

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAR 19 2008



OFFICIAL
FILE COPY

MEMORANDUM

TO: Assistant Secretary – Indian Affairs

FROM: Director, Office of Federal Acknowledgment (sgd) R. Lee Fleming

SUBJECT: Transmittal of Record

Enclosed are the original enrollment materials of 35 individuals that the group known as the Tejon Indian Tribe (Petitioner #230) submitted regarding its requests for “half-blood community” and “certificates of degree of Indian blood.” We are also enclosing a letter dated November 13, 2007, entitled “Memorandum Regarding Certification of Blood Quantum for Tejon Tribal Members of One-Half or More Indian Blood.” We have made copies for the Office of Federal Acknowledgment and are transmitting these materials to your office per your request.

Enclosures

cc: OFASurname;Chron
 IA-OFA:RLFleming:rlf/jkc;513-7650;3/19/08
 K:\OFA\CORRESP\LEE\CASES\TejonTransmittalMemorandum.doc

OFFICE	USA
SURNAME	Fleming
DATE	3/19/08
OFFICE	
SURNAME	
DATE	
OFFICE	
SURNAME	
DATE	
OFFICE	
SURNAME	
DATE	
OFFICE	
SURNAME	
DATE	
OFFICE	
SURNAME	
DATE	
OFFICE	
SURNAME	
DATE	



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



MAR 19 2008

MEMORANDUM

TO: Assistant Secretary – Indian Affairs
FROM: Director, Office of Federal Acknowledgment
SUBJECT: Transmittal of Record

Enclosed are the original enrollment materials of 35 individuals that the group known as the Tejon Indian Tribe (Petitioner #230) submitted regarding its requests for “half-blood community” and “certificates of degree of Indian blood.” We are also enclosing a letter dated November 13, 2007, entitled “Memorandum Regarding Certification of Blood Quantum for Tejon Tribal Members of One-Half or More Indian Blood.” We have made copies for the Office of Federal Acknowledgment and are transmitting these materials to your office per your request.

Enclosures

CHAIN OF CUSTODY PLAN

The Responsible Officials at the originating and destination offices will ensure that the following procedures are followed during the transportation and transfer of custody of the records being moved.

Transporting Records Procedure (Chain of Custody) Records being moved from any DOI agency or office to another within DOI, needing no prior approval

1. Records are packed in appropriate storage boxes.
2. Box lists or inventory of records for each box is included inside the first box (box #1).
3. Each box is sealed with tape and boxes are numbered sequentially (e.g., box 1 of 5, box 2 of 5, etc.).
4. Identify name or type of carrier to be used. [hand carried]
5. The Originating Responsible Official, *R. Lee Fleming*, notifies Destination Responsible Official, *Carl J. Artman*, when shipment left location and approximate date of arrival at destination.
6. The Originating Responsible Official, *R. Lee Fleming*, retains a copy of the shipment form for tracking purposes in the event that a shipment item is missing.
7. The Originating Responsible Official, *R. Lee Fleming*, calls the Destination Responsible Official, *Carl J. Artman*, to verify that all boxes have been received.
8. The originating and destination offices, *the Office of Federal Acknowledgment and the Assistant Secretary - Indian Affairs*, will create and maintain a file to document the records transfer process (by shipment). The Records Inventory, Chain of Custody Plan and other supporting documentation will be maintained in accordance with GRS 16/2b Records Disposition Files – Routine correspondence and memoranda.

I certify that all records were successfully moved and accounted for at the intended location.

Margaret Treachney
Printed Name

3/19/08
Date

Margaret Treachney
Signature

IARM 4006



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 19 2008



MEMORANDUM

TO: Assistant Secretary – Indian Affairs
FROM: Director, Office of Federal Acknowledgment
SUBJECT: Transmittal of Record

Enclosed are the original enrollment materials of 35 individuals that the group known as the Tejon Indian Tribe (Petitioner #230) submitted regarding its requests for “half-blood community” and “certificates of degree of Indian blood.” We are also enclosing a letter dated November 13, 2007, entitled “Memorandum Regarding Certification of Blood Quantum for Tejon Tribal Members of One-Half or More Indian Blood.” We have made copies for the Office of Federal Acknowledgment and are transmitting these materials to your office per your request.

Enclosures

CHAIN OF CUSTODY PLAN

The Responsible Officials at the originating and destination offices will ensure that the following procedures are followed during the transportation and transfer of custody of the records being moved.

Transporting Records Procedure (Chain of Custody) Records being moved from any DOI agency or office to another within DOI, needing no prior approval

1. Records are packed in appropriate storage boxes.
2. Box lists or inventory of records for each box is included inside the first box (box #1).
3. Each box is sealed with tape and boxes are numbered sequentially (e.g., box 1 of 5, box 2 of 5, etc.).
4. Identify name or type of carrier to be used. [hand carried]
5. The Originating Responsible Official, *R. Lee Fleming*, notifies Destination Responsible Official, *Carl J. Artman*, when shipment left location and approximate date of arrival at destination.
6. The Originating Responsible Official, *R. Lee Fleming*, retains a copy of the shipment form for tracking purposes in the event that a shipment item is missing.
7. The Originating Responsible Official, *R. Lee Fleming*, calls the Destination Responsible Official, *Carl J. Artman*, to verify that all boxes have been received.
8. The originating and destination offices, *the Office of Federal Acknowledgment and the Assistant Secretary - Indian Affairs*, will create and maintain a file to document the records transfer process (by shipment). The Records Inventory, Chain of Custody Plan and other supporting documentation will be maintained in accordance with GRS 16/2b Records Disposition Files – Routine correspondence and memoranda.

I certify that all records were successfully moved and accounted for at the intended location.

