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U.S. DISTRICT COURT
SACRAMENTO, CALIF.

PIRTLE, MORISSET
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LILLIAN BLAKE PUZZ, et al.,)
Plaintiffs,)
v.)
UNITED STATES DEPARTMENT OF)
INTERIOR,)
Defendants,)
and)
WILLFRED COLEGROVE, et al.,)
Defendants,)
Counter and Cross-Claimants.)

NO. C80-2908 TEH

ORDER AFTER STATUS
CONFERENCE

On August 31, 1988, this Court held a status conference at which the parties addressed several issues concerning the scope and implementation of the federal defendants' compliance plan (hereafter "plan"). After carefully considering the arguments of counsel, and the parties' papers filed in response to the plan, the Court makes the following rulings.

First, the Court has determined that the plan, while imperfect in many ways, is basically a workable plan that generally meets the concerns articulated in our April 8, 1988 order. The Court thus denies plaintiffs' motion to strike the plan. However, the Court realizes that the plan can be improved upon and that there are a number of issues raised by the parties that would need to be addressed before a final, long-term plan

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1 could be approved by this Court. These issues include, but are
2 not limited to, the composition of the CAC, how the electorate
3 should be defined or any other election related issues, the
4 applicability of the APA, the CAC's role with respect to
5 reservation activities outside the budget process (i.e., timber
6 management and leases), and the propriety of appointing a
7 "watchdog" or monitor.

8 It now appears, however, that there is a strong
9 possibility that the "Bosco legislation" may be enacted by
10 mid-October. Thus, the Court will only undertake the
11 substantial task of finalizing the plan, and addressing the
12 long-term issues raised by the parties at the status conference
13 and in their papers, if it becomes apparent that the
14 legislation will not be enacted. Until such time as the plan is
15 finalized, or the Bosco legislation is passed, the BIA should
16 continue implementing the plan, in its present form, pursuant to
17 our June 20, 1988 order conditionally approving the plan, except
18 to the extent that this or any future order provides for interim
19 modifications of the plan.

20 As the parties know, The process leading up to the
21 adoption of the first quarter budget for the 1988-89 year is
22 already well underway and far behind schedule. Any attempt to
23 address the composition of the CAC or the other issues above,
24 with respect to the first quarter, would only cause additional
25 delay. Thus, at this point, the Court will limit itself to
26 focusing on those steps of the plan that remain to be
27 implemented before the the first quarter budget is adopted. We
28 now turn to those steps.

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1. Consideration of the CAC's recommendations

The BIA shall give the CAC's recommendations "heavy consideration". In addition, if the BIA rejects any CAC recommendation, it shall provide, in writing, its specific reasons for doing so.

2. Publicizing the Budget Hearings

The Court has concluded, given the low voter turnout for the CAC election, that notice by newspaper publication is insufficient to adequately publicize the budget hearings, at least at this initial stage. Moreover, the fact that not every address is current (which will always be the case) does not justify relying solely on publication. Thus, in addition to publication, the BIA shall mail, first class, a notice of the budget hearings, to the Hoopa and non-Hoopa indians of the reservation, no later than September 10, 1988. The notice shall contain the same information included in the newspaper notice; however, the notice shall be typed in a letter format, using normal size type and allowing at least 1 1/2 spaces between lines. In addition, the BIA shall include a copy of the initial notice that was published on July 13, 1988. An explanatory cover letter may also be included.

3. Completion of the first quarter budget

The BIA has not exhibited a serious committment to implementing the plan in a timely manner. Of particular note is the BIA's unexplained delay of 3 1/2 weeks between the time this Court denied the Hoopas' motion for stay and conditionally approved the plan (on June 20, 1988), and the BIA's initial

1 publication of the plan process on July 13, 1988. Regardless of
2 the BIA's reasons for extending the deadlines several times, the
3 Court now intends for the BIA to complete the budget process in
4 as timely a manner as possible. The CAC is scheduled to meet
5 for a third time on September 16, 1988, and the budget hearings
6 are scheduled for September 19, 20, and 21st. Unless this Court
7 finds, upon a showing of very good cause, why it would be
8 impossible to accomplish the following, the BIA shall "assemble
9 all written comments and prepare budget package to forward to
10 SAO for approval along with recommendations" by October 7, 1988.
11 "Review and approval by Area office" shall occur by October 17,
12 1988. Publication of program and dollar limitations in the
13 Times Standard, Kourier, and Del Norte Triplicate shall occur by
14 October 21, 1988.

15 4. Consideration of proposals submitted by BIA staff

16 The Court does not find that that submission of
17 proposals by BIA staff is improper per se, and sees no reason
18 for limiting the discretion of the CAC to recommend and
19 prioritize proposals as it deems appropriate.

20 5. Cost of Implementation

21 Reservation funds may be used to cover the reasonable
22 costs of implementating the plan.

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24 In addition, the Court does not intend to review the
25 1987-88 fiscal budget or any previous budgets.
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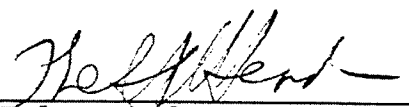
Accordingly, and good cause appearing, its HEREBY
ORDERED that

1. Plaintiffs' motion to strike the compliance plan is
denied (although the issues raised therein will be considered in
the event a final plan is fashioned).

2. Federal defendants' implementation of the plan shall
proceed consistent with this order.

IT IS SO ORDERED.

DATE 9/2/88



Judge Thelton E. Henderson,
United States District Court.