suggested below.

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Each of the Indian groups involved has requested by formal resolution the distribution of the rancheria assets, and we believe that the Indians are ready for such action. A background statement regarding each rancheria or reservation, and an analysis of the bill, are enclosed.

A copy of the resolution from each group requesting the enactment of legislation along the lines of the bill will be furnished for committee files when hearings are held.

For several years the Congress has had under consideration various proposals to terminate Federal responsibilities for all Indian property in California. In response to House Concurrent Resolution 108, 83d Congress, this Department submitted to Congress on January 4, 1954, a proposed bill for that purpose. It was introduced as H. R. 7322 and S. 7249, and extensive hearings were held. Similar bills had been considered by the 82d Congress (H. R. 7490, H. R. 7491 and S. 3005). As was to be expected in connection with a proposal that involved so many people with differing interests (the Indian population of the State is approximately 36,000), a variety of opinions regarding the merits of the proposal were expressed.

Although the State legislature had memorialized Congress in 1951 to dispense with all restrictions on California Indians (S. J. Res. No. 29, ch. 123, California Stats., May 18, 1951), and a representative of the Governor's office had testified in favor of the bills for that purpose in the 82d Congress, when the congressional hearings were held in 1954 the State representatives asked for a delay in order that some of the details might be considered further. Since that time the State senate interim committee on California Indian affairs (created by S. Res. No. 115, Senate Journal, June 10, 1953, p. 4125) has conducted extensive investigations throughout the State and is currently preparing its recommendations. We understand that the recommendations will probably be in terms of a bill of statewide applicability, as were the bills before the 82d and 83d Congresses.

Meanwhile, plans were worked out for immediate action with selected groups in California who want an immediate termination of Federal trust responsibilities without waiting for the enactment of a bill of statewide applicability. This is the purpose of H. R. 2576. It involves 11 rancherias, approximately 455 persons, and approximately 1,288 acres of trust land.

The most densely populated rancheria in this group is Pinoleville with 107 residents. All of the other rancherias have less than 100 residents. There are no people living on the Mark West Rancheria. Upper Lake is the largest rancheria with 561 acres, and Graton is the smallest with 15 acres. Guidiville has 243 acres and the 8 remaining rancherias have less than 100 acres each.

The following amendments are suggested:

1. On page 3, line 21 to page 4, line 1, delete the first sentence of subsection 3 (b) and insert in lieu thereof "To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof."

2. On page 6, line 9, change the period to a comma and add "without application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for such Indians." This addition clarifies but does not change the meaning of the original language.

3. On page 6, lines 12 and 13, delete "as amended, are hereby revoked" and insert in lieu thereof "shall be revoked by the Secretary when a plan is approved by a majority of the adult Indians of the community pursuant to subsection 2 (b) of this Act."

4. On page 3, between lines 13 and 14, insert a new subsection (e) as follows:

"(e) For the purposes of this Act, the assets of the Upper Lake Rancheria shall include the one hundred and sixty acre tract set aside as a wood reserve for the Upper Lake Indians by secretarial order dated February 15, 1907."

5. On page 1, line 9, delete "and", change the period to a comma, and add "Smith River, Cache River, Alexander Valley, Hopland, and Scotts Valley," Each of these groups has asked to be included in the bill, and background statements regarding them are enclosed.

6. On page 4, line 22, revise section 4 to read as follows:

"SEC. 4. Nothing in this Act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any water right appurtenant to any lands involved herein they shall continue to be inapplicable while the water right is in Indian ownership for a period not to exceed fifteen years after the conveyance pursuant to this Act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law."

This change avoids an ambiguity in the phrase "Indian water right." It also makes clear that at the end of the time specified (a matter of 15 years) the priority of any right based upon Federal law will not be prejudiced. Finally, the authority of the Attorney General to represent the Indians during the 15-year interim period in connection with water-right controversies is made permissive rather than mandatory.

The expenditures contemplated by this bill for roads and training will be absorbed in the regular appropriation requests for the Bureau of Indian Affairs. The additional expenditures involved in this bill, together with those involved in the three similar bills before your committee with respect to different rancherias, are estimated at approximately $222,450 for all 4 bills.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

O. HATFIELD CHILSON,
Acting Secretary of the Interior.

ANALYSIS OF H. R. 2576

Section 1 of the bill specifies the rancherias and reservations involved and directs the distribution of their assets in accordance with the provisions of the bill.

Section 2 of the bill requires the Indians involved, or the Secretary of the Interior after consultation with the Indians, to prepare a plan for distributing the assets, or for selling the assets and distributing the proceeds of sale, or for conveying the assets to a corporation designated by the group or to the members of the group as tenants in common. General notice of the plan must be given, and after the

Indians affected have been given an opportunity to object the plan must be submitted to the vote of the Indians who will participate in the distribution. If a majority of those voting approve the plan, it will be carried out. No provision is made for any further action if a plan is not approved.

Attention is directed to the fact that no provision is made for preparing a membership roll for each rancheria or reservation. The preparation of such rolls would be impracticable because the groups are not well defined. Moreover, the lands were for the most part acquired or set aside by the United States for Indians in California generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land.

Section 3 of the bill requires the Secretary of the Interior to make any surveys that are necessary to convey marketable titles, to complete the construction of any access roads that are scheduled for transfer to the State or local government, to install or rehabilitate the irrigation or domestic water systems that he and the Indians agree within a reasonable time should be completed by the United States, to cancel all reimbursable debts that are charges against the land, and to make any land exchanges that are desirable before the Federal trust is terminated.

Section 4 of the bill affirms present Indian water rights, makes inapplicable for 15 years the California law with respect to loss of water rights by nonuse if the land remains in Indian ownership, and requires the Attorney General of the United States to represent the Indians in any proceedings during that period involving their water rights.

Section 5 of the bill authorizes the disposition of Federal property on the rancherias or reservations that is not needed for the administration of Indian affairs.

Section 6 of the bill requires the distribution of all funds held by the United States in trust for the Indians of the rancherias or reservations.

Section 7 of the bill protects pending claims.

Section 8 of the bill provides for protecting the interest of minors and incompetents by guardianship proceedings or by such other means as the Secretary deems adequate, which includes the use of private trusts if advisable.

Section 9 of the bill revokes a constitution and charter issued under the Indian Reorganization Act.

Section 10 of the bill provides for an accelerated program of education and vocational training before the assets are distributed.

Section 11 of the bill authorizes the issuance of necessary rules, regulations, and conveyancing instruments.

Section 12 of the bill authorizes necessary appropriations.

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D. C., March 26, 1958.

Hon. RICHARD L. NEUBERGER,
Chairman, Indian Affairs Subcommittee, Interior and Insular Affairs Committee, United States Senate, Washington, D. C.

DEAR SENATOR NEUBERGER: The following California rancherias have requested that they be included in H. R. 2824, a bill to provide for the disposition of the land and assets of certain Indian reservations and rancherias in California, and for other purposes: Alexander Valley, Auburn, Big Valley, Buena Vista, Cache Creek, Chicken Ranch, Cloverdale, Hopland, Lytton, Middletown, Mooretown, Redding, and Scotts Valley.

The occupants of the Big Valley, Buena Vista, Cache Creek, Chicken Ranch, Lytton and Redding Rancherias have addressed letters to your subcommittee requesting that they be included in this legislation. The other rancherias listed above have addressed either letters or resolutions to the Bureau of Indian Affairs asking for inclusion.

On the 13 rancherias there are 439 people; the total acreage is 2,967. It is estimated by our Sacramento area office that the sum of $124,350 will be needed to meet the requirements of the legislation for these thirteen additional rancherias.

Individual background data for each rancheria was submitted to the House Subcommittee on Indian Affairs when that group was considering H. R. 2576, H. R. 2824, H. R. 2838 and H. R. 6364 during the first session of the 85th Congress. These four bills were combined into H. R. 2824 and passed by the House on August 19, 1957.

Sincerely yours,

GLENN L. EMMONS, *Commissioner.*

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D. C., March 26, 1958.

Hon. RICHARD L. NEUBERGER,
Chairman, Indian Affairs Subcommittee, Interior and Insular Affairs Committee, United States Senate, Washington, D. C.

DEAR SENATOR NEUBERGER: This is to request a change in section 5 (b) of H. R. 2824, now awaiting hearings before the Senate Subcommittee on Indian Affairs.

The 160-acre wood reserve referred to in section 5 (b) was set aside for the Upper Lake Indians. Subsequent to the establishment of this wood reserve, rancherias were established for the Upper Lake Indians at two locations: Upper Lake and Robinson. The Indians on both of these rancherias have used the wood reserve, and each rancheria asserts an interest in the land. We think that their mutual interest should be recognized.

We, therefore, recommend that section 5 (b) be changed to read as follows:

"(b) For the purposes of this act the assets of the Upper Lake Rancheria and the Robinson Rancheria shall include the 160-acre tract set aside as a wood reserve for the Upper Lake Indians by Secretarial order dated February 15, 1907."

We wish to thank your subcommittee for giving this request consideration.

Sincerely yours,

GLENN L. EMMONS, *Commissioner.*

COMMITTEE NOTE.—The Bureau of Indian Affairs has submitted the following background data on each of the Indian rancherias enumerated in H. R. 2824, as amended:

ALEXANDER VALLEY

Background data on the Alexander Valley rancheria, Sonoma County

In 1909, 24 acres were purchased for the Wappo Indians in Alexander Valley. The acreage was increased by 30 acres in 1913, the 2 parcels costing $3,300. Funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat. 70–76), were used to make the purchases.

When the land was bought in 1909–13, there were 74 Alexander Valley residents; by 1950 the number had dropped to 49, and today 1 family of 10 members are the only residents. James R. Adams, with his non-Indian wife and their 8 children, make their home on the rancheria. He is 68 years of age and five of his children are teenagers. They attend public school. The family has a subsistence garden, but Mr. Adams depends on outside labor to support them.

A county road runs adjacent to the rancheria land. Domestic water was developed some years ago and there is a lien against the rancheria in the amount of $1,528 because of this work. Twenty-nine of the rancheria's 54 acres are unassigned. This unassigned land has a potential for grazing use, but is not used for this purpose by the present occupants. There are no Government or community buildings at Alexander Valley and no cemetery.

The only service rendered by the Bureau is in connection with the trust status of the land. The Adams family receives all its social services as residents of California from the State and from Sonoma County.

On January 11, 1957, James Adams and his wife signed a letter to Congressman Scudder requesting that Alexander Valley Rancheria be included in legislation designed to give them fee title to their assignment.

The local Bureau of Indian Affairs' officials estimated the following sums would be needed to effect transfer of title:

Land surveys	$500
Legal assistance	100
Appraisals of property	200
Programing and planning	600
Total	1,400

AUBURN

Background data on the Auburn Rancheria, Placer County

History.—The residents of this rancheria belong to the Maidu Tribe of Indians. They are classified as a separate linguistic stock and from earliest times have lived where they are now, in northeastern

California. These Indians are mostly of mixed blood and many who were enumerated as Indians in the 1910 census were enumerated as whites in the 1930 census. Their rancheria was established in 1910 when 20 acres of land were purchased for $400 with funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat., 70–76); which made funds available "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." An additional 20 acres were purchased in 1953 for $3,000, which completed the present rancheria. The rancheria is not organized under the Indian Reorganization Act.

People.—When the rancheria was established by purchase in 1910, the land was bought for 25 Indians belonging to this group. An enumeration in 1913 showed that 50 people were then living on the rancheria, and the number presently living there is 77. There are 27 children of school age who are attending public schools. Each of the family groups has an informally assigned acreage for a total of 39 acres. Nine of the people living on the rancheria are 65 years of age or older. The population uses the rancheria primarily for home sites. The group does not have a current approved roll.