R. Lee Fleming
Printed Name

3/19/08
Date

R. Lee Fleming
Signature

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

0 File Title:

Cut off Date:

1 File Title: Letter, Roberts to Fleming, 2001.11.13.

Cut off Date: 11/13/2012

2 File Title:

[REDACTED]

Cut off Date: 11/13/2012

3 File Title:

[REDACTED]

Cut off Date: 11/13/2012

4 File Title:

[REDACTED]

FOIA6

Cut off Date: 11/13/2012

5 File Title:

[REDACTED]

Cut off Date: 11/13/2012

6 File Title:

[REDACTED]

Cut off Date: 11/13/2012

7 File Title:

[REDACTED]

Cut off Date: 11/13/2012

3/19/2008

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

8 File Title: [REDACTED]

Cut off Date: 11/13/2012

9 File Title: [REDACTED]

Cut off Date: 11/13/2012

10 File Title: [REDACTED]

Cut off Date: 11/13/2012

11 File Title: [REDACTED]

Cut off Date: 11/13/2012

12 File Title: [REDACTED]

Cut off Date: 11/13/2012

13 File Title: [REDACTED]

Cut off Date: 11/13/2012

14 File Title: [REDACTED]

Cut off Date: 11/13/2012

15 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

00037414-AS-IA-BATCH003-DOC0040-COR-20240 Page 7 of 31

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

16 File Title: [REDACTED]

Cut off Date: 11/13/2012

17 File Title: [REDACTED]

Cut off Date: 11/13/2012

18 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

19 File Title: [REDACTED]

Cut off Date: 11/13/2012

20 File Title: [REDACTED]

Cut off Date: 11/13/2012

21 File Title: [REDACTED]

Cut off Date: 11/13/2012

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

1 File Title: [REDACTED]

Cut off Date: 11/13/2012

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

2 File Title: [REDACTED]

Cut off Date: 11/13/2012

3 File Title: [REDACTED]

Cut off Date: 11/13/2012

4 File Title: [REDACTED]

Cut off Date: 11/13/2012

5 File Title: [REDACTED]

FOIA6

Cut off Date: 11/13/2012

6 File Title: [REDACTED]

Cut off Date: 11/13/2012

7 File Title: [REDACTED]

Cut off Date: 11/13/2012

8 File Title: [REDACTED]

Cut off Date: 11/13/2012

9 File Title: [REDACTED]

Cut off Date: 11/13/2012

00037414-AS-IA-BATCH003-DOC0040-COR-20240 Page 9 of 31

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

10 File Title: [REDACTED]

Cut off Date: 11/13/2012

11 File Title: [REDACTED]

Cut off Date: 11/13/2012

12 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

13 File Title: [REDACTED]

Cut off Date: 11/13/2012

14 File Title: [REDACTED]

Cut off Date: 11/13/2012

15 File Title: [REDACTED]

Cut off Date: 11/13/2012

00037414-AS-IA-BATCH003-DOC0040-COR-20240 Page 10 of 31

November 13, 2007

Lawrence Roberts
202-457-6495
L.Roberts@pattonboggs.com

VIA HAND DELIVERY

R. Lee Fleming
Director
Office of Federal Acknowledgment
U.S. Department of the Interior, MS 34B-SIB
1951 Constitution Avenue, N.W.
Washington, D.C. 20240

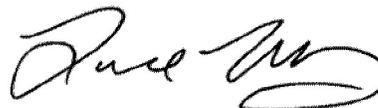
Re: Memorandum Regarding Certification of Blood Quantum for Tejon Tribal Members of One-Half or More Indian Blood

Dear Mr. Fleming:

Enclosed for your consideration is a memorandum setting forth the factual and legal basis to certify the thirty-five Tejon tribal members of one-half or more Indian blood. Please do not hesitate to contact me at (202)457-6495 if you have any questions.

Thank you very much for your time and attention.

Best regards,



Lawrence S. Roberts

cc: The Hon. Kathryn M. Morgan, Chair

MEMORANDUM

TO: LEE FLEMING, DIRECTOR, OFFICE OF FEDERAL ACKNOWLEDGMENT

FROM: V. HEATHER SIBBISON
LAWRENCE S. ROBERTS
SUZANNE R. SCHAEFFER
AND
ARLINDA F. LOCKLEAR (OFFICE OF ARLINDA F. LOCKLEAR, ESQ.)

SUBJECT: CERTIFICATION OF BLOOD QUANTUM FOR TEJON TRIBAL MEMBERS OF ONE-HALF OR MORE INDIAN BLOOD

DATE: NOVEMBER 13, 2007

INTRODUCTION

This memorandum provides the Tejon Tribe's views regarding the standards the Bureau will apply to certify those members with one-half or more Indian blood. *See* 25 U.S.C. § 479 (defining "Indian" for purposes of the Indian Reorganization Act as one-half or more Indian blood). We understand that the Bureau is close to completing this certification and issuing certificates of degree of Indian blood (CDIBs). The Tribe submits that application of the Department's longstanding guidance, administrative practice and proposed regulations to the genealogical facts set forth in the Department's own records compel the conclusion that 35 Tejon members possess at least one-half or more Indian blood.

Part I of this memorandum provides an overview of the federal records on which the Tribe relies to prove the blood quantum of 35 members with one-half or more Indian blood. Based on our meetings with the Department, we understand that, at a minimum, 28 members possess 1/2 or more Indian blood. As explained in more detail below, the crux of the difference rests upon the determination of blood quanta for five individuals, which in turn, will determine whether the remaining seven Tejon members possess one-half or more Indian blood. **Part II** provides the applicable legal standards that govern the Department's certification of blood quantum and applies those standards to the federal records relevant to Tejon tribal members.

PART I
FEDERAL RECORDS ESTABLISH THAT THIRTY-FIVE TEJON MEMBERS
POSSESS ONE-HALF OR MORE INDIAN BLOOD.

Over the course of the past year, the Tribe has worked closely with the Office of Federal Acknowledgment to locate federal records containing the blood quantum of tribal members and their ancestors. For the Tejon Tribe, there are three primary federal sources that provide Indian blood quantum information: 1) a federal Indian census conducted in 1929; 2) a 1933 federal census of California Indians; and 3) federally-approved applications to federal Indian schools (primarily the Sherman Indian School in California) or CDIBs. For all but a handful of individuals, these three sources are consistent in the quantification of Indian blood quantum. *See* Table I.

