



INTERIOR BOARD OF INDIAN APPEALS

In re Federal Acknowledgment of the Webster/Dudley Band of
Chaubunagungamaug Nipmuck Indians

41 IBIA 100 (06/15/2005)

Related Board cases:

40 IBIA 149

41 IBIA 96

45 IBIA 231

45 IBIA 277



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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IN RE FEDERAL ACKNOWLEDGMENT : Order Dismissing Request
OF THE WEBSTER/DUDLEY BAND : for Reconsideration
OF CHAUBUNAGUNGAMAUG :
NIPMUCK INDIANS : Docket No. IBIA 04-155-A
:
(Henries Request) : June 15, 2005

Derek Little Raven Henries (Requester) filed a request for reconsideration, pursuant to 25 C.F.R. § 83.11, of the Final Determination Against Federal Acknowledgment of the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, Petitioner #69B (Petitioner), as an Indian tribe within the meaning of Federal law. ^{1/} The Final Determination was issued by the Principal Deputy Assistant Secretary - Indian Affairs on June 18, 2004, and notice of the determination was published in the Federal Register on June 25, 2004. 69 Fed. Reg. 35,664. For the reasons discussed below, the Board dismisses the request for lack of standing.

Requester is a member of Petitioner, and filed his request for reconsideration as a member. Requester seeks to supplement Petitioner's request for reconsideration by providing additional explanation, clarification, or evidence. His request indicates that he supports Petitioner's request for reconsideration, but may also believe that Petitioner has not presented its case to the fullest extent possible during the acknowledgment process.

On receipt of the request for reconsideration, the Board allowed briefing on whether Requester qualifies as an "interested party," entitled to submit a request for reconsideration. Only Requester and the State of Connecticut filed briefs.

As discussed in more detail in In re Federal Acknowledgment of the Nipmuc Nation, 41 IBIA 96 (2005), which is also being decided today, to be an "interested party" in acknowledgment proceedings, one must establish "a legal, factual or property interest in an acknowledgment determination." Id. at 97 (quoting 25 C.F.R. § 83.1).

Individuals, as members of a petitioning group, do not have a personal, protectable "interest" in an acknowledgment determination that is encompassed within the regulatory

^{1/} Petitioner also filed a request for reconsideration (Docket No. IBIA 04-154-A), which is separately pending before the Board.

definition of “interested party.” Whatever protectable interest they have is not personal, but is shared by the membership as a whole and is represented by the petitioning group as a distinct entity. See Nipmuc Nation, 41 IBIA at 98.

Requester does not assert any personal factual, legal or property interest in the acknowledgment determination. Rather, he concedes that he submitted his request for reconsideration only as a tribal member. As a tribal member, he may seek to make his views known through Petitioner, but he does not have standing before the Board as an “interested party” under 25 C.F.R. § 83.1.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1 and 25 C.F.R. § 83.11, the Board dismisses this request for reconsideration for lack of standing.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Anita Vogt
Senior Administrative Judge