Land.—The Auburn Rancheria contains only 40 acres of land, the title to which is in the name of the United States Government in trust for the Indians in California. In recent years a domestic water system was completed for the occupants of the rancheria, and at the present time there is a lien against the land in the amount of $11,229.38 because of this improvement. Access roads were also built in recent years and are now a part of the Placer County road system. The assignments on the rancheria are of an informal nature, although the occupants have a definite understanding as to which piece of land is to be used by each of the occupants. The community uses its water system as a community enterprise, and the feeling is that this facility should continue to be owned in common. The same feeling also applies to the property used for church purposes.

Sources of individual income.—The main source of income for this group is from migratory, seasonal, farm labor. Those who qualify receive social-security aids and categorical welfare assistance from Placer County with no distinction being made because they are Indians.

Bureau services.—The Bureau renders virtually no regular services to the group. Its responsibility is primarily with the 40 acres of land being held in trust status. Adequate roads have been built in the past and have been turned over to the county for administration. There is a Johnson O'Malley educational contract with the State of California and the Auburn School District receives funds through this contract because of the Indian children in the public school.

Attitude toward withdrawal of Federal trusteeship.—The group on the rancheria passed a resolution on September 26, 1955, requesting that the present assignees be given fee title to the individual tracts of land they are using. They requested at that time that a survey be made in order that each assignee might have a legal description of his assignment. They also requested that the lien because of the water system in the amount of $11,229.38 be canceled. They asked assistance in the formulation of a legal entity under California laws to take title to and manage their community property.

Special problems in connection with termination of Federal relationships.—As of September 1955, it was estimated that the following funds would be necessary to carry out this request:

Land surveys	$2,000
Legal assistance	1,500
Appraisal of property	400
Programing and planning	2,000
Total	5,900

BIG SANDY

Background data on the Big Sandy Rancheria, Fresno County

History.—The people living on this rancheria belong to the Mono Tribe of Indians. The early habitat of the Mono was in Inyo County in western California and neighboring counties in Neavda, a little to the west of the location of the rancheria. In recent years the tribe has been identified with the Paiutes and were counted with that group in the 1930 census. The Big Sandy Rancheria (Auberry) was established in 1909 when 280 acres were purchased for $2,800 with funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat. 70–76), which made funds available "to purchase for the use of the Indians of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The people of this rancheria are not organized under the Indian Reorganization Act.

People.—In 1909 the rancheria was purchased for the use of 114 people. A census in 1933 enumerated 129 people living here, but at present the population is 54. Many Indians who are considered members of this group moved away during the war and have not returned. This group does not have a current approved roll.

Lands.—Title to the 280 acres comprising this rancheria is in the name of the United States in trust for the Indians in California. The land is generally of poor quality which accounts for the fact that it is used primarily for homesites. The homesites are scattered throughout a plot of approximately 80 acres. The remaining land is steep slopes covered with brush and scrub trees. There is a domestic water system pipeline to the homesites, but it is in bad repair. The Government owns two buildings on the rancheria, a former school house, and a former teacherage, which are now being used by the Indians as residences. There is a question as to whether the cemetery is actually located on these trust lands. The access roads do not extend to all parts of the rancheria.

Sources of income.—The income of this group is derived primarily from lumber work. The workers must leave the rancheria to obtain this employment. The wages are good and those who follow this trade can adequately support themselves. No distinction is made by the county between these people and other citizens. Those who qualify are given social services and other welfare benefits.

Bureau services.—The only service rendered by the Bureau is in connection with the trust status of the 280 acres. The children of school age attend public school in Auberry, which is about 2 miles from the rancheria. The local school district does not receive additional funds under the Johnson O'Malley Act between the Bureau and the State of California. The water system was put in by the Bureau

in 1938, but is now in a bad state of repair. There is a lien of $225.75 against the land because of this improvement.

Attitude toward withdrawal of Federal trusteeship.—The group on this rancheria passed a resolution on December 7, 1953, requesting that a fee patent be issued to each resident of the Big Sandy Rancheria for their share of the rancheria property.

Special problems in connection with termination of Federal trusteeship.—They ask that a road be built at Government expense to the isolated part of their rancheria; that the domestic water system be repaired and enlarged; that the Government buildings be given to the Indians who are now using them as homes; and that, if a survey indicates that their cemetery is not trust lands, it be acquired to be held in common. As of August 1955, it was estimated that the amount needed to carry out their requests would be as follows:

Roads (1.2 miles)	$17,000
Land survey	1,700
Domestic water system	8,000
Assistance to establish legal entity in conformance with California State laws	1,000
Appraisal of property	700
Programing and planning	2,000
Total	30,400

BIG VALLEY

Background data on the Big Valley Rancheria, Lake County

History.—The Big Valley Rancheria was purchased on September 7, 1911, for the 92 Pomo Indians who were then living in that area. The original cost for the 102 acres comprising the rancheria was $12,000. The land is located on the west shore of Clear Lake in Lake County, Calif. It is about 4 miles south of Lakeport and 3 miles from Finley. Sixteen small homesites were laid out along the south end of the rancheria farthest from the lake shore. The rancheria is organized under the Indian Reorganization Act with a charter ratified on October 19, 1941. The group, however, does not have an approved roll.

People.—Twenty-four families live in 21 homes on the rancheria and the total population is 104, of whom half are adults. This group of Pomo Indians is well integrated into the surrounding agricultural economy of the State. They are skilled in the techniques and management necessary for the maintenance of the orchards that flourish in that area. Children of school age attend public school.

Land.—The land, considered suitable for agriculture, is divided into 16 assignments; 12 of 4.2 acres, 2 of 6 acres and 2 of 6.41 acres. The balance of the 102 acres lies between the 10-foot level and the 6-foot level of the lake. The rancheria is served by a recently constructed road (1956). A water system was also installed on the rancheria within the past year which needs some additional work to extend to other parts of the rancheria. The group living at Big Valley borrowed $1,500 from the Government in 1942 for orchard development. This loan has been repaid.

Sources of income.—Only about 2.5 percent of the total income of this group is derived from the produce of the rancheria. More than 70 percent of the income is in earned wages from seasonal agricultural work in the area.

Attitude toward withdrawal of Federal trusteeship.—The tribal council, in a letter dated April 5, 1957, to Congressman Scudder transmitting a resolution passed on April 2, requested that the Big Valley Rancheria be included in legislation to terminate Federal trusteeship.

Estimated cost to terminate Federal trusteeship.—

Land survey	$1,500
Water system (extended)	3,000
Legal assistance	1,000
Property appraisals	1,200
Programing and planning	3,000
Total	9,700

BLUE LAKE

Background data on the Blue Lake Rancheria, Humboldt County

History.—The residents of the rancheria belong to the Wiyot Tribe of California Indians, and are generally known as the Humboldt Bay Indians. As far as is known, they have always lived on the northern California coast in the vicinity of Humboldt Bay. At the present time, there are very few fullbloods among the group. The Blue Lake Rancheria was established in 1908 when a 26-acre tract was purchased for $1,500 with funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat. 70–76); which made available funds "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The Indians are not organized under the Indian Reorganization Act.

People.—When the rancheria was established by purchase in 1908, there were 45 Indians in the group. By 1933 this number had increased to 70, but at the present time only 27 Indians are living on the rancheria. Of this group, 14 are minors and 3 are over 65 years of age. All of the children attend public school. The Indians use the rancheria primarily for homesites. The group does not have a current approved roll.

Land.—The 26 acres of the Blue Lake Rancheria are held in trust by the United States Government for the Indians in California. The domestic water for the group living here is obtained from the city of Blue Lake. The roads on the rancheria are maintained by Humboldt County. The lower end of the rancheria is subject to occasional floods by the Mad River. There are five informal assignments to the lands. The quality of the land is such that it can be used only for homesites, and there is very little subsistence gardening.

Sources of income.—The principal source of income for the group is from seasonal farmwork. Those who qualify receive social security aids and categorical welfare assistance from Humboldt County with no distinction being made because they are Indians.

Bureau services.—The only service that the Bureau renders the group is in connection with the trust status of the 26 acres of land. There is a Johnson-O'Malley educational contract with the State of California, and the Blue Lake School District receives funds under this contract because of the Indian children attending its public school. For the fiscal year 1958, the Bureau has an item of $11,000 on its budget for roads on the rancheria.

Attitude toward termination of Federal trusteeship.—The Indians on the Blue Lake Rancheria passed a resolution on December 15, 1955, requesting that the residents of this rancheria be given an unencumbered fee patent to the rancheria lands. They request that their rancheria be surveyed in order that each assignee may have a legal description of his assignment.

Special problems in connection with the termination of Federal relationships.—As of December 1955 the estimated funds necessary to carry out the wishes of the group were—

Domestic water system	$2,000
Land surveys	1,000
Property appraisals	400
Soil and moisture conservation	2,000
Assistance to set up legal entity in conformance with California laws	500
Programing and planning	1,500
Total	7,400

BUENA VISTA

Background data on the Buena Vista Rancheria, Amador County

History.—The people on the Buena Vista Rancheria are of Miwok stock. The tribe is largely of mixed blood and the people of this group are fast losing their distinction as Indians. They have always made their home in central California. The rancheria was established by purchase in 1926, and is in their original homeland. The acreage of this rancheria was acquired at a cost of $3,000 with funds appropriated by the act of August 1, 1914 (38 Stat. 582–589).

People.—There were 20 people on the rancheria when it was purchased in 1926, but at the present time there are only 2 families, composed of 6 people. The group does not have a current approved roll.

Land.—Part of the rancheria land is suitable for agriculture. At one time an exploration was made for coal, without apparent success. The families living on the rancheria have made all of their own improvements. This parcel is located near the town of Ione, Calif. The whole rancheria is composed of 67½ acres. There is an Indian cemetery on the land. A recent survey was made along one side of the rancheria to settle a dispute about the lines.

Sources of income.—The two families living on the Buena Vista Rancheria make their living from farming. They supplement their farm income with seasonal work.

Bureau services.—Bureau services are rendered only in connection with trust status of the lands.

Attitude toward withdrawal of Federal trusteeship.—On January 5, 1956, Mr. Lewey Oliver and Mr. Enos Oliver, the two assignees on the rancheria, requested that they be given fee patents to the rancheria.

Special problems in connection with withdrawal of Federal relationships.—In October of 1955, it was estimated that the following items were needed to bring about a transfer of the property:

Domestic water system	$1,500
Appraisal of property	200
Soil and moisture conservation	1,800
Land surveys	1,000
Programing and planning	200
Total	4,700

CACHE CREEK

Background data on the Cache Creek Rancheria, Lake County

History.—The rancheria was purchased in 1918 with funds appropriated by the act of August 1, 1914 (38 Stat., 582–589), at a cost of $835. The people living here belong to the Pomo Tribe and the rancheria is located in their traditional homeland. The group is not organized under the Indian Reorganization Act.

People.—There is only one assignee on the rancheria; a Mr. Charlie MacKay, his wife, and son. When the rancheria was purchased in 1918, there were 32 people here, but by 1933 the number had dwindled to 12. Mr. MacKay works away from the rancheria, but maintains his residence on the trust land.

Land.—The rancheria contains 160 acres. It is woodland and grazing land, and has no potential for agricultural purposes or cultivation. The area is adequately served by existing county roads.

Sources of income.—Mr. MacKay, sole assignee, is regularly employed by the Bradley Mining Co., Clearlake Oaks, Calif.

Bureau services.—The Bureau performs no services for the rancheria. Its primary concern is with the trust status of the land.

Attitude toward termination of Federal trusteeship.—On December 5, 1955, Mr. MacKay, Mrs. MacKay, and their son, Marshall, asked that they be given fee title without encumbrance to the land.

Special problems in connection with the termination of Federal relationships.—It was estimated on December 5, 1955, that it would cost $1,500 to make the transfer.

Appraisal of property	$200
Soil and moisture conservation	1,000
Programing and planning	300
Total	1,500

CHICKEN RANCH

Background data on the Chicken Ranch Rancheria, Tuolumne County

History.—The people living on this rancheria belong to the Miwok Tribe. The tribe is largely of mixed blood, and the people of this group are fast losing their distinction as Indians. They have always lived in central California. The rancheria was established for them in 1910 and is in their traditional homeland. It was purchased with funds appropriated by the acts of June 21, 1906 (31 Stat. 325–333), and that of April 30, 1908 (35 Stat. 70–76), "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *"

People.—There are 18 people in 5 family groups using this land at the present time. These five families occupy homesites under an informal assignment arrangement. The fathers of two of the families are non-Indians.