Our recent discussions with the Department have focused on the 1929 Indian census and the 1933 federal census of California Indians. The Bureau has indicated that it is inclined to accept the 1929 census as reliable, under which 28 of the 35 members have 1/2 or more Indian blood.¹ Under the 1933 census, 33 of the 35 members have one-half or more Indian blood. The difference between the two censuses is due to the fact that one ancestor, [REDACTED], is included on the 1933 census but is not included on the 1929 census. As discussed in more detail below, all of the available evidence relating to [REDACTED] establishes her blood quantum as 4/4.

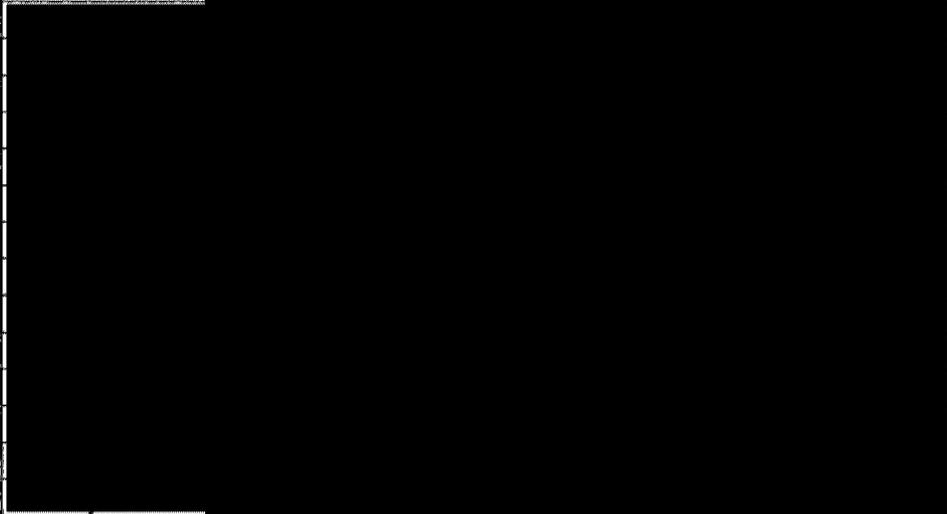
FOIA6

Only four individuals have inconsistent blood quanta records that need to be reconciled. *See* Table II. Resolution of those four individuals will necessarily determine the blood quanta of the 19 other individuals, 17 of which possess *at a minimum* one-half or more Indian blood. *See* Table III. Thus, the difference between the numbers arrived by relying only on the 1929 census and the Tribe's approach basically comes down to the resolution of the blood quantum for five individuals – the four individuals in Table II, and [REDACTED].

This Memorandum does not advocate that any one source is the definitive source for blood quantum. Rather, this Memorandum establishes that, for both practical and legal reasons, blood quantum must be determined by the totality of the evidence as it relates to the unique evidence available for Tejon tribal members.

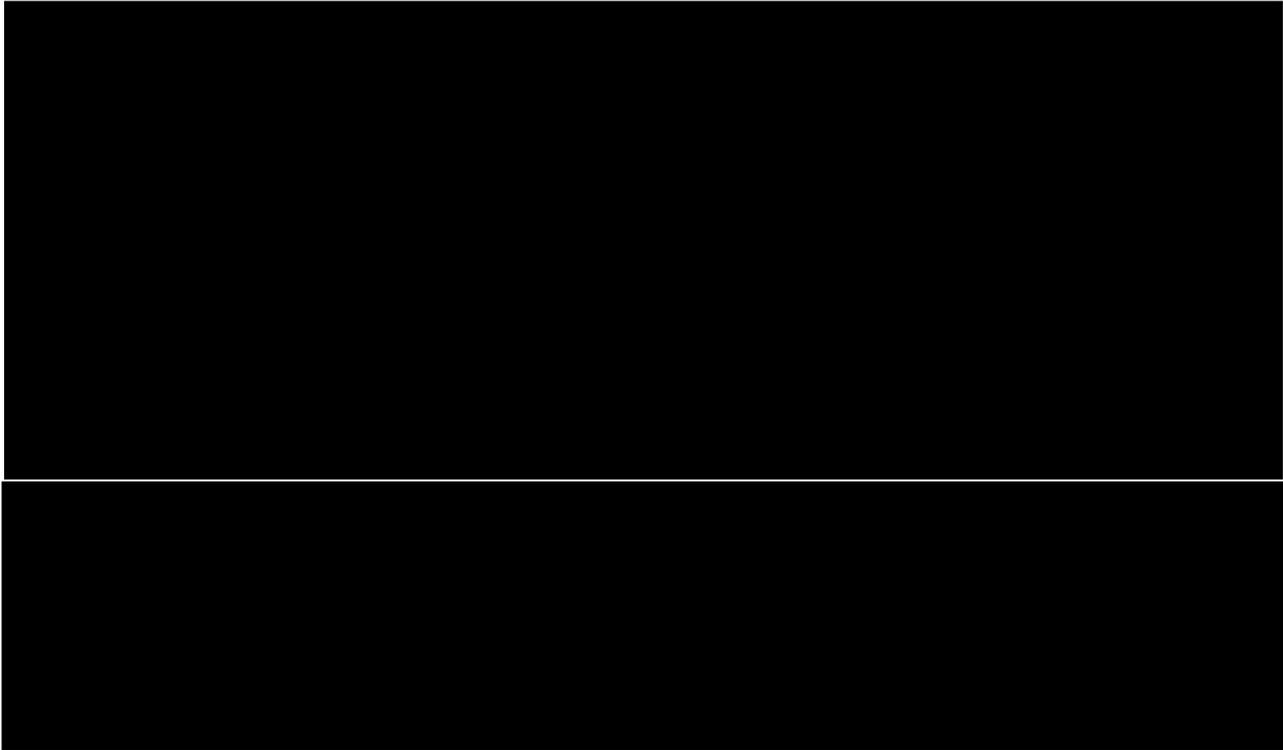
¹ We should note that one of the Tejon members, [REDACTED], recently passed away (see Tables I and IV). Although this memorandum requests confirmation for all 35 members, the actual number of living half-bloods is 34. Likewise, although this memorandum refers to 28 Tejon members possessing 1/2 or more Indian blood based on the 1929 census, the actual number of living members is 27.

