



TOWN OF KENT

January 5, 2021

The Honorable Tara Katuk Mac Lean Sweeney
Assistant Secretary for Indian Affairs
U.S. Department of the Interior
Bureau of Indian Affairs
1849 C Street, N.W., MS-3642-MIB
Washington, D.C. 20240

Dear Assistant Secretary Sweeney:

The Town of Kent, Connecticut, respectfully requests that you temporarily stay the review of tribal acknowledgment petitions under the 2015 revisions to the Part 83 regulations, as provided for in 25 C.F.R. 83.31(a). Two recent federal court decisions vacated the long-standing ban on re-petitioning by previously denied petitioner groups and remanded the regulations to the Department for further consideration.¹ Those decisions were based in part on findings that the 2015 revisions significantly weakened the substantive criteria for acknowledgment. Because the ban on re-petitioning was an integral component of the 2015 rulemaking, the Department should not proceed to apply those regulations until the remands have been completed. To date, no action has been taken to implement the Court decisions or address the effects that they have on the other elements of the 2015 rules, all of which are fundamentally integrated together.²

Allowing re-petitioning would prejudice the legitimate reliance interests of stakeholders in previous decisions of the Department denying acknowledgment, such as the Town of Kent in the denial of the petition of the Schaghticoke Tribal Nation in 2005³, and result in considerable confusion, expense, administrative inconvenience, and potentially unfair and inconsistent results. A temporary suspension would allow the Department the time necessary to address the issues identified by the courts. We therefore urge you to suspend the review of petitions under the 2015 regulations, as provided for in the regulations.⁴

Sincerely,

Jean C. Speck,
First Selectman
Town of Kent

¹ *Chinook Indian Nation v. Bernhardt*, No. 3:17-cv-05668, 2020 WL 128563 (W.D. Wash., Jan. 10, 2020) (slip op.); *Burt Lake Band of Ottawa and Chippewa Indians v. Bernhardt*, No. 17-0038, 2020 WL 1451566 (D.D.C., March 25, 2020) (slip op.).

² As provided for under the 2015 regulations, some petitioners elected to continue their existing petitions under the 1994 regulations. The Town of Kent does not request that these petitions be stayed pending completion of the court remands. Pending petitions under the 2015 regulations would be minimally affected by a temporary suspension, as no final determinations have been issued under the 2015 regulations.

³ The Town was an interested party in Petition #79, Schaghticoke Tribal Nation.

⁴ 25 C.F.R. § 83.31(a) (allowing suspension of review when technical or administrative problems arise).

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