Land.—The 40-acre tract is used primarily for rural homesites. The land is of poor quality. The people living here have a domestic water system which is in urgent need of repairs. A good road would make the homesites more accessible. The cemetery belonging to this group is not located on trust land.

Sources of income.—The seven wage earners earn their livelihood from miscellaneous wage work away from the rancheria. Those who

qualify receive social security aids from Tuloumne County with no distinction being made because they are Indians.

Bureau services.—Bureau services are rendered only in connection with the trust status of the land.

Attitude toward termination of Federal trusteeship.—On February 13, 1956, the group on this rancheria passed a resolution requesting that fee title to the rancheria be transferred to the assignees. They wish to form a legal entity under the laws of the State of California to take title to the community water system.

Special problems in connection with termination of Federal trusteeship.—The Indians on the rancheria have asked that the following work be done before they are given fee title to their land: Estimated costs are:

1. Land survey	$2, 000
2. Domestic water system improvement	4, 000
3. Establish water rights	2, 000
4. Assistance to form a legal entity	500
5. Appraisal of property	500
6. Programing and planning	2, 000
7. Roads	12, 000
Total	23, 000

CHICO

Background data on the Chico Rancheria, Butte County

History.—As far back as 1870, the ancestors of the people now living on this rancheria were given permission to live on the land by Gen. John Bidwell, the owner. Upon his death in 1919, his widow, Mrs. Ann E. Bidwell, received the land. Upon the death of Mrs. Bidwell, the land was bequeathed by her to the Board of Home Missions of the Presbyterian Church in trust for the Indians of the Me-Choop-da Indian Village. The Board of Home Missions and Mrs. Bidwell's estate, by deeds dated February 16, 1939, and January 7, 1939, conveyed the land to the United States of America in trust for the Indians of the Me-Choop-da Indian Village, and its assignees. The rancheria consists of 25 acres.

People.—At the present time 26 people are living on the Chico Rancheria, and 37 members of this group live elsewhere in the vicinity. Of those who live on the rancheria, 3 are over 65 years of age and 3 are of school age. In 1934, there were 24 adults and 30 children who made their homes on the land. This group does not have an approved current roll.

Land.—The 25 acres are located on the outskirts of the town of Chico, adjacent to the lands of the Chico State College. The homesites are connected with town water and sewerage systems. There are two town streets, one on the north edge of the property and the other bisecting it. An additional access road is needed. The Indian cemetery is located on these lands.

Sources of income.—One of the family heads conducts the Arrowhead Indian Herb Co. and the others work regularly in the area. The steady income of this group is reflected in the general good condition of their homes. These people mingle freely with the other people of the community. They have never received any social services from the Bureau of Indian Affairs because of their status as Indians.

Bureau services.—The Bureau renders services only in connection with the trust status of the land. In the 1958 budget there is an item of $10,000 for road construction on the land.

Attitude toward withdrawal of Federal trusteeship.—At a general meeting of the people of this rancheria on December 28, 1955, they voted to request the United States Government to give them fee patent to their rancheria lands. They also requested that the parcels be surveyed in order that each assignee may have legal descriptions of his lot, and further that assistance be given to set up an entity to take title to and manage whatever land will be held in common.

Estimated cost to effect withdrawal of Federal trusteeship.—(Estimate made by local Bureau of Indian Affairs' officials in December of 1955):

Land survey	$1,100
Legal assistance	3,000
Land appraisals	1,300
Programing and planning	3,000
Total	8,400

CLOVERDALE

Background data on the Cloverdale Rancheria, Sonoma County

History.—This rancheria was established by the purchase of 27½ acres of land in 1917 with funds appropriated by the act of August 1, 1914 (38 Stat. 582–589), "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The original cost was $2,500. The people living on the rancheria belong to the Pomo Tribe, and the Cloverdale Rancheria was established in the traditional homeland of these Indians. The group is not organized under the Indian Reorganization Act, but there is a council with elected officers which speaks for the group.

People.—The number of Indians on this piece of land when it was purchased in 1917 is not shown on the records, but, in 1933, 19 people were listed as living on the land. The present population is 25. The 5 families, each with 1 wage earner, making up the resident population, have informal assignments to one or more of the parcels into which the land is divided. One of the assignees is over 65 years of age, and there are 6 children of school age. This group does not have a current approved roll.

Land.—Cloverdale Rancheria is a long, narrow strip of land, 377 by 3,081 feet. A domestic water system was recently installed on the land, running to each of the homesites. An $11,834.33 lien was placed against the land because of this improvement. Federal Highway No. 101 runs along the western narrow edge of the parcel and the Northwestern Pacific Railroad right-of-way uses the land on the other end of this strip. There are small orchards and vineyards cultivated by the assignees, and the land is fairly productive. A new road will be built along one of the long sides of the strip by the Bureau of Indian Affairs. The 5 assignees are assigned all but 2 acres of the 25-acre plot.

Sources of income.—The principal income of the group is derived from their orchards and vineyards, and other produce raised on the land. They supplement this income with wagework in the vicinity.

Their average income compares favorably with the average annual income of this community.

Bureau services.—The Bureau proposes to improve the present road along the long side of the strip. The amount of $9,000 is set up in the 1958 budget for this purpose. A recently installed domestic water system was financed from Bureau appropriations. There is a Johnson-O'Malley contract payment to Sonoma County for the Indian children attending public schools. The Bureau performs other services necessary because the land is in trust, but provides no direct service to the people living there. They receive social services from the county and State on the same basis as other citizens.

Attitude toward withdrawal of Federal trusteeship.—On September 27, 1955, the assignees on the rancheria passed a resolution requesting that the United States transfer to them the fee title to the tract. They ask that a survey be made in order that each allottee may receive a legal description of his property. They requested that the lien based on the installation of the domestic water system be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—The following amounts were estimated to be necessary as of September 27, 1955:

Land survey	$1,000
Legal assistance for forming an entity to manage community property	1,000
Appraisal of property	200
Soil and moisture conservation	1,000
Programing and planning	1,500
Total	4,700

COLD SPRINGS

Background data on the Cold Springs Rancheria, Fresno County

History.—By Executive Order No. 2075 of November 10, 1914, the President excluded 160 acres from the Sierra National Forest for the Cold Springs Band of Indians living in the area. The order did not mention the number of Indians there, but in 1933 there were 90. Today there are 48. These people belong to the Mono Tribe and have habitually made their home in the area where the rancheria was established. In recent years, this group has been identified with the Piautes and they were counted with that group in the 1930 census. These people are not organized under the Indian Reorganization Act, but they have an informal council with recognized officers.

People.—The people are occupying this land under 13 informal assignments made with the consent of the group. The rancheria is divided into two 80-acre tracts. One family lives on one of these tracts and the other people make their home on the other 80-acre parcel. They use the land primarily for homesites. Four of the people who make their home here are over 65 years of age, and there are 16 children of school age. There are 13 wage earners among these people. This group does not have a current approved roll.

Land.—The two 80-acre parcels are not contiguous. There are steep slopes on both of the parcels, with an elevation rise to 2,041 feet. These pieces of land are isolated from main avenues of traffic, but there is a fairly good road to the nearest town, Tallhouse, some 7 miles distant. The land is not suitable for cultivated agriculture, but it has some grazing potential, and it is used for that purpose, to a limited extent. Each of the parcels has a source of water. In one

location there is a spring, and on the other location there is a dug well. Tungsten may be present on one of the plots, and a mining lease has been issued to some outsiders interested in making explorations. No Indian cemetery is on the rancheria.

Sources of income.—One of the assignees has a herd of Hereford cattle and supports his family from income from this herd. Most of the workers, however, earn their livelihood by seasonal work off the rancheria, usually in the agricultural pursuits. Many of the homes are in a bad state of repair, since the average yearly income of the wage earner is below what is considered adequate.

Bureau services.—Services extended by the Bureau are limited to the trust status of the land; no social services are performed by the Bureau for the people living here. The Bureau leased part of the land for tungsten explorations, and maintains and IIM account ($60 in 1955) for the group from these rentals. A water system was installed in 1938. There is a lien in the amount of $331.56 against the land because of this improvement. All the children attend public school.

Attitude toward withdrawal of Federal trusteeship.—On December 14, 1955, at a general meeting of the assignees, a resolution was passed requesting that the Government give them fee patents to their holdings. They asked that an internal survey be made in order that each assignee would have a legal description of his property.

Estimated cost to effect withdrawal of Federal trusteeship.—In December of 1955, it was estimated that the following amounts would be necessary to carry out the wishes of this group:

Land surveys	$1,100
Improvement of domestic water system	2,000
Legal assistance	500
Property appraisals	400
Programing and planning	1,500
Total	5,500

ELK VALLEY

Background data on the Elk Valley Rancheria (Crescent City), Del Norte County

History.—The 100-acre rancheria was purchased in 1909 with funds made available under the acts of June 21, 1906, and April 30, 1908, "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The cost was $3,500. There were 50 people living on the land when the rancheria was purchased.

The tribal group belongs to the Smith River Tribe and the Athapaskon group, which has always made its home in the area where the rancheria is now located. These people have an informal tribal organization with elected officers, but they are not organized under the Indian Reorganization Act.

People.—In 1933, there were as few as 10 people on the rancheria. Today, 61 people make their home on the land. The total acreage is assigned to 24 assignees, and none of it is used as community property. These people do not, ordinarily, function as an Indian community. Each assignee uses his plot of ground as a homesite. The water system is not communal. Nine of the wage earners living on the

rancheria are non-Indians. Nine of the assignees are not living on their assignments, and two plots have been rented to non-Indians. The group does not have a current approved roll.

Land.—The rancheria is surveyed into 20 plots, about 5 acres each. The survey does not seem satisfactory for title purposes. There is an improved county road on two sides of the rancheria. The land is, generally, of poor quality. Except for homesite clearings, it is covered with scattered brush growth.

Sources of income.—The wage earners work away from the rancheria in the lumber industry. This is practically the only type of work available in the area, and those who want other employment must go elsewhere for it. Those who work in the lumber industry make wages adequate to support their families, since none of them have requested categorical aids from the county. Five of the people here receive old-age assistance.

Bureau services.—Services are extended by the Bureau because of the trust status of the land; no social services are performed by the Bureau for the people living on the rancheria. Del Norte County receives payments under the Johnson-O'Malley educational contract because Indian pupils are attending its public schools. The county furnishes bus service. A road costing $19,700 was completed by the Bureau within the past 2 years, which brings the road system on the rancheria up to county standards.

Attitudes toward withdrawal of Government trusteeship.—On August 31, 1955, at a general council meeting, the group voted (21 of the 24 assignees were present) to request the Government to issue to them fee title to their assignments. They asked that water be made available to each of the plots, and that an internal survey be made in order that each assignee may have the legal description of his land. It was further requested that the lien of $765.07 against the rancheria be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—On August 31, 1955, it was estimated that the following funds must be expended to meet the needs of the Indians:

Land survey	$1,000
Domestic water supply	12,000
Legal assistance	500
Property appraisals	400
Programing and planning	1,500
Total	15,400

GUIDIVILLE

Background data on the Guidiville Rancheria, Mendocino County

History.—Guidiville Rancheria was established in 1909 when a 50-acre tract was purchased for $2,000. The plot was enlarged by the purchase of another 34 acres in 1912 for $2,100. Executive order of 1912 added further to the lands. The present acreage is 243. The people living here belong to the Pomo Tribe. This general area is the traditional homeland of these Indians, and the rancheria was established where they have always lived. The group living here now has an informal tribal organization with elected officers. They are not formally organized.

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People.—There were 92 people on the rancheria when it was established. By 1933, the number had dropped to 38, and today 32 people make their home on the land. They consist of 7 family groups with 11 wage earners. They are using the land for homesites, with limited agricultural enterprises. Four of the residents are over 65. The group does not have a current approved roll.