TABLE I – TEJON MEMBERS FOR WHOM THE FEDERAL RECORDS REPORT A CONSISTENT BLOOD QUANTUM

Name	1929 Census	1933 Census	Federal Indian School Records or CDIB
			None
			1/2
			1/2
			1/2
			1/2
			None
			4/4
			7/8 [*]
			4/4
			1/2
			1/2

Note: an * indicates that the tribal member is not listed on these federal records but that the member's ancestors' Indian blood quanta are consistently recorded in the federal records thereby providing for a consistent determination of the current member's blood quantum. A "+" indicates that the member listed is deceased.





There is one current member and 3 ancestors of modern half-blood Tejon members for whom the blood quantum records are inconsistent but the totality of the evidence establishes a particular blood quantum. Resolution of these 4 individuals' blood quanta will determine the blood quanta for the individuals listed in Table III. The four individuals and the evidence establishing their respective blood quanta are identified in Table II below:

⁹ The fact that [REDACTED] is unquestionably 4/4 Indian blood based on all available evidence illustrates why, as a practical matter, the Bureau cannot simply rely on the 1929 census without looking at the totality of the evidence. If the Bureau were to rely solely on the 1929 Indian census, which contains no information for [REDACTED] such an arbitrary decision would adversely impact the blood quantum determinations for the following members: [REDACTED]. As discussed in Part II, below, this approach is neither reasonable nor legally defensible.

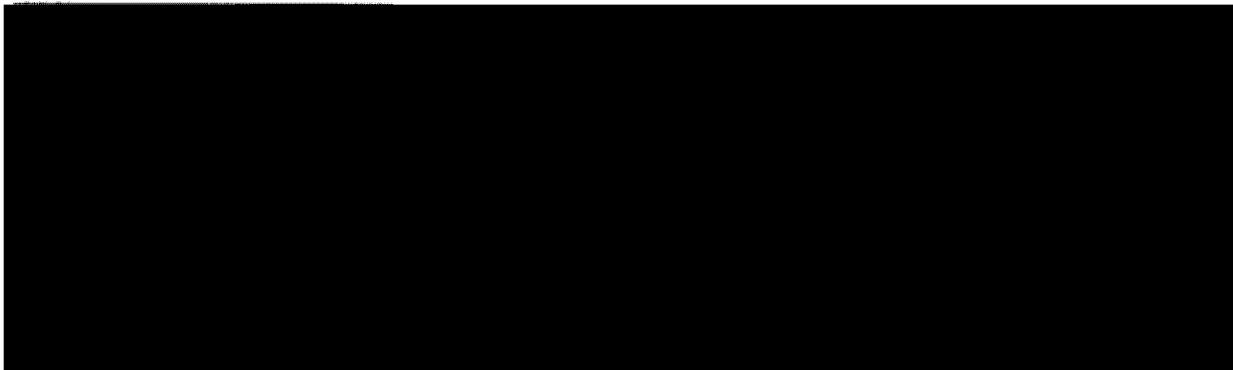
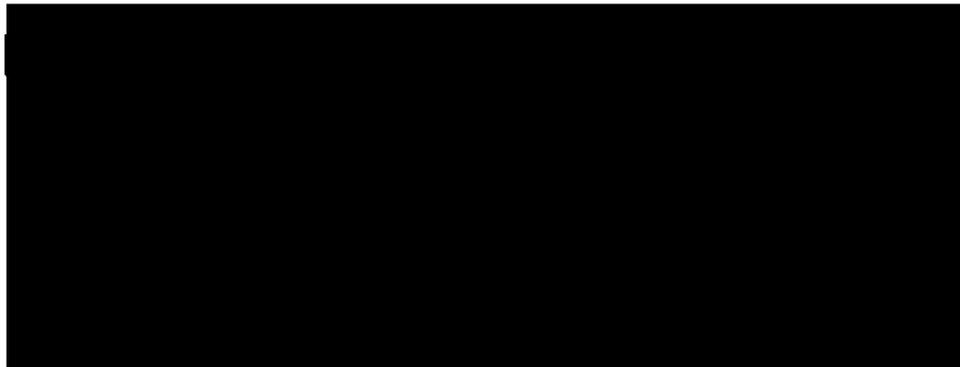
TABLE II – TEJON MEMBERS OR ANCESTORS WITH INCONSISTENT RECORDS OF INDIAN BLOOD QUANTUM FOR WHOM THE TOTALITY OF THE EVIDENCE ESTABLISHES A PARTICULAR BLOOD QUANTUM

Name	1929 Census	1929 Census BQ for Parents or Grandparents	1933 Census	1933 Census BQ for Parents or Grandparents	Federal Indian School Records	Parents blood degree in 1900 Federal Census	Blood Quantum Based on Totality of Evidence
[REDACTED]	7/8	4/4	1/2	4/4	4/4	4/4	4/4
[REDACTED]	7/8	4/4	1/2	4/4	4/4	4/4	4/4
[REDACTED]	7/16	7/8 ⁱⁿ	1/2	4/4 ¹¹	None	4/4 ¹²	1/2
[REDACTED]	7/8	4/4	1/2	4/4	4/4 ¹³	4/4	4/4

Note: A "+" indicates that the member listed is deceased.

In addition to the above federal records relating to these four individuals, additional evidence described below confirms their respective blood quantum.

