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Office of Regulatory Affairs and Collaborative Action  
US Department of the Interior  
1849 C Street, NW, MS-4141-MIB  
Washington, DC.

1076-AF18

24 September, 2013

Dear Ms. Appel:

I am grateful for this opportunity to submit a comment in support of the proposed Draft Rule Federal Acknowledgment of Indian Tribes 25 C.F.R. 83, from the United States Department of the Interior (DOI), Office of the Assistant Secretary-Indian Affairs. I write this comment as a citizen concerned for the human rights and the civil rights of all individuals, communities, and peoples within the U.S., and as an anthropologist who has researched and written about the histories of tribal nations in Connecticut, where I am a lifelong resident. In addition, I write as an educator who has spent many years teaching university students about these issues, and who has worked to raise public awareness and generate informed discussion about the human rights and civil rights concerns of the indigenous peoples of North America—past and present.

As is the case for anthropologists who work with indigenous peoples and support them in their efforts to defend their legal rights, I have seen the kind of personal torment that members of tribal nations in Connecticut have endured as their Indian identity has been interrogated, and their rights trivialized, by those who know little if anything about their specific histories and their continuing struggles to survive as Native American peoples in the United States. In my book, *Beyond Conquest: Native Peoples and the Struggle for History in New England*, I examine in detail many of the historical texts from the colonial period that recount Eastern Pequot, Mashantucket Pequot, Mohegan, and other tribal nations' efforts to defend their reservation lands and preserve their tribal communities by employing legal means, such as the submission of petitions to the colonial government of Connecticut for redress against unlawful appropriation of their reserved lands. The documentary record of the histories of tribal nations in Connecticut—including those who are not federally recognized but have long been state recognized—is rich and extensive. As a scholar who has worked as a researcher and oral history interviewer for the Eastern Pequot federal acknowledgement petition, I know well how devoted Eastern Pequot Tribal Nations is not only to the valid and thorough documentation of their history, but also to the preservation of those historical records—from the colonial period up to the 21<sup>st</sup> century—which relate the continuity of their existence as a distinct Native

American people. Much like the documentary history of the United States, the documentary record of the histories of state-recognized tribal nations in Connecticut recounts moments of tremendous resilience, persistence, and courage, as well as great pain, suffering, and injustice. Perhaps most importantly, this documentary record, along with oral histories, recounts the story of Indian people who have refused to give up on their shared history and their shared struggles for survival, which have bound them together as tribal nations despite external forces that might seek to undermine them or ignore their right to exist as such.

As reflected in President Obama's December 2010 endorsement of the UN Declaration on the Rights of Indigenous Peoples, the U.S. has begun a new era in its relationship with Native American tribal nations. Thus it is both timely and essential that the administrative process by which tribal nations may become federally recognized be amended. As the proposed Draft Rule makes evident, transparency, timeliness, efficiency, flexibility, and integrity are essential to justice and fairness in this administrative process. In Connecticut, historically state-recognized tribal nations who have petitioned for federal acknowledgement—as well as those in the state who have opposed the federal acknowledgement of these state-recognized tribes—have emphasized that the current administrative process of federal recognition of Indian tribes has been flawed, and has resulted in unfair and unjust decisions. Having worked with Native American Elders of state-recognized tribal nations in Connecticut, and having listened to many of their oral histories about their ancestors, their reservation lands, and the cultural values and kinship ties that have held their tribal nations together, I wish to emphasize that some of these Elders have passed away after many years of arduous efforts to protect their tribal nations' heritage and secure a future for their communities, while they awaited a decision on their federal acknowledgement -- well after their tribal nations' federal acknowledgement petitions had been absorbed into a cumbersome, excessive bureaucratic system that takes far too long to review the voluminous federal acknowledgment petitions it requires. For Elders of the Eastern Pequot Tribal Nation, for example, who shared with me many of their experiences as children on the Eastern Pequot reservation in North Stonington, Connecticut, and who invested so much of their time and wisdom into the struggle for federal acknowledgment with the ultimate goal of preserving their reservation land and their cultural heritage for their children and grandchildren, I believe that the proposed changes to 25 CFR 83 may provide a measure of justice.

Among the most significant and positive of the proposed changes to 25 CFR 83, as indicated in the Discussion Draft, is under section 83.7 (b), Mandatory Criteria for Federal Acknowledgment, which states:

At least XX percent of the petitioning group comprises a distinct community and has existed as a community from 1934 until the present without substantial interruption. Distinct community means a group of people with consistent interactions and significant social relationships within its membership and whose members are differentiated from and identified as distinct from nonmembers. *Distinct community must be understood in the context of the history, geography,*

*culture and social organization of the group. Substantial interruption is determined on a case-by-case basis considering the history and circumstances of the petitioning group.* (Discussion Draft, pp. 7-8, at <http://www.bia.gov/cs/groups/xraca/documents/text/idc1-022705.pdf>).

This in itself represents a much needed, and much more precise, understanding of the complexity and diversity of Native American peoples' historical experiences in various regions of the U.S. during the twentieth century. Moreover, this does not propose a diminished rigor in the evaluation by the Office of Federal Acknowledgment (OFA) of evidence provided by a petitioner, but rather a more specialized analysis of that evidence. It is also apparent throughout the proposed changes to section 83.7 that the intent is to provide greater clarity with regard to how the Mandatory Criteria are defined and will be interpreted by OFA (e.g., the revised definition of "political influence or authority," under 83.7 (c), Discussion Draft, p. 9). These proposed changes constitute an important step forward in ensuring transparency, timeliness, efficiency, flexibility, and integrity in the federal acknowledgment process overall.

As historian Jean M. O'Brien and I explain in the Introduction to our recent coedited volume, *Recognition, Sovereignty Struggles, and Indigenous Rights in the United States*, unrecognized tribal nations who have sought federal acknowledgment through the DOI/Bureau of Indian Affairs administrative process have faced multiple obstacles, even as they have simply tried to be heard as credible sources of information about their own histories. Struggles for federal acknowledgment entail more than the rigorous work of compiling and submitting a completed petition. They are also struggles against popular myths about the "disappearance" of Indian peoples, along with persistent stereotypes and misconceptions that disparage contemporary tribal nations and their Indian identity as "inauthentic." In that sense, then, non-federally recognized tribal nations who have worked for years, even decades, to achieve federal acknowledgment through the administrative process also have been confronted with the multiple ideological legacies of a long history of injustice against Native Americans in the U.S. The proposed changes to 25 CFR 83 reflect an intent to ensure justice and fairness in the federal acknowledgment process, and that may serve as one way that the U.S. can demonstrate its support of the human rights principles embodied in the UN Declaration on the Rights of Indigenous Peoples, particularly with regard to Article 15 of the Declaration, which states:

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
  2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.
- (United Nations Declaration on the Rights of Indigenous Peoples, p. 7; [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf) ).

In submitting my support for the Draft Rule, I do so with the hope that the proposed changes to 25 CFR 83 will mark the beginning of meaningful efforts to address the injustices faced by federally unrecognized Native American peoples in the United States.

Sincerely,

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