Land.—Thirty-eight acres of the rancheria are used for homesites and limited agricultural enterprises by 11 assignees. They have informal assignments to the plots that they are using. These individual assignments have the approval of the group. The remaining 213 acres are leased to a non-Indian. There is a domestic water system built several years ago with a lien of $1,867.22 against the land because of this improvement. An access road is being built during the present fiscal year which will meet the standards set by the county.

Sources of income.—Several of the residents have vineyards and make part of their livelihood by this means. They augment this income with wages from seasonal agricultural work and other miscellaneous type of rural employment. If they qualify for public assistance, it is granted to them with no distinctions being made because they are Indians.

Bureau services.—An appropriation of $40,176 was made to build an adequate road which will be finished in 1957. Payments are made to the school district under the Johnson-O'Malley contract for the Indian children attending public school. The Bureau renders services in connection with leasing the grazing land and at the present time an IIM account ($300) is maintained by the Bureau from funds derived from this leasing.

Attitudes toward withdrawal of Federal trusteeship.—On October 20, 1955, the residents of the rancheria passed a resolution requesting that the United States Government transfer to the individuals the fee title to their individual tracts, and that the mountain and grazing land be patented to the group. They further ask that a survey be made so that each assignee will receive a legal description of his property, that the lien against the land be canceled, and that a legal entity be established to accept and maintain the land that will be leased.

Estimated cost to effect withdrawal of Federal trusteeship.—In December of 1955, the local Bureau of Indian Affairs' officials estimated that the following sums would be necessary to effect withdrawal:

Land survey	$3,000
Assistant to form a legal entity	1,500
Property appraisals	500
Programing and planning	2,500
Total	7,500

GRATON

Background data on the Graton Rancheria (Sabastapol), Sonoma County

History.—The land of the Graton Rancheria was purchased for $2,100 in 1915 with funds appropriated by the act of August 1, 1914 (38 Stat. 582–589), "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The Pomo Indians who live here are in their traditional homeland. The group is not organized, either formally or informally.

People.—There were 76 Indians of the Pomo Tribe living on the land when the rancheria was established. A check in 1933 revealed no Indians to be living on the land, but at the present time there are 7 people making their home here. They are all adults except for one 10-year-old girl. Four people have informal assignments; 2 of them are over 65. They use the land only as a rural homesite. The group does not have a current approved roll.

Land.—The rancheria contains only 15.45 acres. The land is steep timberland and there are probably a few merchantable trees on the tract. It is adequately served by a paved road. There are no liens against the rancheria because of any improvements.

Sources of income.—The three wage earners work in the lumber industry of the area. They do not augment their income with subsistence gardening. Their income is only adequate to maintain essential homesites with no modern improvements.

Bureau services.—The Bureau renders no services to the group as people; it is only responsible for the trust status of the land.

Attitude toward withdrawal of Federal trusteeship.—The people who have assignments to this 15-acre tract asked on December 13, 1955, that they be given fee title to the parcel and that it be surveyed so that each assignee might have legal description to his assignment.

Estimated cost of withdrawal of Federal trusteeship.—It was estimated in December of 1955 that the following funds would be necessary to effect the transfer of title:

Land survey	$1,000
Legal assistance	1,000
Property appraisals	500
Programing and planning	1,500
Total	4,000

GREENVILLE

Background data on the Greenville Rancheria, Plumas County

History.—On April 12, 1897, 40 acres were acquired by the Government to be known as the site for the Greenville Indian Industrial School. An Executive order of November 26, 1902, added 160 acres, with 75 additional acres being acquired on August 16, 1916, for a total "reservation" of 275 acres. The Maidu and other Indians living in this general area have used this land, and the Government buildings, since the school was discontinued in the early 1920's. It has thus become a "rancheria" by reason of occupancy since it was not originally purchased for "landless Indians."

People.—There are approximately 35 Indians on the rancheria. There is no formal organization, nor is there a tribal membership roll. These people have been independent of direct Bureau services for years, and are accepted as members of the extended community.

Land.—The land is located adjacent to a paved road between the towns of Taylorville and Greenville. It is used primarily for homesites and internal roads are needed for all-weather access to the various family plots. The agricultural land that is not used by the Indians is leased with the proceeds accruing to the Indians. The water system serving the rancheria has been in use many years. It has become outdated and extensive repairs are necessary. There is

a reimbursable charge of $1,345 against the land for previous repairs made to this system.

Attitude toward withdrawal of Federal trusteeship.—The majority of the Indians using this land have requested that they be given title to the rancheria. They have made their request to the Senate committee considering the "rancheria bill" and the Bureau would like to see the benefits of this legislation applied to the Greenville Rancheria.

Estimated costs for withdrawal of Federal supervision.—The Sacramento area office estimates that the following amounts will be needed to improve the rancheria and to effect transfer of title to the Indians:

Roads	$20,000
Water system	12,000
Land surveys	1,500
Appraisals	600
Legal assistance	1,000
Soil and moisture conservation	3,260
Program planning	2,000
Total	40,360

HOPLAND

Background data on the Hopland Rancheria, Mendocino County

History.—In 1908, 630 acres were purchased for $5,750 to form the nucleus for the rancheria. Lands were added with funds appropriated by the act of August 1, 1914 (38 Stat. 582–589), "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *" The present acreage is 2,072, which makes this one of the larger rancherias. The Indians who live here belong to the Pomo Tribe and their rancheria was set up in their traditional homeland. The land was originally purchased for 120 Indians. That same number was listed as using the land in 1933. Today, there are 75 people living on the land. The band has a written land code approved by the Secretary in 1943, which is administered by a board of 5 trustees who serve staggered 3-year terms. A meeting of the band is not considered official unless 10 or more members are present.

People.—The latest membership roll for the group was prepared in 1940. Approximately 60 members (children) have been added to the membership since 1934. A total of 17 have been stricken from the rolls because of death since that time. Nearly all of the members of the rancheria are of the Catholic faith and frequently attend church in the nearby town where the congregation is primarily non-Indian. The Indian children attend public school and ride the public school bus daily with non-Indian children from the vicinity of the rancheria. The children usually continue on through high school and then leave the rancheria when they graduate, to establish themselves in all walks of life among non-Indians. All members of the rancheria speak English, and their living habits cannot be distinguished from their non-Indian neighbors.

Land.—The rancheria is located approximately 5 miles from the nearest town (Hopland). One thousand nine hundred and forty-two acres of rangeland are used for grazing purposes. There is a tribal herd of between 35 and 45 cattle. There are 38 assignments, all of which are of an informal nature. All of the agricultural land (about

300 acres) is assigned to heads of families. A total of 128 acres of the land is planted in grapes. There is a discrepancy between the number of acres that the tribal group assumes belongs to the rancheria, and the figures shown in the local office of the Bureau of Indian Affairs, which will probably be cleared up by a survey. The land is served with a recently built access road (costing $43,100) and is adjacent to a well-kept county road. The rancheria is not served by a domestic water system. The Government owns an old school building and a teacherage on the rancheria, which are being used by members of the tribe. The tribe has its own community building and there is a cemetery on the land.

Sources of income.—The sources of income for the heads of the families are extremely varied and include the sale of grapes from their assignments, miscellaneous wage work (primarily agricultural) and lumbering or subsistence gardening. The people as a group have an income from the tribal herd. The general employment opportunities throughout the surrounding area have increased considerably in the past 10 years, and there is always work available for those who need it. The group lives in good substantial homes which reflect their high income.

Bureau services.—The principal service performed by the Bureau is in connection with the trust status of the land. At one time the group had a credit loan from the Bureau, but it has been fully repaid. The group maintains its own bank account in the local bank without individual Indian money services from the Bureau. A major expenditure was made within recent years to bring the roads on the rancheria up to county standards. The school district in the town of Hopland receives payments under the Johnson-O'Malley educational contract for the Indian children attending their public schools. The Bureau extends no social services to the group.

Attitude toward withdrawal of Federal trusteeship.—Under date of September 28, 1955, the group voted through its board of trustees to request the United States Government to transfer to them as individuals the fee title to their shares of the rancheria, and that the mountain land be patented to the group. They asked that a water system be installed on their rancheria, and that an internal survey be made to subdivide the tracts, that a lien in the amount of $654.76 be canceled, and that legal assistance be provided to set up a legal entity to manage the tribal property. They further requested that the Government buildings be transferred to the group for community use.

Estimated cost of withdrawal of Federal trusteeship.—In September of 1955, the local officials estimated that the following amount would be necessary to effect the withdrawal of Federal trusteeship:

Land survey	$6,000
Enlarge water system	13,000
Legal assistance	2,500
Appraisal of property	750
Soil and moisture conservation	13,500
Programing and planning	6,000
Total	41,750

INDIAN RANCH

Background data on the Indian Ranch Rancheria, Inyo County

The act of March 3, 1928 (45 Stat. 162), provided that "the following described lands in California be, and they are hereby withdrawn from entry, sale, or other disposition and set aside for the Indians of Indian Ranch, Inyo County, California: *Provided*, That the withdrawal hereby authorized shall be subject to any prior, valid right of any persons to the land described: * * * containing 560 acres, more or less."

At that time, Mr. George Hanson was given an assignment to the total acreage.

There are no Indian people living on the land. The original occupant has died and left eight heirs.

The land has not been occupied for several years since there is no work in the valley, and the Indians must seek employment elsewhere. The land is leased to a non-Indian for grazing purposes.

The Bureau renders services only because of the trust status of the land. It approves the leasing of the land to the non-Indian and distributes the proceeds among the heirs.

On October 27, 1955, the eight heirs of Mr. George Hanson requested in writing that the land be sold and the proceeds divided among them.

As of January 1956 the local Bureau of Indian Affairs listed the following amounts as necessary to effect withdrawal of Federal trusteeship:

Land survey	$1,100
Legal assistance	500
Appraisal of property	300
Programing and planning	1,100
Total	3,000

LYTTON

Background data on the Lytton rancheria, Sonoma County

History.—The 50 acres comprising the rancheria were purchased in 1925 at a cost of $10,000. Like most of the rancherias in California it was purchased with appropriated funds "To purchase for the use of the Indians in the State of California * * * suitable tracts of land, water, and water rights in the said State * * *." The two family groups who make their home here belong to the Pomo Tribe. The rancheria is located in the traditional homeland of these people. The Indians living at Lytton Rancheria have no tribal organization.

People.—When the land was purchased in 1925, there were 92 people using it. By 1933, the number had dwindled to 20, and now there are 24 people living there. The 2 families have 5 wage earners. Three of them are non-Indians. The wage earners leave the rancheria for employment, but consider the land to be their home. These two families are well-integrated into the local community.

Land.—The land is generally of poor quality, although the assignees do have livestock and raise limited crops. A water system that was installed several years ago by the Bureau of Indian Affairs has been replaced by the assignees; but there is a lien against the land in the amount of $5,264.66 because of the original improvement. The

necessary roads to make use of the land as homesites have been built, and they are being maintained by the county.

Sources of income.—The wage earners find wage work in the surrounding area in agricultural and other rural pursuits. They would be considered to be of the low-income group because the work is seasonal. However, their wages are augmented by what they receive from their limited farming.

Bureau services.—The Bureau renders services because of the trust status of the land. There are no social services rendered by the Bureau because these people are Indians. The local school district receives funds under the Johnson-O'Malley educational contract because of the Indian children attending their public schools. No road construction is being contemplated by the Bureau.

Attitude toward the withdrawal of Federal trusteeship.—The two assignees asked in October of 1955 that they be given fee title to their assignments. They asked that an internal survey be made to determine the land descriptions, and that the lien against the land be canceled. During the year 1954, these assignees gave testimony to the Senate Interim Committee on California Indian Affairs that they would be inclined to make improvements of their homesites if they had clear title to the lands.