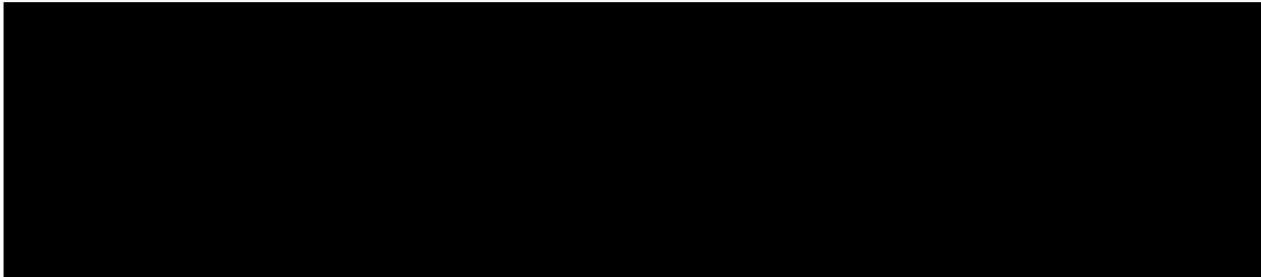
[REDACTED]
(Photos 1 and 2)
[REDACTED]
and
[REDACTED]
(Photo 3)



FOIA6

[REDACTED]

[REDACTED]

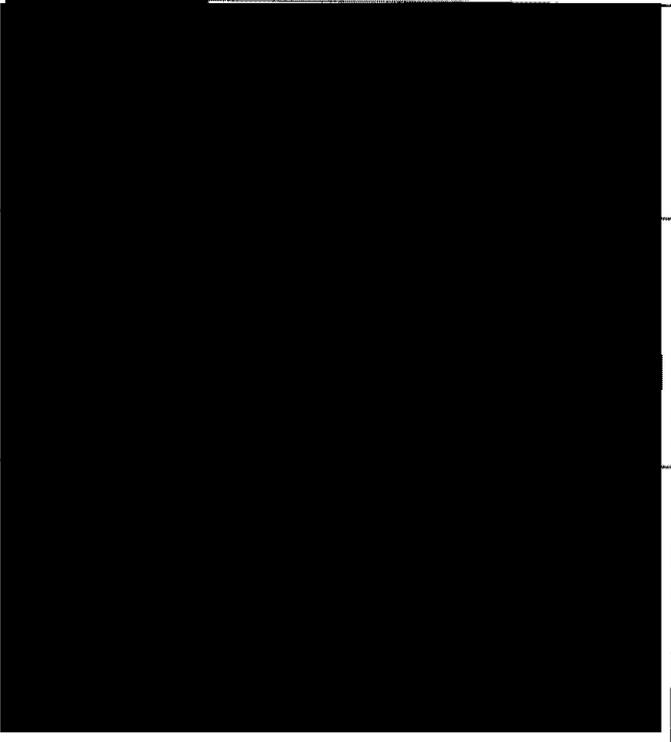
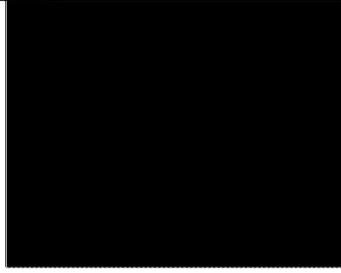


Finally, in Table III we have identified those modern Tejon half-blood individuals whose blood quantum calculation depends upon the blood quantum of those individuals listed in Table II. The information in Table III demonstrates that regardless of how the blood quantum is resolved for those individuals in Table II, all but two of the individuals in Table III possess one-half or more Indian blood:

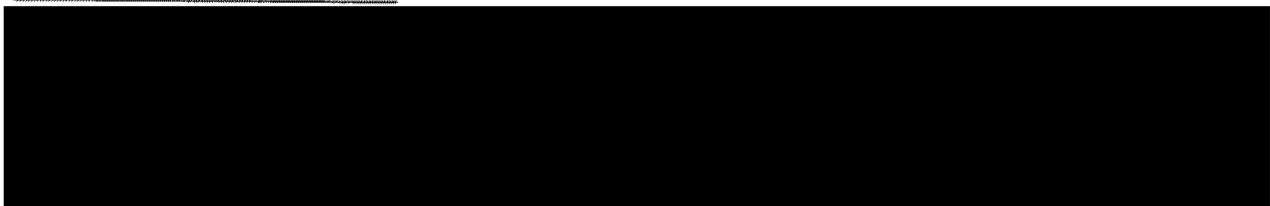
TABLE III – TEJON MEMBERS FOR WHOM THEIR BLOOD QUANTUM DEPENDS ON RESOLUTION OF MEMBERS OR ANCESTORS IN TABLE II.

Name/Siblings	Range of Potential Blood Quantum	Explanation
[REDACTED]	1/2 - 3/8	[REDACTED]
[REDACTED]	7/8 - 5/8	[REDACTED]
[REDACTED]	3/4 - 1/2	[REDACTED]



			
	4/4 - 3/4		
	7/8 - 5/8		

In summary, if the Department limits its review to the 1929 Federal Indian Census, at least 28 members are one-half or more Indian blood based on that census. If the Department limits its review to the 1933 roll, at least 33 members are one-half or more Indian blood. If the Department calculates blood quantum based on the totality of the evidence, 35 members¹⁸ have an Indian blood quantum of one-half or more. For the reasons discussed in Part II below, we think applicable practice and law dictate that the totality of the evidence must be used to determine blood quantum.



¹⁸ Again, we note that this memorandum requests confirmation for all 35 Tejon half-blood members, although the actual number of living half-bloods is 34 because one of the 35 half-blood members passed away since the time the Tribe submitted its materials to the Department.

PART II
LEGAL STANDARDS FOR DETERMINING INDIAN BLOOD QUANTUM
AND APPLICATION OF THOSE STANDARDS TO THE AVAILABLE EVIDENCE

A. The Courts will Give Deference to a Decision that Follows Commissioner of Indian Affairs John Collier's 1936 Memorandum.

In 1936, Commissioner John Collier issued a Memorandum ("Collier Memorandum") establishing the Bureau of Indian Affairs' policy for determining whether an individual is one-half or more Indian blood for purposes of Section 19 of the Indian Reorganization Act. Collier is widely viewed as having crafted the 1934 Indian Reorganization Act, *see* Cohen's Handbook of Federal Indian Law, at 86 (2005 ed.), and the Collier Memorandum, issued shortly after its passage, "outlines the policy which the Indian Office will pursue in determining" Indian blood quantum under the Act. As such, any decision by the Department in this case must take into account the approach set forth in that memorandum in order to be entitled to judicial deference.

