

July 9, 2014

Elizabeth Appel
Office of Regulatory Affairs & Collaborative Action
U.S. Department of the Interior
1849 C Street NW, MS 4141
Washington, DC 20240
Reverence – Docket ID: BIA 2013-0007, RIN 1076-AF18

Dear Ms. Appel:

I appreciate this opportunity to provide comments that will hopefully make this process better for all concerned, and would like to thank you and the entire Department of Interior for the opportunity to participate.

Section §83.6 outlines the Department's duties, one of which should to determine the validity of participation of all parties not listed as agents of the petitioner and the Department. This process is for the determination of recognition of a party (Tribe) by another party (Federal Government). I find it interesting that third parties are allowed influence in the process without a vetting process. The burden of proof is on the petitioner to prove they are a tribe, and that proof is to be validated by the Department; I don't see why third parties are allowed in the process at all, particularly without vetting. §83.10(a) states that "the Department will consider a criterion to be met if the available evidence establishes a reasonable likelihood that the facts claimed by the petitioner are valid and that the facts demonstrate that the petitioner meets the criterion." I do not see a roll for a third party in this mission statement, much less an un-vetted third party. There are no requirements of or activities for third parties listed in §83.10(b)(1) through (7). In all cases defined in this

document so far, the evidence is provided by the petitioner, the petitioner's evidence is evaluated by the Department. There is a distinct lack of guidance and procedure defined for what may be submitted by a third party and how that data will be processed by the petitioner and/or the Department. At a minimum, the Department should allow the petitioner access to any third party submissions. Additionally, the petitioner should be afforded the opportunity to address any issues, concerns, or data pertaining to the submission before (Before) that third party information is presented to any government personnel with decision making authority on the petition. The petitioner should also be afforded both time and the opportunity to provide evidence that the third party in question is or has a history of bias, hostility, oppression, or discrimination against the petitioner or others who have petitioned in the past, and/or supporting, advocating, or implementing violations of the rights of the petitioner as indigenous peoples.

Section §83.22(b)(1)(iv) states that "The opportunity for individuals and organizations to submit comments supporting or opposing the petitioner's request for acknowledgment within 90 days of the date of the website posting" continues to cause me concern. This is tantamount to inviting an unlimited number of individuals or organizations who is prejudiced against Indians in general, Tribes, or has a vested interest in preventing the/a petitioner from attaining recognition specifically, to influence the process without vetting. It will also require the Department to review any and all data and research its validity allowing malicious elements to swamp the process with documents that must be addressed by the government. This process should be an action between the petitioner and the Department, and only very specific third parties should be allowed to influence the process. Those parties should be representatives of the Federal Government and the State(s) where the petitioner's government conducts business; all others

should have to present a strong case for inclusion that is reviewed by both the Department and the petitioner as they are the primary participants in the process.

Section §83.22(b)(3) states that you will “Notify any other recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination.”

Please see my comments for §83.22(b)(1)(iv) above. Additionally, I would like the process of vetting to determine whether “any other recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner” be defined. We request that “A historical or present relationship with the petitioner” be defined as a formal relationship, not an implied relationship. One where there is documentation attesting to formal interaction between the two tribes or petitioners actually occurred. Because this is an open invitation for these third parties to participate, the burden of proof of this formal relationship should be on the third party and an opportunity to contest the participation of the third party in this process be afforded to the petitioner. The same standard and process should be applied to third parties “that may otherwise be considered to have a potential interest in the acknowledgment determination”. There are three State Recognized Cherokee Tribes in the State of Alabama. I am almost certain that at least one of the three Federally Recognized Cherokee Tribes will attempt to contest recognition of any or all of them should they petition for federal recognition. These tribes are located in Oklahoma and North Carolina and not Alabama, but will attempt to establish a “Potential interest”. I am confident that recognized Creek, Choctaw, and Shawnee tribes who do not exist within the State of Alabama may do the same. These potential interests should have to be defined and presented to the petitioners and the petitioners should have the right to respond in a vetting process prior to

the third party information being taken into official consideration in the petition action. The term “Appear” should also be defined and should not be related to place or people names. “Other recognized tribes and any petitioner” should not be deemed qualified to comment because of the appearance of a common name (Cherokee, Choctaw, Creek, Shawnee, etc.). Everyone with the last name Johnson should not “Appear” to have a historical or present relationship with the petitioner because the petitioner is named Johnson. Throughout this document, there are numerous procedures that allow unidentified parties to influence the process of the petitioner as third parties, but no established vetting processes or recourse that protects what should be the right of the petitioner to deal with its federal government on an entity to entity basis, or even the freedom of U.S. Citizens to interact with their government without outside interference. Again, I strongly urge the OFA to insert in this document a statement that any third party being found to bring false information into the process will be banned from any current and all future participation as a third party in this process for this and any future petitioners.

Respectfully yours,

A handwritten signature in cursive script that reads "Charles E. Ruffin". The signature is written in dark ink and is positioned above the typed name.

Charles E. Ruffin, Major, USAF (Ret)