Estimated cost to effect withdrawal of Federal trusteeship.—(By local Bureau of Indian Affairs officials in September of 1955):

Land surveys	$1,000
Legal assistance	500
Land appraisals	100
Programing and planning	400
Total	2,000

MARK WEST

Background data on the Mark West Rancheria, Sonoma County

The records indicate that this rancheria was acquired in 1916. It consists of 35 acres assigned to Mr. William B. Steele. Mr. Steele has a wife, a stepson who is 24 years old, 2 daughters (15 and 10 years old), and a son 12 years of age. The family lives at 126 Scott Street, Santa Rosa, Calif. Mr. Steele is the sole assignee to the rancheria.

The acreage is brush-hillside land with some trees and grazing land. The external boundaries need to be surveyed. Water is obtained from a spring and there are no apparent water-right problems. There are no roads and there is no lien. The rancheria has been unoccupied for several years. The Steele family recently did some improvement work on the rancheria, and apparently intends to build a home there and use the land within the near future. Mr. Steele is employed in Santa Rosa and expects to keep his regular job if he uses the rancheria as a homesite.

On December 12, 1955, Mr. Steele requested that he be given fee title to this tract of land after a survey had been made to determine the legal description of the property. At that time it was estimated that the following amount would be necessary to effect transfer of title:

Land survey	$400
Appraisal of property	200
Legal assistance	200
Programing and planning	500
Total	1,300

MIDDLETOWN

Background data on the Middletown Rancheria, Lake County

History.—The rancheria was purchased in 1909 when 109.70 acres were bought with appropriated funds for the amount of $2,650 under authorities contained in the acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76), which appropriated money "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights for the Indians of said State * * *." The Indians using the land belong to the Pomo Tribe and their rancheria was set up in their traditional homeland. They have always lived in this part of California. The group is not organized, either formally or informally.

People.—There are 21 people in 6 family groups who live on the tancheria and use it as a rural homesite. When the land was purchased in 1909, there were 51 Indians in the area, but by 1933 the number had dwindled to 24. All of the members living here are interrelated, although they do not have an approved current roll.

Land.—Thirteen individual informal assignments cover the use of all but 43 acres of the rancheria. The 43-acre plot is rough, broken, mountainside, unsuited for homesites, and is used for a woodlot and a hunting reserve. There is a recently installed domestic water system, and an access road to the homesites was also recently completed. A lien in the amount of $12,504.01 stands against the rancheria because of the water-system improvement. When one of the assignees dies, the group gets together and elects who shall receive the assignment; they usually decide that it be given to the children of the assignee so that the improvements stay in the family. They have a community Indian-type building.

Sources of income.—The wage earners work on surrounding farmlands and return to their homesites after the day's work. Their income is supplemented by garden products from the garden land around their homesites. One of the assignees has a vineyard and an orchard, which afford him income and afford some seasonal work for the other assignees. One of the assignees is a recipient of old-age assistance.

Bureau services.—The Bureau recently installed a road to serve the homesites on this land, and completed the domestic water system. It does not provide any social services for these Indians. They receive these services from the county. The school district at Middletown receives payments under the Johnson-O'Malley Act because Indian children are attending their public schools.

Attitude toward withdrawal of Federal trusteeship.—On September 30, 1955, the group requested fee patents to their assignments, and requested that a survey be made to determine legal descriptions. They want the lien against the land to be canceled, and would like legal assistance in setting up an entity to take over and manage their community property.

Estimated cost of withdrawal of Federal trusteeship.—By local officials of the Bureau of Indian Affairs in September 1955):

Land survey	$2,000
Domestic water system	2,500
Legal assistance	2,000
Land appraisals	500
Soil and moisture conservation	2,000
Programing and planning	2,000
Total	11,000

MONTGOMERY CREEK

Background data on the Montgomery Creek Rancheria, Shasta County

The Hardin family has lived on this rancheria since the 1860's. It was purchased with appropriated funds in 1914 for $400. At that time there were 72 Pit River Indians living in this area, but by 1933 the Hardin family remained alone. Today, Mr. William Hardin, age 70, is the sole occupant. There is no current official approved roll of the Indians who belong to this group.

Mr. Hardin is the recipient of old-age assistance and augments his pension with produce from a clearing he has made at the homesite.

This land is located about 3 miles from the village of Montgomery Creek. The land is of poor quality, rough, and covered with brush. The water supply is from a spring. There is only a token road to the homesite. There are no liens against the lands because of any improvements. There is an Indian cemetery on this parcel.

The Bureau has rendered services only in connection with the trust status of the land. There is an item in the 1958 budget of $26,000, to build a standard road.

Mr. Hardin has asked in writing that fee title to the land be given to him. His assignment covers the total acreage. The local Bureau of Indian Affairs officials estimated that the following sums would be necessary to effect the withdrawal of Federal trusteeship:

Land survey	$600
Legal assistance	200
Established water rights	500
Appraisal of property	200
Programing and planning	500
Total	2,000

MOORETOWN

Background data on the Mooretown Rancheria, Butte County

Mooretown Rancheria is located about 1½ miles from the town of Feather Falls in Butte County, Calif. It consists of two 80-acre tracts, one-half mile apart. The eastern tract (N½ of NE¼ sec. 23, T. 20 N., R. 6 E., Mount Diablo meridian) was purchased on October 8, 1915, for $700 from the Central Pacific Railway. It is presently occupied by Mr. Fred Taylor and family, who have lived continuously on the rancheria since prior to its purchase by the Federal Government. The second house on this tract belongs to Mr. Taylor's stepdaughter, Mrs. Katy Archuleta, who presently lives in the neighboring town of Oroville, but whose non-Indian husband, and, occasionally, some of their children, continue to occupy the house.

The western tract (N½ of NE¼ sec. 22, T. 20 N., R. 6 E., Mount Diablo meridian), which was set aside by Executive order of June 6, 1894, has been occupied for the past 18 years by Mr. and Mrs. Robert Jackson.

Both portions of the rancheria are presently served with adequate roads. Both the Taylor and Jackson homes have electricity and obtain domestic water from good springs which have been developed and are pumped to the houses. Both residents have rights to irrigation water from a ditch crossing the rancheria. Both Mr. and Mrs. Jackson and Mr. Taylor receive old-age security payments from the Butte County Welfare Department.

The exterior boundaries of the rancheria were surveyed by the Government in March of 1954. There are no liens against this land because of any improvements made by the Government.

The land is used primarily for homesites, and is not arable except for a small plot adjoining each house. Should title to the rancheria be transferred to the resident occupants, no particular problem or difficulties are foreseen, except the possible need for internal surveys.

On January 9, 1958, Mr. and Mrs. Robert Jackson asked that they be given title to the property they occupy by letter addressed to Congressman Clair Engle. On March 26, 1958, Mr. Fred Taylor, by letter addressed to the Sacramento area director, requested title to the land his family occupies.

The Sacramento area office has estimated that the following amounts would be needed to transfer title from the United States to the occupants:

Legal assistance	$650
Land surveys	500
Appraisals of property	450
Programing and planning	1,400
Total	3,000

NEVADA CITY

Background data on the Nevada City Rancheria, Nevada County

By Executive Order 1772, of May 6, 1913, the President set aside 75.48 acres for the Nevada or Colony Indian Tribe, which is the present Nevada City Rancheria.

The land is composed of forests and hillsides and is used primarily for a homesite and family gardening plot. It is assigned to the Pete Johnson family. The rancheria is located on an improved county road.

The children of the Pete Johnson family (3 daughters and 1 son) are grown, and no longer live on the rancheria. Mr. Johnson receives old-age assistance, and he and his wife live on that income, with some garden produce as a supplement. These old people get their water from a well. There are no liens against the lands because of any improvements.

Mr. Johnson has asked in writing that he be given a fee patent to that part of the rancheria which he is using—some 40 acres. The local Bureau of Indian Affairs officials have estimated that the following sums will be necessary to effect the transfer of title.

Land survey	$1,000
Legal assistance	200
Property appraisal	200
Programing and planning	1,000
Total	2,400

NORTH FORK

Background data on the North Fork Rancheria, Madera County

The 80 acres making up this rancheria were purchased in 1914 for $550. At that time there were an estimated 200 Mono Indians living in this area. By 1933, however, the number had dropped to a mere 7,

and today only a mother and her 2 sons occupy the land as a rural homesite.

The land has a very limited grazing value. It is not used for that purpose. The domestic water is obtained from a spring. The land does not have a lien against it because of any improvement. The homesite is about 2 miles from an improved road. The Susan Johnson family has an assignment to the entire 80 acres. There is no approved membership roll for this group.

On December 13, 1955, the family asked that they be given fee patent to this acreage with the request that a domestic water system be installed.

The local Bureau of Indian Affairs officials estimated that the following sums would be necessary to effect transfer of title:

Land survey	$1,000
Water system	2,000
Legal assistance	500
Property appraisal	300
Programing and planning	1,000
Total	4,800

PASKENTA

Background data on the Paskenta Rancheria, Tehama County

In 1914 there were 2 purchases to establish the rancheria for the Wintun Indians in the area: 111.12 acres were purchased for $2,240 and 148.16 were purchased for $1,000. At that time, 134 Indians were said to be living in that area. In 1922, 11 families, consisting of 27 people, lived on the rancheria. In 1933, the number had dropped to 18. Today, only one family uses the land for a homesite in the summertime.

Paskenta is in a dry, isolated area, many miles from any development, and consequently has few employment opportunities. This no doubt accounts for the fact that it is used only by one family at this time. Mr. and Mrs. William Freeman and their granddaughter have an assignment covering 180 acres. Eighty acres are unassigned. There is no current roll of the other Indians who may have an interest in this land.

The Bureau has an item of $22,000 in the 1958 budget to put an all-weather road on the tract of land.

There is a lien of $226 against the land because of the water system that was installed several years ago.

The Freeman family receives old-age assistance and the Bureau provides them with no service because of their status as Indians. Mr. and Mrs. Freeman asked in writing on December 28, 1955, that they be given fee title to their assignment. This would leave 80 acres unassigned.

The following amounts would be necessary to effect withdrawal of Federal trusteeship and transfer of title:

Land survey	$1,000
Irrigation system	2,000
Legal assistance	500
Establishment of water rights	500
Appraisal of property	200
Programing and planning	1,000
Total	5,200

PICAYUNE

Background data on the Picayune Rancheria, Madera County

This rancheria was established in 1912 by Executive order. It consists of 2 contiguous 40-acre parcels.

There are 18 people living on this land today. All members belong to one family group. Three of the people receive old-age assistance. Five are of school age and attend the public school in the district. These people live in crowded housing conditions. They must seek elsewhere for employment and depend upon seasonal work, usually agriculture, for their livelihood.

This rancheria is located in the foothills area, about a mile from a paved road. The land is rocky and covered with brush, and is used primarily for homesites with some truck gardening and fruit produce for subsistence. Water is obtained from two springs, but is not piped to the individual homes. There is no lien against the land for improvements. The group living here has no property held in common and neither is there a currently approved roll of membership.

On December 15, 1955, the family using this land asked that their assignment be deeded to them after a domestic water system had been installed.

It was estimated by local Bureau of Indian Affairs' officials that the following sums would be necessary to effect transfer of land title:

Land survey	$1,000
Legal assistance	500
Programing and planning	1,000
Domestic water system	6,000
Property appraisals	500
Total	9,000

PINOLEVILLE

Background data on the Pinoleville Rancheria, Mendocino County

History.—This rancheria was established in 1911 when 95.28 acres were purchased for $8,500 with funds appropriated by the acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76);

"to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State. * * *" The 130 Indians who were living in the area at the time of purchase belonged to the Pomo Tribe, and this rancheria was established in their traditional homeland. By 1933, the number had dropped to 75. At the present time there are 107 Indians living at Pinoleville.

People.—There are 15 family groups on the land, each with an assignment (one being to the school lot). They form a well-organized community with elected officers who speak for the group. At the present time they hold, through a trustee, additional land adjacent to the rancheria that is not in trust. These Indians have displayed initiative by developing and improving their land into very good vineyards. They live in well-kept homes. At one time the Bureau maintained a school at the rancheria, but now all of the children of school age attend public school in the county. The group prepared a tribal roll in 1947, but it has not been kept current. There are

some tribal members who do not live on the rancheria, having left to work in jobs in the surrounding area.