More specifically, the courts have held that deference to an agency's administration of a statute is not limited to regulations promulgated pursuant to notice and comment rulemaking. *United States v Mead*, 533 U.S. 218, 231 (2001) (lack of notice and comment rulemaking "does not decide the case, for we have sometimes found reasons for *Chevron* deference even when no such administrative formality was required and none was afforded[.]"). Agency guidance, memoranda, and policy statements are "entitled to considerable weight" or "respect" if the interpretation: 1) represents an agency-wide position; 2) is contemporaneous with the enactment of the legislation and has been adhered to by the agency since that time; 3) the agency's position reflects a reasonable construction of the statute; and 4) the interpretation is the product of the agency's specialized expertise. *Alaska Dept. of Environmental Conservation v E.P.A.*, 540 U.S. 461, 487-495 (2004); *Cathedral Candle Co. v U.S. International Trade Comm'n*, 400 F.3d 1352, 1366-67 (Fed. Cir. 2005).

Accordingly, the Collier Memorandum clearly is entitled to considerable weight or respect. The Collier Memorandum, issued by one of the Indian Reorganization Act's principal architects soon after enactment, undeniably states that it "outlines the policy which the Indian Office will pursue in determining" Indian blood quantum. This statement, issued by BIA's highest-ranking official, clearly establishes that the totality-of-the-evidence approach described in the Memorandum represents an agency-wide position. The timing of the Collier Memorandum is contemporaneous with the underlying legislation, as it was issued shortly after passage of the Act and, to the best of our knowledge, the Department has acted consistently with this Memorandum since its issuance. Congress, recognizing that the determination of Indian blood quantum certainly is an area of specialized expertise, has repeatedly tasked the Department with such determinations. The approach set forth in Collier's Memorandum is based on the Department's extensive experience, and indicates that prior Indian rolls accepted as accurate for official purposes are one source of evidence that may be relied upon by the agency. Given Collier's hand in shaping the Indian Reorganization Act and the agency's expertise in determining Indian blood quantum, the Collier Memorandum reflects a reasonable construction of section 19 of the Indian Reorganization Act.¹⁹

¹⁹ Courts generally apply a deferential standard of review to the Bureau's administrative determinations of blood quantum. *Harrison v Dep't of the Interior*, 229 F.3d 1163 (10th Cir. 2000)

Thus, any Departmental decision that relies on the Collier Memorandum would be entitled to judicial deference.

B. Collier's Memorandum Establishes Clear Standards that Direct a Totality of the Evidence Approach

Collier's Memorandum establishes clear standards for determining Indian blood quantum. Reflecting the Department's learned experience, Collier acknowledges at the outset that the method of determining blood degree must provide for "some administrative latitude" given that the determination of Indian blood quantum "is entirely dependent on circumstantial evidence[.]" This approach is consistent with the Bureau's recent statements to Chairwoman Morgan that it will consider the totality of the evidence in evaluating Indian blood quantum.

Collier identifies five classes of evidence that may be used to determine blood quantum, the following three of which are relevant for our purposes:

- Tribal rolls or censuses which record the degree of Indian blood and have been accepted for official purposes.
- Testimony of the applicant, supported by official records showing blood degree or familial relationships.
- Affidavits from persons who know the applicant and are familiar with the individual's background.

Collier never indicates that the classes of evidence are mutually exclusive, *i.e.*, that if there are multiple classes of evidence available for a group like Tejon that the Bureau must base its certification decision on a particular roll or class of evidence to determine blood quantum to the exclusion of the other available evidence. To the contrary, Collier repudiates such an approach, expressly stating that in reviewing recommendations from staff the Assistant Secretary "will exercise administrative discretion in determining what comparative weight shall be given to the various kinds of evidence."

Importantly, Collier's Memorandum establishes burdens of proof for both the applicant and the Bureau in making blood quantum determinations.

The premise on which the Indian Office will act in considering the application of an unenrolled Indian claiming one-half or more of Indian blood is that the burden of proof must rest upon the applicant; provided that if the applicant's parents or other direct

(unpublished decision). Under this deferential standard of review, the Bureau's decision will be set aside only if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." *Id.* at 1163.

FOIA6

ancestors have been enrolled on a tribal roll or census giving positive information as to degree of Indian blood, such evidence will ordinarily be accepted as sufficient. *If such a tribal roll or census is subject to doubt on the question of blood degree, the burden of proof will be upon the Indian Office to show why such evidence shall not be accepted.*

Id. at 2 (emphasis added). Also important to note is that in 2000, the Department issued proposed regulations codifying the type of evidence an applicant may submit to receive a CDIB. See 65 Fed. Reg. 20775 (April 18, 2000). Those proposed regulations request applicants to submit evidence of inclusion on tribal rolls or censuses or official birth and death records establishing familial relationships. Thus, the documentation requests contained in Interior's proposed regulations (which have not yet been finalized) are consistent with the Collier Memorandum.

As explained below, the materials submitted in support of the 35 Tejon members clearly satisfy Collier's articulated burden of proof for an applicant. The burden now shifts to the Bureau to explain any basis for disagreement. For the reasons expressed below, we submit that there is no reasonable basis for disagreement, based on the totality of the evidence.

C. Application of the Collier Memorandum Standards and Previous Agency Practice Result in a Finding that 35 Tejon Members Possess One-Half or More Indian Blood.

