



Consultation, IA <consultation@bia.gov>

BIA Proposed Changes from Upper Mattaponi Tribe

1 message

Joan Faulkner <caaglewis@aol.com>

Fri, Aug 16, 2013 at 9:15 AM

To: consultation@bia.gov

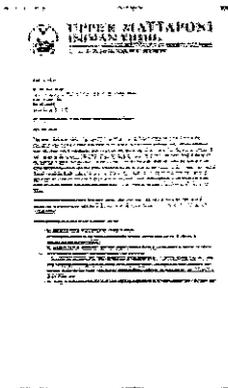
Cc: kenfadams787@gmail.com, kennethfadams@yahoo.com, wfrankadams@verizon.net, clewis@hcps.us

To Whom It May Concern:

Please find the enclosed file attachment from the Upper Mattaponi Tribe concerning the Bureau of Indian Affairs proposed changes. Thank you.

- Carol A. Lewis
Secretary

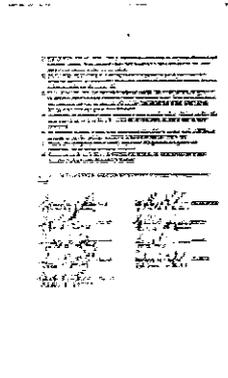
3 attachments



UM Tribe, 1.jpg
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UM Tribe, 2.jpg
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UM Tribe, 3.jpg
394K



UPPER MATTAPONI INDIAN TRIBE

P.O. Box 184 • King William, Virginia 23086 • (804) 769-0041

August 8, 2013

Ms. Elizabeth Appel
Office of Regulatory Affairs & Collaborative Action – Indian Affairs
1849 C Street, NW
MS 4141-MIB
Washington, DC 20240

RE: Proposed Changes to the Federal Acknowledgment Process

Dear Ms. Appel,

The Upper Mattaponi Indian Tribe resided in King William County, Virginia before the arrival of the British Colonists in 1607 and has continued to reside in King William County until the present time. We are descended from the Tribes ruled by Paramount Chief Powhatan from the earliest of the Colonial Era. The Articles of Peace of 1677, known as the Treaty of Middle Plantation, was signed by Queen Anne of the Pamunkey Tribe on behalf of the Mattaponi Indians, a treaty which remains in effect until this day. From 1919 until 1965 the majority of the Upper Mattaponi children attended Sharon Indian School and we built our own church in 1942, Indian View Baptist Church. Records indicate federal education funding has been sought for our people since 1892. We have long been associated with the National Congress of American Indians, were ceded authority by the Bureau of Indian Affairs to attend Federal Indian Boarding Schools and are participating members of the Alliance of Colonial Era Tribes.

The Governing Body of the Upper Mattaponi Indian Tribe respectfully requests the following statements be considered as testimony and response to the most recent proposed changes to the Federal Acknowledgement Process (FAP).

We acknowledge and welcome the proposed changes:

1. The elimination of the requirement for a letter of Intent;
2. The elimination of criteria (a), which requires evidence from outside observers of the petitioning community's continuing existence;
3. The establishment of 1934 as the year from which a community must prove continued distinct existence;
4. The inclusion of potential "expedited positive" determinations;
5. The potential inclusion of the Office of Hearings and Appeals (OHA), or perhaps another objective entity in the rendering of the final determinations and/or hearing appeals, so long as that entity possesses the requisite familiarity with Indian Law, history, culture and the history of the acknowledgement of American Indian Tribes; and
6. The ability for tribes that had previously received negative findings to be reconsidered under the new rules.

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We submit the following suggestions to the proposed changes:

