

# *Stand Up For California!*

## “Citizens making a difference”

[www.standupca.org](http://www.standupca.org)

P. O. Box 355  
Penryn, CA. 95663

August 9, 2013

The Honorable Sally Jewell  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

**Re: Docket ID: BIA–2013–0007, RIN 1076–AF18  
Request for Extension of Comment Period**

Dear Secretary Jewell,

*Stand Up for California!* requests a 60-day extension of the comment period on the draft revisions to the “Procedures for Establishing that an American Indian Group exists as an Indian Tribe,” 25 CFR ¶ 83, proposed by the Department of Interior (the “Department”) in its “Preliminary Discussion Draft” released on June 21, 2013 (the “Draft Revisions”). 78 Fed. Reg. 38,617 (June 27, 2013) (to be codified at 25 C.F.R. pt. 83). The Draft Revisions, if adopted, would have wide-ranging effects that could well include serious, unintended and harmful results exceeding its intended benefits. Comments that would assist the Department to achieve the purpose of the Draft Revisions without incurring unduly harmful consequences will require more careful thought and consideration than is possible in the sixty days allotted for comments.

*Stand Up for California!* is a nonprofit benefit corporation that acts as a statewide community watchdog focusing on gambling issues. Since the introduction of tribal gaming in California, *Stand Up!* has focused on issues of federal Indian law and policy that may affect gambling issues.

While a reasonable process should ensure review of deserving petitions are not unduly delayed, the Department must balance this objective in light of two fundamental facts: (i) economic incentives, including the potential for legal gambling casinos, may drive submission of petitions that are not truly justified, and (ii) the work required to differentiate between justified and unjustified petitions is often complex and resource-intensive, involving review of decades of historical evidence.

Of the 79 California petitioner groups, nearly half submitted petitions after 1998, the year the first California ballot measure was passed to legalize slot machines on Indian lands located in that state. At the very least, there is substantial question regarding how the economic promise of gaming has influenced the recognition process, including by encouraging groups with little to no viable claim to clog the entire process. Relaxing the standards might marginally expedite the process, but it will also facilitate recognition of

groups that could not possibly qualify under existing regulations or the test that courts have long applied. BIA should not be attempting to make it easier for groups with dubious claims to be acknowledged just to enable further gaming proliferation, which will harm existing tribal operations, and dilute what it means to be a federally-recognized tribe.

This is a serious matter, and deserves the serious attention that can only be provided with additional time to develop appropriate comments. Sixty days is not sufficient to address the important issues that would be affected by the Draft Revisions, or to carefully consider the extensive work the Department reflected in the lengthy draft. Additional time is necessary because of the detailed and extensive nature of the Draft Revisions, which would essentially discard a regulatory process that has been in effect for over 30 years and has generated substantial precedent and guiding principles. Clearly, the officials responsible for the Draft Revisions have spent a lot of time in developing the proposal, which will significantly lower the bar for tribal acknowledgement and do so in the absence of any authority delegated to the Secretary by Congress to acknowledge Indian tribes.

The additional time that we are requesting is essential to ensuring all parties affected by the Draft Revisions have an adequate opportunity to provide the meaningful comments the Department sought by publishing a preliminary draft. Thoughtful and considered comments enabled by an extension will help the Department develop draft regulations, and ultimately decide upon a well-considered and objective course of action that is responsive to the concerns of all affected parties. Thank you for considering this request. Please contact me if you have any questions about this request.

Sincerely,



Cheryl Schmit, Director  
(916) 663-3207

[cherylschmit@att.net](mailto:cherylschmit@att.net)

[www.standupca.org](http://www.standupca.org)

cc: Kevin Washburn, Assistant Secretary for Indian Affairs