Our understanding is that the Bureau does not dispute that the 28 members determined by the 1929 census possess 1/2 or more Indian blood, based on the blood quanta listed in that document. We further understand that if the Bureau arbitrarily were to limit its analysis to the 1929 Indian census, the Bureau may consider lowering the identified blood quantum of [REDACTED] because neither she nor her mother, [REDACTED] are listed on that census. Such an approach would lower [REDACTED] blood quantum to 1/2 and would have the effect of lowering five additional members to less than one-half Indian blood.²⁰

As is clear from the description above, however, such an approach would be clearly erroneous and inconsistent with the Collier Memorandum. Collier's Memorandum provides that "if an applicant's parents . . . have been enrolled on a tribal roll or census . . . such evidence will ordinarily be accepted as sufficient." Collier does not preclude the use of multiple rolls or censuses to demonstrate the blood quantum of a parent. Although the 1929 Indian census does not include [REDACTED] the 1933 California Indian Roll expressly finds [REDACTED] to be a full blood Indian. Further, [REDACTED] full brother, [REDACTED] also is listed as 4/4 on every available record and [REDACTED] is listed on the 1929 Indian census as 4/4. And the Sherman Indian School records for [REDACTED] record them as 4/4 and both their mother [REDACTED] and father as 4/4.²¹ In other words, the

²⁰ Those members that would be adversely impacted by this unsupportable approach would be [REDACTED]

²¹ The Bureau has previously relied upon blood quantum determinations found in Sherman Institute records to explain the provision of services to individual members. See Final Determination regarding the Muwekma Ohlone Tribe at 25 - 26.

only Indian census that includes [REDACTED] 4/4 Indian and every other available federal record confirms a 4/4 Indian blood quantum. Under the Collier Memorandum, this blood quantum determination is dispositive given the absence of any conflicting information.

Furthermore, in other instances the Bureau has analyzed blood quantum for California tribal members based on the 1933 California Indian Roll and federal Indian censuses. For the Death Valley Timbi-Sha Shoshone Band of Indians of California, the Bureau's Genealogical Report analyzed blood quantum evidence from the 1933 California Indian Roll and a 1936 census of Death Valley Indians that showed blood quantum. The Bureau noted "some discrepancies in the degrees of Indian blood" within the various federal sources. Genealogical Report of the Death Valley Timbi-Sha Shoshone Band of Indians of California, at 11. The Bureau resolved these "discrepancies" as follows:

In determining degrees of Indian blood of the Death Valley tribal members for purposes of this report, *the highest degree of Indian blood shown for them on the Bureau censuses have been used in most cases.*

Id. at 11 (emphasis added). The Bureau noted that where there were clear errors in calculation based on an individual's parents' blood quantum, the Bureau made those corrections unless later federal records established a higher blood quantum.

Determination of blood degrees of some tribal members differs from that ascribed to them by the band. There are some cases in the records, i.e., the 1928 applications, where fathers of children are shown as non-Indian and where the mother did not indicate the father's name. In such cases only 1/2 of the mother's degree of Indian blood should have been used in determining the blood degrees of her children. However, *if these individuals were consistently shown on the rolls over the years as possessing a higher degree of Indian blood we have generally accepted the higher degree of Indian blood for them.*

Id. (Emphasis added). Thus, the Department's administrative practice further supports establishing Isabel Hinio's blood quantum as 4/4 because it is the highest degree of Indian blood shown for her on the 1933 census.

We further understand that the Bureau does not dispute the *minimum* blood quantum for [REDACTED] or those individuals listed in Table III. The heart of the focus, then, is on the definitive blood quantum for those four individuals listed in Table II. Three of those individuals, [REDACTED] In both the 1929 and 1933 censuses their parents are listed as 4/4. In what can only be attributed to a mathematical error, the 1929 census lists the brothers as 7/8 and the 1933 census lists them as 1/2. Such quantifications are clearly inconsistent with their parents' consistently-listed blood quanta and with the Sherman Indian School records for these brothers which identify them or their sibling as 4/4. It is further inconsistent with the analysis and findings of Dr. John R. Johnson. In other words, three classes of evidence identified by Commissioner Collier – the census rolls for their parents, other official records, and testimony from a person who knows or knew the individuals and is familiar with their

background – all support a 4/4 blood quantum for [REDACTED]²². Indeed, in the Genealogical Report of the Death Valley Timbi-Sha Shoshone Band of Indians of California, the Bureau noted that it adjusted mathematical errors unless later records showed a higher degree of Indian blood. Here, the mathematical errors present in the 1929 census and the 1933 California Indian roll support adjusting the [REDACTED] respective blood quantum higher to 4/4 and later records from the Sherman Institute confirm their 4/4 blood quantum. The Bureau clearly has a duty under the Collier Memorandum and its practice in the Death Valley Timbi-Sha Shoshone case to correct these inconsistent mathematical errors and confirm a 4/4 blood quantum based on the [REDACTED] consistently-reported blood quanta.

With regard to [REDACTED], the inconsistency is produced by one federal record, the 1929 Indian census. For unknown reasons, the census lists [REDACTED], as 7/8 whereas every other available record, including the 1933 Indians of California roll and the 1900 census clearly result in a 4/4 blood quantum for [REDACTED] and a 1/2 blood quantum for [REDACTED]. In other words, the totality of the evidence clearly directs a 4/4 blood quantum for [REDACTED] and her parents. Further, [REDACTED] blood quantum under the 1933 census is listed as 1/2, the highest reported blood quantum. In addition to all the other evidence, the Bureau should proceed consistently with its approach in Death Valley Timbi-Sha Shoshone of using the highest recorded blood quantum. Hence, [REDACTED] is one-half Indian blood, as accurately identified in the 1933 California roll.

Based on the standards articulated in the Collier Memorandum and consistent with prior Bureau administrative practice, the totality of the evidence submitted and confirmed by Interior demonstrates that 35 Tejon members have one-half or more Indian blood. The definitive blood quantum for each Tejon member is provided in Table IV below.

TABLE IV – FINAL BLOOD QUANTUM OF 35 TEJON MEMBERS BASED ON THE TOTALITY OF THE EVIDENCE.

	NAME	BLOOD QUANTUM
1	[REDACTED]	3/4
2	[REDACTED]	3/4
3	[REDACTED]	1/2
4	[REDACTED]	1/2
5	[REDACTED]	1/2
6	[REDACTED]	1/2
7	[REDACTED]	4/4
8	[REDACTED]	1/2
9	[REDACTED]	1/2
10	[REDACTED]	1/2
11	[REDACTED]	4/4

²² Dr. Johnson is well acquainted with [REDACTED] and has met both [REDACTED] and [REDACTED].

12			1/2
13			7/8
14			3/4
15			7/8
16			4/4
17			7/8
18			3/4
19			7/8
20			7/8
21			7/8
22			4/4
23			7/8
24			7/8
25			4/4
26			7/8
27			7/8
28			7/8
29			1/2
30			7/8
31			7/8
32			7/8
33			7/8
34			1/2
35			1/2

Note: A "+" indicates that the member listed is deceased.