Land.—The land is a short distance from the town of Ukiah, Calif. It is considered improved land with vineyards and orchards. A creek runs through the land, which is subject to annual floods. Some work has been done in cooperation with the other landowners in the area, but the flood conditions are not completely controlled by the revetments. A water system was installed at the rancheria several years ago in connection with the school and teacherage. It remains today, and a lien of $2,585.65 is against the property because of this work. United States Highway No. 101 runs along the east edge of the land and there are access roads to the homesites from the highway. These roads need to be brought up to county standards. The assignees have installed and maintained their own pressure water systems, but it could be improved considerably. The United States Government buildings on the rancheria are being used by the Indians, the schoolhouse as a community building, and the teacherage as a residence, and the shop buildings for storage purposes.

Sources of income.—The sources of income for the heads of families are extremely varied and include income from the sale of grapes from the assigned land. Several members of the group have specific trades including welders, mechanics, carpenters, plumbers, etc. One member has been a postal service employee for a number of years. Several members are contractors of farm work including pruning and crop harvesting. Probably one-half of the adult members receive most of their income through wage work on the local farms and in the local timber industry. The economic position of this rancheria has improved since 1934. Many of the assignments have been made productive and many of the families now have substantial homes. Also, work is available for most everyone throughout the year due to a great influx of industry into the immediate vicinity during the last few years.

Bureau services.—The public school which the rancheria children attend receives financial assistance under the Johnson-O'Malley educational contract. The Bureau has a cooperative fire control agreement with the California Division of Forestry. The Bureau has an agreement with Mendocino County in which the county agrees to accept full responsibility for future construction and maintenance on Indian roads after these have been constructed and to a mutually agreed standard and rights transferred to the county. There is an item in the Bureau's budget for 1958 amounting to $17,000 for road-building on this rancheria.

Attitude toward withdrawal of Federal trusteeship.—At a general council meeting held at their rancheria on September 23, 1955, the group voted to have the United States Government transfer the fee title to their individual tracts. They asked that the roads on the land be brought up to the county standards; that a survey be made of their land so that each assignee could have a legal description of his property; that the lien against the land be canceled. They also ask that a domestic water system be installed.

Estimated cost to effect withdrawal of Federal trusteeship.—By local Bureau of Indian Affairs' officials in September of 1955:

Land survey	$1,500
Water system	10,000
Legal assistance	1,000
Property appraisal	400
Soil and moisture conservation	2,000
Programing and planning	3,000
Total	17,900

POTTER VALLEY

Background data on the Potter Valley Rancheria, Mendocino County

History.—In 1909, 16 acres of land were bought for $2,000 for the 72 Pomo Indians in the area, under the acts of June 21, 1906 (31 Stat., 325–333), and April 30, 1908 (35 Stat., 70–76), which made available funds "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." An executive order a few years later set aside for this group an additional 80 acres which was not contiguous to the original purchase tract and has never been used by these people as a homesite. The 16-acre tract is located in the general area where the tribe has always made its home. In 1933, the number of people using this land for homesites dropped to 15, and at the present time 18 people live here. The group is not organized under the Indian Reorganization Act.

People.—The 16-acre plot is assigned to 7 family groups under informal assignments. One of the assignees is married to a non-Indian. There are only two children of school age living on the rancheria. One of the assignees is over 65 years of age. These people do not have a current roll of their membership.

Land.—The 16-acre tract that is used for homesites is in need of access roads to adequately serve the homesites. There are no roads or other improvements on the 80-acre mountain plot. The homesite tract is not especially good land, but the occupants do have family truck gardens. Each assignee has his own water supply from individual wells, and they are not interested in a community water system. At one time the sum of $233 was collected by the Bureau because of either a lease or a trespass and that amount is held in the individual money account of the group in Sacramento. There is no regular source of income for this group. There is no lien against the land because of any improvement.

Sources of income.—One of the seven family heads is on an old-age assistance grant; the others work for wages in the surrounding area. The work is seasonal and the average income is only adequate to meet the minimum needs. Their income is augmented somewhat by gardening produce.

Bureau services.—The Bureau renders services only because of the trust status of the land; all other services are provided to the people by the county. There is an item of $19,000 in the Bureau's 1958 budget to build necessary roads on the rancheria. The local school district receives payments under the Johnson-O'Malley educational contract for the two children who attend public school.

Attitude toward withdrawal of Federal trusteeship.—All of the Indians who have assignments on the rancheria asked by resolution dated December 11, 1955, that they be given fee title to their assignments after the road system has been completed. They also asked that they be given legal assistance in forming a corporation to accept and manage their mountain property.

Estimated cost to effect withdrawal of Federal trusteeship.—The local Bureau of Indian Affairs' officials estimated the the following amounts would be necessary to effect withdrawal as of December 14, 1945:

Land survey	$1,500
Legal assistance	200
Appraisal of property	500
Programing and planning	3,000
Total	5,200

QUARTZ VALLEY

Background data on the Quartz Valley Rancheria, Siskiyou County

History.—The rancheria was formed in 1937 when 364 acres were bought for $20,000 under the provisions of the Wheeler-Howard Act. In 1939, 240 additional acres were purchased for $16,000 to form the 604-acres area of the rancheria. The group of Shasta and Upper Klamath Indians whose ancestors traditionally lived in this part of California organized as the Quartz Valley Indian Community on June 15, 1939, and were granted a charter on March 12, 1940.

People.—There were 48 Indians enrolled when the Quartz Valley Community was formed. A roll completed in 1955 lists 88 names, but only about half of the membership are living in Quartz Valley today. Five of the people living on the rancheria are over 65 years of age and there are the same number of schoolchildren. Most of the workers cultivate their assignments since the land is productive and they are able to make a living from agriculture.

Land.—The rancheria lands were purchased for $36,000, or approximately $60 per acre, in 1937 and 1939. Most of the land is favorable to irrigation; and the balance is mountain land which is unassigned. An assignment consists of 20 acres and at present 13 families are holding assignments. A water system, built by the Bureau in past years, is badly in need of repair at this time. There is a lien of $8,107 against the land because of this improvement. The Government owns no buildings at Quartz Valley, but there is a community building used as a church. There is no cemetery on trust lands at Quartz Valley. It is estimated that $50,000 will be needed to build the necessary 2 miles of access roads at Quartz Valley.

Bureau services.—Services extended by the Bureau are limited to the trust status of the land; no social services are performed by the Bureau for the people living on the rancheria. The children are attending public school. Health and welfare needs of the Indians are met by local offices on the same basis as these services are extended to non-Indians.

Attitude toward withdrawal of Federal trusteeship.—On November 27, 1956, the Quartz Valley Community, through its general council, requested that the Indians be given fee title to their assigned lands and that the unassigned land be conveyed to the community. A

copy of the resolution making the request was sent to Congressman Engle on December 3, 1956. The council asked in their resolution that an internal survey of the rancheria be made, that the lien against the land be canceled, that assistance be given to form a legal entity, and that the roads and water system be brought up to standard.

Estimated cost to effect withdrawal of Federal trusteeship.—On January 3, 1957, the local officials of the Bureau estimated the following amounts would be necessary to carry out the request of the council:

Roads	$50,000
Land surveys	2,625
Water system	7,000
Irrigation system	2,500
Legal assistance	500
Appraisal of property	600
Programing and planning	1,000
Soil conservation	9,600
Total	73,825

REDDING

Background data on the Redding Rancheria, Shasta County

History.—In 1922, 30.89 acres of land were purchased for the 50 Pit River and other Indians living in the area. The cost was $3,860.87. Payment was made from funds appropriated by the act of August 1, 1914 (38 Stat. 582–589). The rancheria was established in the traditional homelands of the tribe. By 1933, only 8 Indians were living on the land, but at present the population is 34. They are not organized under the Indian Reorganization Act.

People.—These people work well as a group. They use their domestic water system in common. Fourteen family heads have informal assignments for the use of their total acreage. There are 6 wage earners among the assignees, 1 being a non-Indian. Seven of the people living here are over 65 years of age. There are four children of school age. These people have both water and electricity in their homes. There is no current roll of the present membership in this group.

Land.—Redding Rancheria is 4 miles from Redding, Calif., a city of 12,000 people. United States Highway No. 99 runs along one edge of the land. The land is valuable as homesite property near a city. In the past 5 years, the Bureau has expended $11,200 for roads and $6,644 for the domestic water system. There is a lien against the land because of the last improvement. The well supplying the domestic water has become contaminated and a new one needs to be dug.

Sources of income.—The wage earners are employed in the city of Redding where employment opportunities are plentiful. They supplement their wages by produce from their homesite lands. The average annual income compares favorably with the income of the area.

Bureau services.—The Bureau performs services because the land is in trust status. It renders no services to these people because they are Indians except that the local school district receives money under the Johnson-O'Malley contract.

Attitude toward withdrawal of Federal trusteeship.—On October 15, 1955, the group passed a resolution requesting the Government to

give them fee title to their assignments, and that an internal survey be made in order that each person may have a legal description of his land. They further asked that the lien of $6,644 against their land be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—At that time the local Bureau of Indian Affairs' officials estimated that the following amounts would be necessary to effect the transfer of title:

Finish road work	$2,500
Land survey	1,000
Repair domestic water system	500
Legal assistance	500
Appraisal of property	200
Programing and planning	500
Total	5,200

REDWOOD VALLEY

Background data on the Redwood Valley Rancheria, Mendocino County

History.—In 1909, 80 acres of land were purchased for $2,000 to form the Redwood Valley Rancheria. There were about 51 Pomo Indians in the area at that time. The rancheria was established in that part of California where the group had always lived. Funds for the purchase of this land were appropriated by the acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76), which provided money "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The people living on the Redwood Valley Rancheria are organized informally, but not under the Indian Reorganization Act.

People.—The rancheria population in 1933 was 31. Today it is 56, comprising 11 families. There is no approved roll for this group, but they consider people who do not have assignments and who live elsewhere as members. Four of the assignees are 65 years of age or over. There are only six children of school age in this group, and the same number of preschool children. The housing standards of this group are poor.

Land.—In the past 5 years the Bureau of Indian Affairs has built internal roads on this rancheria at a cost of $15,900. The land is divided into homesite plots of 4.98 acres each and there is no central water system. There is no lien against the land because of any improvement. The land is of a poor quality and affords only homesites with no produce from gardening.

Sources of income.—Employment opportunities are nonexistent on this rancheria and are scarce in the area. This makes it necessary for the wage earners to depend upon seasonal work, mostly of an agricultural nature. As a consequence, their annual income is not always adequate and they apply for social welfare from the county.

Bureau services.—Services are rendered by the Bureau only because of the trust states of the land.

Attitude toward withdrawal of Federal trusteeship.—By resolution dated October 19, 1955, these people asked that the present assignees be given to their parcels after a survey has been made. They also requested that a water system be installed on the rancheria, and that they be given assistance in the formulation of an entity to take over and manage this improvement.

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Estimated cost to effect withdrawal of Federal trusteeship.—The local officials of the Bureau of Indian Affairs estimated the following amounts would be necessary to effect transfer:

Land survey	$1,500
Domestic water system	10,000
Legal assistance	1,000
Appraisal of property	500
Soil and moisture conservation	2,000
Programing and planning	1,500
Total	16,500

ROBINSON RANCHERIA

History.—In 1909, 88 acres of land were purchased by the Government for 134 homeless Pomo Indians living in the area at a cost of $6,600 to become known as the Robinson Rancheria. The acts of June 21, 1906 (31 Stat. 325–333), and April 30, 1908 (35 Stat. 70–76), made funds available "to purchase for the use of the Indians of the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The Indians on the rancheria are not organized under the Indian Reorganization Act.

People.—Today, 45 people, consisting of 13 family groups, make their home on the rancheria. The children of school age attend public school at Lakeport. The Indians use the rancheria primarily as homesites. The group does not have a current approved roll. Welfare aid, when needed, is attained from the local State welfare agencies.

