Tsi Akim of Taylorville Rancheria v. U.S. Dept. of Interior, ___ F. Supp. 3d ___, 2022 WL 2818035 (E.D. Cal. Jul. 19, 2022)

- **Holdings:** Motion to dismiss for lack of subject matter jurisdiction on the grounds that the district court could not direct the Department of the Interior to place the plaintiff tribe on the list of federally recognized tribes and that one of the challenged decisions was not a final agency action was denied.
- **Summary:** This is the second opinion addressing a motion by federal Defendants to dismiss Plaintiff Rancheria's lawsuit over 2015 and 2020 decisions from the Interior Department concerning the former's claim to federal recognition. *See Tsi Akim of Taylorville Rancheria v. U.S. Dept. of Interior*, 2020 WL 1974213 (E.D. Cal. Apr. 24, 2020) (denying in part motion to dismiss on limitation grounds). In the present motion, Defendants argued that (1) the district court lacked subject matter jurisdiction to order the Rancheria's placement on the list of federal recognized tribes and (2) the 2020 decision, which "rescinded the portion of the 2015 decision indicating Plaintiff was ineligible to petition for acknowledgment under [25 C.F.R.] Part 83" but also "stated it was not withdrawing any other portion of the 2015 decision, [thereby] leaving intact the 2015 decision's conclusion that the sale of the Taylorsville Rancheria terminated Plaintiff's tribal status[,]" was not a final agency action.

  The court denied the motion. With respect to Defendants' first argument, it reasoned that although *Agua Caliente Tribe of Cupeno Indians of Pala Reservation v. Sweeney*, 932 F.3d 1207 (9th Cir. 2019), "seems to foreclose the Court from compelling the Department to include Plaintiff on the federally recognized tribes list, Plaintiff correctly points out that—unlike the plaintiff in *Agua Caliente Tribe*—it seeks other forms of relief as well." Thus, as Defendants conceded, "the Court can rule on the issue of whether the Department incorrectly found that Congress terminated the tribe when the Rancheria was sold and may ultimately set aside and remand that decision." With respect to the second argument, application of the final-agency-action standards identified in *Bennett v. Spear*, 520 U.S. 154 (1997), "support[s] the conclusion that Defendants reached a definite position in the 2020 decision and determined Plaintiff's rights and obligations by allowing Plaintiff to pursue the Part 83 process." The court nevertheless left open "the specific question of whether the 2020 decision, like the 2015 decision, involved an agency interpretation of the California Rancheria Act that harmed Plaintiff" because its resolution "requires a review of the administrative record."
- **Relevant (2022) Deskbook Section:** 2:2 n.23