



## 1076-AF18 Comments on Ways to Improve the Department's Acknowledgement Process

1 message

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Fri, Aug 16, 2013 at 4:24 PM

To: consultation@bia.gov

Dear Ms. Appel,

The following comments on the Preliminary Discussion Draft regarding Title 25, Chapter 1, Part 83 Procedures for Establishing that an American Indian Group Exists as a Tribe, are submitted on behalf of Carmen Lucas, Kwaaymii Laguna Band of Indians, Southern California.

General comments:

1. The Draft is unclear as to the intent of the proposed rulemaking. Is it to facilitate the rightful recognition of tribes? The intent should be stated clearly to facilitate participation by tribes as well as to assist in future application and interpretation of the rules.
2. The Draft is difficult for a layperson to understand and follow. Is there a way to make it more clear, less wordy and to reduce cross referencing? Ms. Lucas feels it remains overly intellectual, and as such, that many tribes will be discouraged from participating.
3. Ms. Lucas was unaware of the Draft. How have nonrecognized tribes been notified of the Discussion Draft? How can the outreach and notification to nonrecognized tribes, who may not frequent the Federal Register, be further improved?

Specific comments:

1. Section 83.1 Definitions and Section 83.8. It seems appropriate to use established previous federal acknowledgement as a means of substantiating a petition. It also seems that if this can be demonstrated, the need for other lines of evidence should be decreased if not eliminated.
2. Section 83.6. Documented Petition. What is the point of placing a page limitation on a petition? Might this be detrimental to some petitions? Is there another way to meet whatever the Department's concerns are?
3. Section 83.9 Notice of Receipt of Petition and Section 83.10(m) Processing of the Documented Petition. 1) What is the purpose of publishing the notice in a major newspaper? 2) What is the purpose in notifying the governor and attorney general of the state in which the petitioner is located? Are they part of the tribe-federal government relationship? 3) Why include the provision of notice to recognized tribes on a petition? What purpose does this serve? It seems to Ms. Lucas that the federal government has been successful in getting recognized tribes biased against nonrecognized tribes, sometimes to the point of hatred. It would seem

that the proposed noticing and comment process would not be beneficial to nonrecognized tribes. 4) Finally, in a state as large as California, what is the point of allowing any recognized tribe within the state to challenge a petition? How would the Department weigh challenges based on economic interests? Rumor or innuendo?

4. Section 83.10 Processing of the Documented Petition. Is the Technical Assistance Review process public or private? Can it only happen after the noticing in Section 83.9? It would seem there might be benefit in informal Technical Assistance prior to petition submittal.

5. Section 83.11 Reconsideration. Why strike the opportunity for reconsideration? How might reapplication be allowed?

6. Finally, taking a larger view, how can the Department be more responsive to tribes? For example, Ms. Lucas believes that the Laguna Band was never terminated and no evidence of termination has been provided to her from any party. However, the BIA has nonetheless been less than responsive over the years to inquiries on her behalf as to recognition status. Whatever system is developed must be much more responsive to tribal peoples and become more user-friendly to the people it is designed to serve. If this requires additional federal resources, budget should be allocated for such services.

Thank you for the opportunity to comment. Please place my office on the list of those to receive all future notices regarding this proposed rulemaking.

Very truly yours,

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