Land.—The land is held in trust by the United States Government for the Indians in California. The people are occupying individual parcels under various informal assignments and the land is used primarily for rural homesites. Recently a road system was completed and agreements were made with Lake County to take over the roads. There is a lien of $3,500 against the land because of the installation of a water system.

Sources of income.—Robinson Rancheria is used primarily for rural homesites. Family heads earn wages from agricultural work in the surrounding community.

Bureau services.—The Bureau renders no services to this group because of their status as Indians. Realty services are extended because of the trust status of the land.

Attitudes toward withdrawal of Federal trusteeship.—The Indians on the Robinson Rancheria passed a resolution in May of 1957 requesting that the residents of the rancheria be given fee title to their lands and that their rancheria be surveyed in order that each assignee may have a legal description of his assignment.

Estimated costs to effect withdrawal of Federal trusteeship.—As of May 1957, the funds estimated to be necessary to carry out the wishes of the group are as follows:

Land survey	$1,000
Water system	2,000
Legal assistance	500
Property appraisals	1,000
Programing and planning	2,000
Total	6,500

ROHNERVILLE

Background data on the Rohnerville Rancheria, Humboldt County

History.—In 1922, 16 acres were purchased with appropriated funds at a cost of $434. An estimated 15 Indians of the Wiyot Tribe, were living on this land at the time the land was purchased. Today, there are 40 people making their homes on the rancheria.

People.—There are eight wage earners on the rancheria and each of them has an assignment. Four of them are over 65 years of age. There are 11 children of school age. There are 10 homes (low standard) on the rancheria, constructed by the assignees. These people do not have an approved current membership roll, but they work together as a group and have arrived at the land use by mutual consent.

Land.—On the rancheria an assignment consists of a homesite of about 1 acre, and a wood lot of about the same area. The homesites are on the upper half of the strip of land, with the woodlots on the lower half. An adequate road is needed through the woodlot to the homesites. A domestic water system was installed recently and there is a lien against the land in the amount of $1,981.34 because of this improvement. This rancheria does not have a cemetery, and the group holds no other property in common.

Sources of income.—The workers depend upon miscellaneous work in the adjacent area, usually in the woods and the lumber industry. They receive welfare aid from the county with no distinction being made because they are Indians.

Bureau services.—The Bureau renders services only because the land is in a trust status. A domestic water system was installed recently and there is an item in the 1958 budget in the amount of $23,000 to build a standard road for the rancheria. The local school district receives Johnson O'Malley educational contract funds.

Attitude toward withdrawal of Federal trusteeship.—On September 1, 1955, this group, through their informal organization, passed a resolution asking that the United States Government transfer to them the fee title to their individual shares of this tract. They asked that the road system be completed before this is done, and that the land be surveyed so that each assignee may have a legal description of his land. They want the lien to be canceled, and assistance to form a legal entity to take over and manage their water system.

Estimated costs to effect withdrawal of Federal trusteeship.—The local Bureau of Indian Affairs' officials at Sacramento estimated that the following amounts would be necessary to transfer title:

Land survey	$1,000
Legal assistance	1,000
Property appraisal	250
Programing and planning	1,500
Total	3,750

RUFFEYS

Background data on the Ruffeys Rancheria, Siskiyou County

History.—This rancheria was purchased for the Etna Band of Indians in 1907 with funds appropriated under the act of June 21, 1906 (31 Stat. 325–333). Title is in the name of the United States. The original cost for the 441 acres comprising Ruffeys Rancheria was $2,205.

People.—As many as 56 people were living in the Ruffeys' area when the land was purchased in 1907. They were locally known as the Etna Band or the Ruffeys Band. They gradually moved elsewhere until today only three people—Mrs. Harry Lippen, Mr. Roy Abernathy and Mr. Edmond Abernathy—appear to have any vested interest in the rancheria. There is no formal organization or a membership roll. Although none of the three people having a vested interest live on the land, Mr. Roy Abernathy has his own home on taxable land adjacent to the rancheria.

Lands.—The 441 acres are not suited for ranching or agriculture because they are mostly steep hillsides. The land could be used for homesites since there is sufficient water for domestic use. A State highway runs through the acreage so it is not isolated. Lack of job opportunities in the general area is reputed to be the reason why the Indian people are not using Ruffeys Rancheria for homesites. There are no reimbursable charges against this land because of any improvements made by the Bureau of Indian Affairs.

Since the rancheria is considered uninhabited, the Bureau has made no provision for services to the people. The land is carried on the records of the Hoopa area field office.

Attitude toward withdrawal of Federal trusteeship.—The three people who appear to have a primary interest in the rancheria have requested by letter dated May 31, 1958, to the Senate Committee on Interior and Insular Affairs that Ruffeys be included in the "rancheria bill." They also asked the Bureau, in a letter dated March 20, 1958, that they be given the benefits of this legislation.

Special problems in connection with termination of Federal trusteeship.—The people who have interest in this rancheria are not asking that the land be developed in any way.

Estimated cost of withdrawal of Federal trusteeship.—Our Sacramento area office has estimated that the following amounts will be needed to transfer title or to dispose of the land and divide the proceeds:

Land survey (internal)	$800
Appraisal of property	300
Programing and planning	500
Total	1,600

SCOTTS VALLEY

Background data on the Scotts Valley Rancheria, Lake County

History.—The 56.68 acres on this rancheria were bought for the 60 Pomo Indians living in the vicinity in 1911 at a cost of $2,900, with funds appropriated under the acts of June 21, 1906 (31 Stat., 325–333), and April 30, 1908 (35 Stat., 70–76) "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *." The rancheria was established in the traditional homeland of the group of Indians.

People.—By 1933, the number of Indians using this land for homesites had dropped to 26, and today the number is 32, although 3 of the people having assignments are not living on the land. One of the ten assignees is over 65 years of age and the others are in their early 40's. There are comparatively more children living on this rancheria than on others in the State of California. Sixteen are of school age;

seven are of preschool age. This group does not have a current roll of membership. They are not formally organized as a tribe, but they act as a group in deciding about their land.

Land.—The land is all assigned to individual members, and none of it is held in common. It is rural-homesite land, and, although it is of poor quality, some of the assignees do have gardens and fruit trees. Within the past 5 years, an adequate road was constructed, joining with the county road that runs along 1 edge of the land. The domestic water supply was rehabilitated recently at a cost of $3,861.08, which amount now stands as a lien against the land.

Sources of income.—There are nine wage earners who work in miscellaneous farm jobs in the vicinity. They supplement their wages with limited gardening and orchard produce. Water is piped to each homesite but, otherwise, the homes are not modern.

Bureau services—In the past 5 years, the Bureau spent $3,500 for building roads and $3,861.08 to rehabilitate the water system. Expenditures were made because of the trust status of the land. The Bureau does not render social services to these people, but the local school district receives payments under the Johnson-O'Malley education contract.

Attitude toward withdrawal of Federal trusteeship.—By resolution dated September 29, 1955, this group asked that they be given fee title to their individual shares of this tract. They requested legal assistance to form an entity to take over and manage a water system, and asked that the rancheria be surveyed so that each assignee may have a legal description of his plot.

Estimated cost to effect withdrawal of Federal trusteeship.—Estimates made by the local Bureau of Indian Affairs are as follows:

Land survey	$2,500
Complete the water system	5,000
Legal assistance	1,000
Property appraisal	400
Programing and planning	1,600
Total	10,500

SMITH RIVER

Background data on the Smith River Rancheria, Del Norte County

History.—The Smith River Indians have lived in their present location in the extreme northwestern corner of California from earliest times. In 1864, Congress authorized the establishment of a reservation for them at the mouth of the Smith River (13 Stat. 40), but, by the act of July 27, 1868 (15 Stat. 221), the Smith River Reservation was discontinued and the Indians were removed to the Hoopa Valley Reservation to the south. By Executive Order 1495, dated March 11, 1912, Hunters Rock or Prince Island, lying about three-fourths of a mile north of the mouth of Smith River in the Pacific Ocean, was "reserved from all forms of disposal and set aside for the use of the Smith River Indians * * *." The Indians had continued to live in the vicinity of the mouth of the Smith River, even though their reservation had been discontinued.

The present acreage of the rancheria was purchased in 1908 for $7,200 with funds appropriated by the act of June 21, 1906 (31 Stat. 325–333), and the act of April 30, 1908 (35 Stat. 70–76), which made

funds available "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *."

The Indians at Smith River have organized as the Howonquet Indian Council, with a formal land code. This organization is not under the Indian Reorganization Act, however, and its primary function is for the formal assignment of rancheria lands.

People.—There were 163 Smith River Indians in the area when their land was purchased in 1908. In 1950, 113 were reported to be living on the rancheria. Today, 82 people are living there. There are 20 families, with 7 persons over 65 years of age and 12 school-children. This is a close-knit community, but local employment opportunities are lacking, and most of the young people, when they become wage earners, move away from the trust lands in order to earn a livelihood.

Land.—There are 163 acres at Smith River in trust status. The land is of poor quality, and is used primarily for homesites. Domestic water is piped from the Lopez Creek, which runs through one section of the land. United States Highway 101 cuts through the rancheria, and good access is afforded to areas away from the rancheria. There is a need for internal roads to the various homesites. Thirty-four assignments have been made by the council, with a 6-acre parcel retained for community use (as a rock quarry). Another ½-acre tract has been retained as the community building site. The cemetery is on trust land. There are no Government buildings at Smith River. In previous years, a domestic water system was installed, and today there is a lien of $4,500 against the land because of this improvement. This system is badly in need of complete overhaul.

Bureau services.—Services rendered by the Bureau are limited to the trust status of the land; no social services are performed by the Bureau for the people living on the rancheria. The children all attend public school. Health and welfare needs of the Indians are met by local offices on the same basis as these services are extended to non-Indians.

Attitude toward withdrawal of Federal trusteeship.—On December 7, 1956, the Howonquet Indian Council passed a resolution endorsing a proposed bill to terminate Federal trusteeship over their lands. They sent a copy of this resolution to Congressman Scudder on December 11, 1956. They asked that their lands be surveyed, that their water and road systems be improved, and that they be given assistance to form a legal entity to manage the property they wish to retain in common ownership. They also want the lien against their land canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—On January 3, 1957, the local Bureau officials estimated the following amounts necessary to meet the requests of the Smith River Indians:

Roads (2 miles)	$52,000
Land surveys	1,500
Domestic water system	15,000
Legal assistance	500
Appraisal of property	600
Programing and planning	1,500
Total	71,100

STRAWBERRY VALLEY

Background data on the Strawberry Valley Rancheria, Yuba County

In 1914, a half-acre plot of ground was purchased with appropriated funds for $208.90. Title was taken in the name of the United States of America. This is the Strawberry Valley Rancheria. A Mr. Alex S. Picayune has proposed to buy this lot himself, but the local Bureau official at that time offered to buy it for him. Title was not taken in trust for Mr. Picayune, but he has always been the sole occupant of this lot. As far as can be ascertained, no other Indians claim the land.

Mr. Picayune has one daughter, Mrs. Sophia Wyman, who is married to a non-Indian, and a granddaughter, Josephine Williams, whose parents are dead. Miss Williams makes her home with Mr. Picayune.

This one-half acre is part of the townsite of Strawberry Valley. Mr. Picayune built his own home and installed a well for his use. He had always made his own way without help from the Bureau, and he is a respected member of the Strawberry Valley community. Mr. Picayune asked on December 6, 1955, that he be given a fee patent to this land. There are no liens against the lot. The local Bureau of Indian Affairs' officials estimated that the following sums would be needed to transfer the title:

Land survey	$200
Legal assistance	100
Appraisal of property	100
Programing and planning	300
Total	700

TABLE BLUFF

Background data on the Table Bluff Rancheria, Humboldt County

History.—This 20-acre plot was bought in 1908 for $3,000 for the 60 Indians reputed to be living in the area at that time. Appropriated funds were used to buy the land. These funds were made available under the acts of June 21, 1906 (31 Stat., 325–333), and April 30, 1908 (35 Stat., 70–76), which provided money "to purchase for the use of the Indians in the State of California * * * suitable tracts or parcels of land, water, and water rights in the said State * * *."

