



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Northern California Agency
1900 Churn Creek Road, Suite 300
Redding, California 96002-0292



IN REPLY REFER TO:

Executive Direction

MAY 25 2010

Darren Rose
Alturas Rancheria
900 Running Bear Road
Yreka, CA 96097

Phillip Del Rosa
Alturas Rancheria
2850 Main Street, Suite #12-243
Susanville, CA 96130

Dear Mr. Rose and Mr. Del Rosa:

This is in regard to Alturas Rancheria requests to contract under Public Law 93-638 with the Bureau of Indian Affairs, Northern California Agency, received February 26, 2010, and May 14, 2010, submitted by Darren Rose and Phillip Del Rosa respectively. A request to contract requires this Agency to identify Tribal officials who are authorized to work with the Agency on a government-to-government basis. Accordingly, this also responds to the Reports of Tribal Elections for the Alturas Rancheria submitted to this Agency by Jennifer Chrisman April 8, 2010, and by Phillip Del Rosa April 22, 2010, for the elections held April 5, 2010, and April 17, 2010, respectively.

According to the Report of Tribal Election for the Alturas Rancheria Election held April 5, 2010, and supporting documents, three members of the Alturas Rancheria General Council participated in the election (Jennifer Chrisman, Darren Rose, and Joseph Burrell). The following individuals were elected for a term of two years: Jennifer Chrisman, Chairperson, Darren Rose, Vice Chairperson, and Joseph Burrell, Secretary/Treasurer.

According to the Report of Tribal Election for the Alturas Rancheria Election held April 17, 2010, and supporting documents, four members of the Alturas Rancheria General Council participated in the election (Phillip Del Rosa, Wendy Del Rosa, Calvin Phelps, and Donald Packingham). The following individuals were elected for a term of two years: Phillip Del Rosa, Chairperson, Calvin Phelps, Vice Chairperson, and Wendy Del Rosa, Secretary.

Due to this leadership dispute within the Alturas Rancheria General Council, and the April 15, 2010, Statement to the Interior Board of Indian Appeals, signed by Karen D. Koch, Assistant Regional Solicitor, Pacific Southwest Region, "...the Acting Regional Director agrees that vacating the January 29, 2010, decision would avoid any implication that clarification of the Tribe's governing status quo, at that time, constituted any new decision.", the Agency is unable to determine the composition of the Governing Body of the Alturas Rancheria. This issue is pending before the Interior Board of Indian Appeals, *Phillip Del Rosa and Wendy Del Rosa v. Acting Pacific Regional Director, Bureau of Indian Affairs*, Docket No. IBIA 10-064. Consequently, this Agency cannot acknowledge either Report of Tribal Elections; and therefore, cannot determine who can act on behalf of the Tribal Organization¹ in its government to government relationship with the United States.

With regard to the requests to contract with the Bureau of Indian Affairs, Northern California Agency, in *Navajo Nation v. Office of Indian Education Programs*, 40 IBIA 2 (2004), the Interior Board of Indian Appeals (IBIA) determined that because only a tribal organization sanctioned by a tribe's governing body could submit

¹ Tribal Organization is defined as "the recognized governing body of any Indian tribe" 25 U.S.C. § 450b(1).

a proposal for a grant for consideration by the Secretary, and because no tribal organization was recognized by the Secretary as governing the tribe, then the Board had no jurisdiction to hear an appeal brought by the tribal organization with respect to a grant application until the Secretary considered the issue concerning tribal organization. The Board's decision in *Navajo Nation* is applicable here, where contract proposals are submitted by individuals each purporting to represent the governing body of the Tribe. See *San Pasqual Band of Mission Indians v. Ken Salazar, et al.*, Civil Action No. 09-1716 (RMC) (Order dated March 10, 2010): Under these circumstances, where BIA returned a contract proposal because of its conclusion that the submitting entity was not a "tribal organization," the statutory declination procedures are inapplicable.

Due to the conflicting election results and leadership dispute within the Alturas Rancheria General Council, the Agency must return the Alturas Rancheria requests to contract with the Bureau of Indian Affairs, Northern California Agency, under P.L. 93-638, because the Agency cannot determine if the resolution supporting the requests is from a tribal organization representing the Alturas Rancheria, pending resolution of these disputes, or a decision from the Interior Board of Indian Appeals.

With regard to the question concerning organization of the Tribe, as noted, the issue concerning the leadership dispute within the Alturas Rancheria General Council is currently on appeal before the IBIA in the case of *Phillip Del Rosa and Wendy Del Rosa v. Acting Pacific Regional Director, Bureau of Indian Affairs*, Docket No. IBIA 10-064. **While that appeal is pending, action by the Bureau regarding the leadership dispute is stayed.** Accordingly, at this time, the Bureau is precluded from taking any action on either the contracting requests or the Tribe's leadership dispute.

APPEAL RIGHTS

The decision contained in this letter may be appealed to the Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California, 95825, in accordance with the regulations in 25 CFR Part 2, a copy of which is enclosed. Your notice of appeal must be filed in *this* office within *30 days of the date you receive the decision*. The date of filing your appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director, Pacific Region, at the address given above.

If you are not represented by an attorney, you may request assistance from this office in preparation of your appeal.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing notice of appeal.

Sincerely,


Dr. Virgil Akins
Superintendent

Enclosures

cc: Acting Director, Pacific Region (w/enclosures)