September 12, 2013

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Mr. Kevin Washburn
Assistant Secretary – Indian Affairs
Bureau of Indian Affairs
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Public Comment-Preliminary Discussion Draft Changes to 25 CFR Part 83

Dear Assistant Secretary Washburn:

I commend you and your staff for this draft. Generally, I agree with all changes you are suggesting in the discussion draft, except one. On Page 8 of your draft, at §83.7 Mandatory criteria for federal acknowledgement, I recommend that the BIA should keep *"religious beliefs and practices"* as a part of criteria (b)(1)(vii) and do not agree with deleting it from the criteria.

Additional comments I have for your consideration are as follows: 1) OFA should play an advisory and technical assistance to the petitioner role, not a decision-maker; 2) If the weight of the evidence can demonstrate community continuity of *"more likely than not"*, the petitioner should be given the benefit of the doubt; 3) Preponderance of the evidence should be the maximum evidentiary standard; 4) For criterion 83.7(e), a petitioner should be able to meet the requirement if 30% of their membership as submitted in the petition consists of individuals who descend from a historical Indian tribe, a distinct community identified by 1934 and specifically identified as an American Indian community prior to 1978; 5) Formal acknowledgement or recognition of a petitioner as an Indian tribe by a state or subdivision of a state prior to 1978 *(again, due to the fact that prior to 1978, there wasn't an administrative process for the acknowledgement of an Indian tribe)* should be considered to have met evidentiary standard to be acknowledged as an Indian tribe; 6) federal programs, benefits, or services provided to a community of Indians as an Indian tribe by or through any agency of the United States should be presumed to have met evidentiary standard to be acknowledged as an Indian tribe; 7) Previous acknowledgement should not require a functioning *"government-to-government"* relationship but mere acknowledgment of the existence of an Indian community any federal agency as a distinct Indian community prior to 1978; 8) Third parties should not be able to derail a positive final decision unless fraud is being alleged against the petitioner's claims and there is evidence to substantiate the need for further investigation.

Sincerely

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