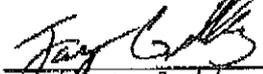
1. **A preamble should be added stressing that the goal of the changes is to make the regulations more consistent with the intent of the original criteria and directly reflects the way in which earlier petitions received favorable determinations. The Preamble should also include a statement establishing reasons why 1934 is the proposed starting point for tribes to demonstrate sustained communities in lieu of the original starting point of hundreds of years in the past. The Preamble should state clearly that the intent of the Department of Interior is to make the FAP predictable, is based on policy rather than opinion, less rigorous and costly and removes the unreasonable and cumbersome burdens.**
2. **A "Presumption" Statement should be added, clearly indicating that it should be presumed that the burden of proof is on the Department of Interior instead of the Tribe when evaluating evidence provided by the Tribe. Conclusions should be made "on a more likely than not" basis in the regulations referring to benefit of the petitioner.**
3. **There should be a Stated Presumption that if a Tribe existed in 1934, that Tribe descended from a Historical Tribe at the time of contact with non-Indians, shifting the meaning of "historic" to refer to distinct communities identified as such in 1934.**
4. **In the 83.d definitions subsection, the meaning of "historic" being a distinct community identified by 1934 and that the terms "continuous" and "continuously", as pertaining to the community's history and descent, should clearly state that it is required to be traced from 1934. Establishment of future guidelines should define that communities identified as distinct by 1934 should meet the definition of "historic" tribes, as long as that identification is determined to be "Indian" by 1954. There are certain "historic tribes" identified as distinct, but racially misidentified by third parties and later shown to have been American Indian communities. In keeping with the newly proposed FAP guidelines, 1954 is within the 20 year period of 1934 for tribal identification purposes as "Indian".**
5. **The Assistant Secretary should have greater control of the Office of Federal Acknowledgement (OFA), with OFA having an advisory and supportive role, not the role of making final determinations. The Assistant Secretary should have more authority to make final determinations. In the past the OFA's application of the regulations has been criticized by tribal, academic and government bodies. The process indicates that the overwhelming majority of Federally Recognized tribes would not be able to successfully navigate the process the way it is presently administered.**
6. **If a preliminary decision by the Assistant Secretary is negative the petitioning tribe should have a choice. Petitioners should be permitted to submit new information to the Assistant Secretary before a final decision or they can choose to have a hearing before the Office of Hearings and Appeals.**
7. **The new regulations should overrule precedents established by OFA. In many cases precedents are not compatible with the newly proposed regulations.**
8. **Evidence previously used to meet the proposed deleted criteria (a) may be used, when applicable to meet newly proposed criteria.**
9. **Gaps of less than 20 years should not be negatively interpreted when compared with the strength of evidence before and after any 20 year gap.**
10. **Petitions for acknowledgement should not need to exceed 50 pages.**
11. **Historic third party misidentification of tribes should not be weighed against tribes which consistently meet 1934 identification.**

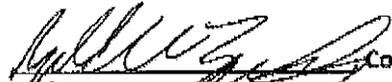
- 12. Regional history which may impact evidence submitted by a petitioning tribe should be considered when evaluating a petition. History should be viewed with conclusions of "more favorable than not" when applied to the petitioning tribe's documentation.
- 13. Greater weight should be given to supporting testimony of federally recognized tribes which have viewed the petitioner as a historic tribe. Relationships between tribal communities should be viewed as evidence of continuing tribal communities.
- 14. Those communities which have maintained indigenous languages and cultural practices, as defined, by the petitioner should have those components applied with a greater weight. Those communities which have maintained their own education and religious institutions should have greater weight applied because of the continuing legacy of those institutions.
- 15. A reasonable rate of endogamy within the petitioning group should be applied. However, smaller tribal populations should not be penalized for seeking external relationships because of close knit family relationships.
- 16. An evidentiary list should be added to the regulations so tribes which can produce certain evidence are presumed to meet the evidentiary standard for being acknowledged as a tribe in 1934.
- 17. Previous acknowledgement should not base requirements on a "government to government relationship", but the concept of a distinct community.
- 18. Third parties should not be able to derail positive final decisions, nor should third parties be given overwhelming opportunities to weigh in on decisions.

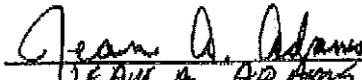
We thank you for this opportunity to comment and we look forward to reviewing the next round of proposed changes.

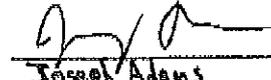

 _____ Chief
 Kenneth F. Adams

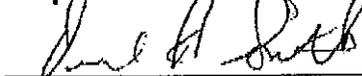

 _____ Assistant Chief
 WILLIAM B. ADAMS


 _____ Council
 JAY GILLETTE

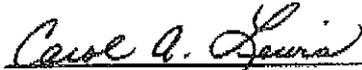

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