CONCLUSION

The Tejon Tribe has a unique and long history demonstrating not only that they are a community of half-blood Indians, but also and more importantly, that they are a genuine community of related Indians for whom the Department of the Interior has actively exercised trust responsibilities. As such, the half-blood community reorganization process set out in the Indian Reorganization Act and the Department's implementing regulations is uniquely well-suited to the Tejon Tribe. For these reasons, as well as the foregoing blood quantum analysis, we respectfully request that the Bureau expeditiously certify that the 35 Tejon members identified herein are one-half or more Indian blood.

CHAIN OF CUSTODY PLAN

The Responsible Officials at the originating and destination offices will ensure that the following procedures are followed during the transportation and transfer of custody of the records being moved.

Transporting Records Procedure (Chain of Custody) Records being moved from any DOI agency or office to another within DOI, needing no prior approval

1. Records are packed in appropriate storage boxes.
2. Box lists or inventory of records for each box is included inside the first box (box #1).
3. Each box is sealed with tape and boxes are numbered sequentially (e.g., box 1 of 5, box 2 of 5, etc.).
4. Identify name or type of carrier to be used. [hand carried]
5. The Originating Responsible Official, *R. Lee Fleming*, notifies Destination Responsible Official, *Carl J. Artman*, when shipment left location and approximate date of arrival at destination.
6. The Originating Responsible Official, *R. Lee Fleming*, retains a copy of the shipment form for tracking purposes in the event that a shipment item is missing.
7. The Originating Responsible Official, *R. Lee Fleming*, calls the Destination Responsible Official, *Carl J. Artman*, to verify that all boxes have been received.
8. The originating and destination offices, *the Office of Federal Acknowledgment and the Assistant Secretary - Indian Affairs*, will create and maintain a file to document the records transfer process (by shipment). The Records Inventory, Chain of Custody Plan and other supporting documentation will be maintained in accordance with GRS 16/2b Records Disposition Files – Routine correspondence and memoranda.

I certify that all records were successfully moved and accounted for at the intended location.

Printed Name

Date

Signature

IARM 4006

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

0 File Title:

Cut off Date:

1 File Title: Letter, Roberts to Fleming, 2001.11.13.

Cut off Date: 11/13/2012

2 File Title: [REDACTED]

Cut off Date: 11/13/2012

3 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

4 File Title: [REDACTED]

Cut off Date: 11/13/2012

5 File Title: [REDACTED]

Cut off Date: 11/13/2012

6 File Title: [REDACTED]

Cut off Date: 11/13/2012

7 File Title: [REDACTED]

Cut off Date: 11/13/2012

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

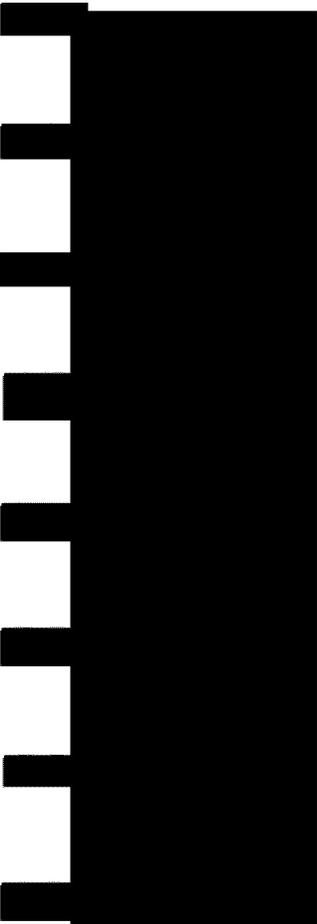
Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

8 File Title:



Cut off Date: 11/13/2012

9 File Title:

Cut off Date: 11/13/2012

10 File Title:

Cut off Date: 11/13/2012

11 File Title:

FOIA6

Cut off Date: 11/13/2012

12 File Title:

Cut off Date: 11/13/2012

13 File Title:

Cut off Date: 11/13/2012

14 File Title:

Cut off Date: 11/13/2012

15 File Title:

Cut off Date: 11/13/2012

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 1 Inventory: 1

Prepared By: R. Lee Fleming

16 File Title: [REDACTED]

Cut off Date: 11/13/2012

17 File Title: [REDACTED]

Cut off Date: 11/13/2012

18 File Title: [REDACTED]

Cut off Date: 11/13/2012

19 File Title: [REDACTED]

Cut off Date: 11/13/2012

20 File Title: [REDACTED]

Cut off Date: 11/13/2012

21 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

1 File Title: [REDACTED]

Cut off Date: 11/13/2012

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

2 File Title:	[REDACTED]	Cut off Date: 11/13/2012
3 File Title:	[REDACTED]	Cut off Date: 11/13/2012
4 File Title:	[REDACTED]	Cut off Date: 11/13/2012
5 File Title:	[REDACTED]	Cut off Date: 11/13/2012
6 File Title:	[REDACTED]	Cut off Date: 11/13/2012
7 File Title:	[REDACTED]	Cut off Date: 11/13/2012
8 File Title:	[REDACTED]	Cut off Date: 11/13/2012
9 File Title:	[REDACTED]	Cut off Date: 11/13/2012

FOIA6

Office of Federal Acknowledgment
Central Region, Assistant Secretary - Indian Affairs
Washington, DC
Location Code K00

Record Series: 3201-P10

Acknowledgment Files

Box Number: 2 Inventory: 1

Prepared By: R. Lee Fleming

10 File Title: [REDACTED]
11 File Title: [REDACTED]

Cut off Date: 11/13/2012

Cut off Date: 11/13/2012

12 File Title: [REDACTED]
13 File Title: [REDACTED]

Cut off Date: 11/13/2012

Cut off Date: 11/13/2012

14 File Title: [REDACTED]

Cut off Date: 11/13/2012

15 File Title: [REDACTED]

Cut off Date: 11/13/2012

FOIA6

00037414-AS-IA-BATCH003-DOC0040-COR-20240 Page 31 of 31