People.—In 1933, the number of people using the land had increased to 75, but at the present time there are 38 people living here. They comprise 14 family groups with 14 wage earners. All of the children of school age attend public school at the town of Lighthouse near the rancheria. These people have no formal tribal organization, but they operate informally in making land assignments. There is no approved current membership roll for these Indians.

Land.—This 20 acres of land is served by 2 county roads, with access roads maintained by the users of the homesites. The land serves primarily for rural homesites, but there are some cultivated family gardens. Each assignee has installed and maintains his own well. There are no liens against the property because of any former improvements.

Sources of income.—The wage earners here must leave home to find work. They work for wages in the lumber industry and in other miscellaneous work. If the family needs welfare assistance, they receive it from the county on the same basis as other applicants.

Bureau services.—The Bureau renders no services to these people except in connection with the trust status of the land. No improvements on the land were made, and there is no lien against it. The local school district receives payments under the Johnson-O'Malley contract because of the Indian children who attend their public schools.

Attitude toward withdrawal of Federal trusteeship.—On September 21, 1955, this group asked by resolution that they be given fee title to their individual tracts after a survey had been made to ascertain the legal description of each assignment.

Estimated cost to effect withdrawal of Federal trusteeship.—At that time, the local Bureau of Indian Affairs' officials estimated that the amounts needed to effect transfer of title would be as follows:

Land survey	$1,000
Legal assistance	500
Property appraisal	550
Programing and planning	1,500
Total	3,550

TABLE MOUNTAIN

Background data on the Table Mountain Rancheria, Fresno County

History.—In 1914, 160 acres of land were purchased for $4,600 in Fresno County to establish the Table Mountain Rancheria. There were 90 Indians in this vicinity at that time. These lands were purchased under the authority of the act of August 1, 1914 (38 Stat. 582–589). The Indians living on this rancheria did not accept the Indian Reorganization Act.

People.—Today there are 55 people on the Table Mountain Rancheria, consisting of 12 families. They are a comparatively young group of people, with 32 children (13 of whom are of school age). There are 10 wage earners. None of the inhabitants are over 60 years of age. There is no approved membership roll.

Land.—Only part of the rancheria is used for rural homesites. The remaining acres are steep and rocky, but are used by a non-Indian under a grazing lease. The rancheria is adjacent to a paved county road, with access roads leading to the homesites. These access roads are in need of considerable improvements. The cemetery for this group is not located on the rancheria land. The people there are concerned about access to this burial ground. A water system was developed, but the well went dry and another one is needed. There is a lien against the land in the amount of $1,055.07 because of the water system.

Sources of income.—These people work at miscellaneous jobs in the area, mostly in farming. Their incomes are uncertain since employment opportunities are definitely limited.

Bureau services.—The Bureau proposes to expend $20,000 to complete the road system. This amount was set up in the 1958 budget. The Bureau also proposes to improve the water system. These

projects are being undertaken because of the trust status of the land. The Bureau renders no services to these people because they are Indians. They receive social welfare services from the county and the State. The Bureau maintains in its Sacramento office an individual money account for this group and deposits in its receipts from the grazing lands ($820).

Attitude toward withdrawal of Federal trusteeship.—On November 4, 1955, this group, through a resolution, asked that they be given fee title to their individual assignments after the water systems and roads had been completed. They also asked that the lien against the land be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—The local Bureau of Indian Affairs' officials estimated that the following sums would be necessary to effect transfer of titles:

Land survey	$1,000
Domestic water system	3,000
Legal assistance	500
Appraisals of property	700
Programing and planning	1,500
Total	6,700

UPPER LAKE

Background data on the Upper Lake Rancheria, Lake County

In 1908, 143 acres were bought for the 285 Pomo Indians making their home at Upper Lake at a cost of $5,000. This land forms the nucleus of the present rancheria. Ninety-nine acres were added in 1936 and another 159 acres in 1941, under the Indian Reorganization Act. Each of these parcels cost $11,000. By Secretarial order of February 15, 1907, a 160-acre tract was set aside "as a woodlot for the Upper Lake Indians until such time as it may be secured to them either by Executive order or congressional action." Another rancheria was subsequently established in 1909 at Robinson for a number of Upper Lake Indians. Neither the Upper Lake group nor the Robinson group made exclusive use of the woodlot until 1953 when the group at Upper Lake negotiated to sell some timber on the tract. If proposed legislation designates the parcel as part of the Upper Lake Rancheria there would be no question of title. This group is organized under the Indian Reorganization Act and has an approved roll. The following resolution is quoted to give facts about the rancheria:

"*Be it resolved* by the Upper Lake Pomo Indian Community, Upper Lake, California, a legal community organization established and approved by the Secretary of the Interior November 5, 1941.

"Whereas Federal responsibility for administering the affairs of individual Indian tribes should be terminated as rapidly as the circumstances of each tribe will permit. This should be accomplished by arrangements with the proper public bodies of the political subdivisions to assume responsibility for the services customarily enjoyed by non-Indian residents of such political subdivisions and by distribution of tribal assets among the individual members, or to the tribe as a unit, whichever may appear to be the better plan in each case. In addition, responsibility for trust properties should be transferred to the Indians themselves, either as groups or individuals, as soon as feasible;

"Whereas it is not right to claim that the tribes being subjected to the termination bill are competent to handle their own affairs while the bills vest in the Secretary of Interior final authority to determine in what manner the Indians shall be made to handle their own affairs.

"Now, therefore, the tribal members of the Upper Lake Pomo Indian Community, a legal community organized under the Reorganization Act of June 18, 1934, under the corporate name, Upper Lake Pomo Indian Community, has worked successfully in managing and financing their business and homes under this organized setup, so now we believe we have advanced to where we are competent enough to handle our community and individual affairs when released from under Federal supervision.

"I. Membership consists of 76 adults and children. Adults 39; 37 children, 11 of these children are entered in the local public schools; the rest are under school age.

"II. Tribal property consists of 2 parcels of land which total 561 acres of land. One parcel of land consists of 401 acres; this is where the homesites, farming, and hill pastureland is situated. There are 21 homes on this place; 17 are I. R. and R. houses. One member purchased a small house from the tribe which was included with the purchase of the property; two other members have built their homes on house lots approved through the council. All homes are equipped with modern inside facilities. The domestic water is piped from two deep wells which all housowners share the right-of-way and pay equally accumulated bills resulting from usage and repairs.

"Farmable land consists of approximately 110 acres of land of which all the land has been assigned through the council to individual tribal members who have qualified under the bylaws and land code set up by the community. Forty-eight acres are planted in pear trees, 20 acres in walnut trees; 42 acres are used for seasonal crops and garden lots.

"Hill pastureland consists of approximately 240 acres which is rented on yearly basis for pasture to neighboring farmers or stockowners and the money is used as a tribal fund, handled through tribal officers of whom the tribal treasurer is bonded, and the money is deposited in our local bank.

"The second parcel of land is a 160-acre woodlot, situated approximately 5 miles north of Upper Lake town, sec. 15, T. 16 N., R. 10 W., S½NE¼; E½SE¼ Mount Diablo meridian. It is used as a wood reserve for fuel and timber growing.

"In July 1953 we assumed the responsibility of cutting timber from a place to build a community building for the tribe; after cutting started we were stopped by the area office in Sacramento stating we were not owners of the woodlot. After all these years, they have given us the impression of ownership. We have signed through our community executive committee annual liability and asset report sheets determining valuation and title of property to our tribal organization. Now it stands as an unsettled question awaiting ownership approval from the Secretary of the Interior.

"III. The Government roads running through the tribal property have been repaired and oiled within the year and the council has approved by a resolution to turn these roads over to the county, which now is awaiting approval by the county and State for acceptance. These roads, we believe, are used more by the non-Indian or

public than the tribe and we believe the care and maintenance should be the county's responsibility. The school buses drive into the reservation for the Indian schoolchildren, who all attend the public schools. The county provides bus shelters which consist of two for the Indian children. School lunches are paid for by the parent or guardian and those who need assistance are cared for the same as the non-Indians. Hot lunches are served at the school at a nominal fee.

"IV. The older Indians, which total 11, all have and live in I. R. and R. houses and either receive social security, veterans, or county old age benefits.

"Now, therefore, be it resolved, to release the enrolled tribal members of the Upper Lake Pomo Indian Community from under Federal supervision and to assume responsibility like non-Indian residents. Responsibility of trust property to be transferred over to the members of our tribal roll of the Upper Lake Pomo Indian Community.

"The above resolution was duly passed and adopted by the executive committee of the Upper Lake Pomo Indian Community, a duly elected body to represent and transact business for the Upper Lake Pomo Indian Community, by a unanimous vote of seven for, none against, at a meeting assembled at which a quorum was present on this 16th day of November 1954."

There is a lien of $20,568.40 against the lands of the Upper Lake Rancheria because of irrigation and domestic water system installations.

In addition to the above resolution, this group passed a resolution on September 22, 1955, reiterating their desire for fee title conditioned upon an internal survey, establishment of water rights, cancellation of liens against the land, and assistance to form a legal entity to manage their community property.

It was estimated in September 1955, by local Bureau of Indian Affairs' officials that the following amounts would be necessary to effect withdrawal of Federal trusteeship:

Land survey	$3,500
Legal assistance	2,500
Water system	2,000
Irrigation system	1,000
Establishment of water rights	2,000
Soil and moisture conservation	7,300
Property appraisal	600
Programing and planning	5,000
Total	23,900

WILTON

Background data on the Wilton Rancheria, Sacramento County

History.—In 1924, 38.81 acres were bought for the 150 Miwok Indians living in this area for $5,000. This is the Wilton Rancheria. The group is organized under the Indian Reorganization Act as the Me-wuk Indian community of the Wilton Rancheria, Calif. Their constitution was approved on January 15, 1936, and amended on May 21, 1956. They have no approved charter.

People.—By 1933, the number of Indians living on this rancheria had dropped to 40, and today 33 make their homes here. There are 9 families: 1 family has 10 children and another has 8. Five of the

assignees are childless. This is a comparatively young group, although 3 of the assignees are over 65 years of age. The 13 children attend public school at Wilton. There is an official roll of membership under the Indian Reorganization Act, but it is not current.

Land.—This tract is located near the little village of Wilton along the railroad tract. The Consumnes River adjoins the tract at the lower end. There are about 9 or 10 acres of agricultural land which has been cultivated in the past, but which is subject to floods from the river. There has been some effort on the part of the local district, or the adjoining landowners, to build a dike to protect the Indian land as well as the non-Indian land. The residents are served with water from a domestic well with an overhead tank and underground distribution system at each of the houses. There is a lien on account of the water development in the amount of $3,809.47. There has been no road improvement undertaken, but the Bureau has an item of $11,000 in the 1958 budget for some internal roads. The rancheria adjoins a paved highway.

Sources of income.—The sources of income for heads of the families are extremely varied and include work in nearby Government installations, farm labor, and miscellaneous wage work.

Bureau services.—The Bureau renders services only because of the trust status of the land. There are no payments to the local school district under the Johnson-O'Malley contract. An item of $11,000 is in the Bureau's budget for 1958 for internal road construction. These people receive their social services (extension, law and order, vital statistics, welfare, etc.) from the county with no distinction being made because they are Indians.

Attitude toward withdrawal of Federal trusteeship.—The 10 assignees on the rancheria asked by resolution dated October 13, 1955, that they be given fee title to their assignments after the road system has been completed, and an internal survey has been made on which to base the subdivision, and that the lien against the land be canceled.

Estimated cost to effect withdrawal of Federal trusteeship.—At that time it was estimated by the local Bureau of Indian Affairs' officials that the following sums would be necessary to effect withdrawal of Federal trusteeship:

Land survey	$800
Domestic water system	1,000
Legal assistance	500
Appraisal of property	200
Levee construction	4,000
Programing and planning	500
Total	7,000