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OCT 30 1979

WILLIAM L. WHITMAN
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
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14 FLORENCE BEAVER, et al.,)
15 Plaintiffs,) NO. C-79-2925 SW
16 vs.)
17 SECRETARY OF THE DEPARTMENT) PRELIMINARY INJUNCTION
18 OF THE INTERIOR, et al.,)
19 Defendants.)

20 This matter came on regularly for hearing on Monday,
21 October 29, 1979, pursuant to this Court's Order to Show Cause
22 dated October 19, 1979. The Court has considered the complaint,
23 the memoranda of law, the affidavits filed in support of and
24 in opposition to plaintiffs' motion for a preliminary injunction,
25 and oral arguments of counsel. It appears that defendants have
26 been and now are acting pursuant to a certain Regulation pub-
27 lished on Tuesday, August 7, 1979 in the Federal Register at
28 44 Fed. Reg. 46269 (1979) (to be codified in 25 C.F.R. Part 55A)
29 (hereinafter "25 C.F.R. Part 55A") and that their actions will
30 result in election of an "Interim Yurok Tribal Governing Committee"

1 without opportunity for qualified voters to express their opposi-
2 tion to holding such an election. It further appears that the
3 election is being held for the purpose of establishing an "Interim
4 Yurok Tribal Governing Committee" without first holding an elec-
5 tion to decide whether or not the eligible voters want such a
6 committee. It further appears that a delay for several months
7 for this Court to decide the legal issue set forth below in
8 paragraph (3) will not work a great harm to either plaintiffs
9 or defendants.

10 IT IS HEREBY ORDERED THAT:

11 (1) Pending final judgment in this case or further
12 order of this Court, defendants are hereby enjoined and restrained
13 from taking any further actions pursuant to 25 C.F.R. Part 55A,
14 except continuing with the process of the election in allowing con-
15 tinued voting and accepting and collecting all ballots delivered
16 or postmarked through October 30, 1979. Defendants are ordered
17 to hold and protect all ballots received until further order of
18 this Court and are restrained from opening ballots or from certi-
19 fying any candidates as winners of the election or as constitut-
20 ing any group of persons as the Interim Yurok Tribal Governing
21 Committee. If any ballots are received by defendants in an
22 unsealed condition, they shall be sealed without examining or
23 noting which candidates received votes.

24 (2) Because it appears that no damages will be suffered
25 or sustained by any party who is found to be wrongfully restrained,
26 no undertaking need be filed by the plaintiffs.

27 (3) The parties shall submit further briefs on the
28 legal issue of whether defendants have the right to proceed with
29 the election pursuant to 25 C.F.R. Part 55A without first sub-
30 mitting to the eligible voters the choice as to whether or not a

1 Governing Committee shall be formed. Briefs shall be submitted
2 as follows:

- 3 (a) Plaintiffs' Opening Brief, November 30, 1979;
4 (b) Defendants' Responding Brief, December 21, 1979;
5 (c) Plaintiffs' Reply Brief, January 11, 1980.

6 Oral argument on the issue is set for January 25, 1980
7 at 10:00 a.m.

8 Dated: October 30, 1979.

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10 SPENCER WILLIAMS
11 UNITED STATES DISTRICT JUDGE

12 APPROVED AS TO FORM:

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14 Rodney H. Hamblin
15 Assistant U.S. Attorney
16 Attorney for Defendants

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