



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 29 1997

Memorandum

To: Regional Director, Alaska Region
Regional Director, Pacific Region

Through: Deputy Commissioner of Indian Affairs *Sharon Beckwell*

From: Assistant Secretary - Indian Affairs *Kevin Jones*

Subject: Reaffirmation of Federal Recognition of Indian Tribes

I have received information from you that the King Salmon Tribe, the Shoonaq' Tribe of Kodiak, and the Lower Lake Rancheria have been officially overlooked for many years by the Bureau of Indian Affairs ("Bureau" or "BIA") even though their government-to-government relationship with the United States was never terminated. I have been requested to review these cases and take action, if warranted.

At one time, each of these groups was recognized by the Bureau. However, for reasons not clearly understood, they were simply ignored as the BIA went through fundamental organization and philosophical changes following landmark legislation such as the 1934 Indian Reorganization Act and other federal policy shifts. It is an unfortunate part of the Bureau's legacy that I spoke of during our reconciliation event several months ago, and I am pleased today, and on behalf of the Department of the Interior and the BIA, to correct this egregious oversight.

The Indian tribes mentioned above should not be required to go through the Federal acknowledgment process outlined in the Federal Register at 25 CFR, Part 83 ("acknowledgment regulation") because their government-to-government relationship continued. The acknowledgment regulation does not apply to Indian tribes whose government-to-government relationship was never severed. Rather, the acknowledgment regulation provides a process for tribes to seek recognition when the tribe has yet to establish such a government-to-government relationship, when a previously existing government-to-government relationship has lapsed, or when the government-to-government relationship was terminated through an administrative process. Here, the Tribes were never administratively terminated nor were their relations with the United States broken. Instead, an administrative error by the Bureau of Indian Affairs occurred in the initial failure to place the tribes on the Federal Register list of entities recognized and eligible to receive services from the United States Bureau of Indian Affairs. The administrative oversight, having now been identified, must be corrected and the Tribes' rightful existence must now be reaffirmed.

With respect to the King Salmon Tribe, the Alaska Regional Director advises me that the King Salmon Tribe has provided documentation that supports its position that it has existed and maintained a continuous Indian community from historic times. In addition, these documents support my finding of a long-standing governmental relationship with the United States. In 1994, the Department re-established governmental relationships with 224 Alaska Native governments under similar circumstances. Documents supporting the King Salmon Tribe's request were forwarded by the Bristol Bay Native Association. The original village site of Old Savonoski was destroyed when a volcano, Mount Katmai, erupted and buried it. Members traveled downstream on the Naknek River from the original site and settled in King Salmon, New Savonoski, Naknek and South Naknek. Although scattered, the people of King Salmon did not abandon their traditional tribal identity. Ethnographic records confirm that the people of King Salmon today are descendants of the indigenous people from the King Salmon area.

The BIA's West Central Alaska Field Office and the Alaska Regional Office support the Tribe's request that their status be reaffirmed and authorized to conduct a Secretarial election under provisions of the Indian Reorganization Act, 25 U.S.Code Section 476. The Acting Director, Office of Tribal Services, also recommends that Federal recognition of the King Salmon Tribe be reaffirmed.

With respect to the Shoonaq' Tribe of Kodiak, the Alaska Regional Director advises me that the Shoonaq' Tribe has provided documentation that supports its position that it has maintained a continuous political organization since European contact. In addition, these documents support my finding of a long-standing relationship with the United States. As with King Salmon, the Department's 1994 re-establishment of governmental relationships with 224 Alaska Native governments was under similar circumstances.

Members of the Shoonaq' Tribe are descendants of a consortium of Koniagmiut from Kodiak Island (known to the Russians as St. Paul or St. Paul's Harbor) who settled in the locale of the contemporary city of Kodiak. The Council of the Shoonaq' Tribe of Kodiak governs the historical Native community in and around the contemporary community of Kodiak, Alaska. No other tribe claims this territory or membership. The Tribe has entered into numerous federal contracts through which it provides the same federally funded services and benefits to its members as are provided by other federally recognized tribes in Alaska. Congress acknowledged Kodiak as a historic Native village possessing claims to aboriginal title in the Alaska Native Claims Settlement Act (ANCSA). Consequently, Kodiak was declared eligible and received land and other benefits under ANCSA.

In 1987, the Kodiak Tribal Council, upon learning that they were not included in the Federal Register listing of federally recognized Indian tribes, requested that the Secretary of the Interior correct the list. By letter dated August 12, 1987, they submitted arguments that they had been federally recognized prior to 1931 and they should have been included in the Secretary's published list. In an August 25, 1987, letter the Anchorage Agency Superintendent, after reviewing the matter, concurred with the Tribe's request and recommended that the Shoonaq'

Tribe be reaffirmed and added to the Federal Register listing. Today, the West Central Alaska Field Office and the Alaska Regional Office, as well as the Acting Director, Office of Tribal Services, recommend that the Shoonaq' Tribe of Kodiak be included on the list of federally recognized Indian tribes.

With respect to the Lower Lake Rancheria, the documentation shows that it should be treated differently than other California tribes that were terminated during the termination era. The California Indian tribes considered terminated during this era were those subject to the terms of Pub. L. 85-671, 72 Stat. 619, as amended by Pub. L. 88-419, 78 Stat. 390, commonly referred to as the Rancheria Act. The Rancheria Act specifically provided, in §10b, that when assets were accepted, the affected tribe was terminated. In contrast, the Lower Lake Rancheria lost its land pursuant to the Lower Lake Act, Pub. L. 84-443, 70 Stat. 58, as amended by Pub. L. 84-751, 70 Stat. 595, which sold its land for the purpose of establishing a local airport. This Act predated the Rancheria Act and did not contain a provision to cause the loss of an Indian's legal status as an Indian as a result of his (or her) acceptance of any of the assets of the Lower Lake Rancheria. Thus, the Lower Lake Act did not terminate the Lower Lake Rancheria.

The Lower Lake Rancheria's tribal status has been continuously maintained by the tribal members. The Lower Lake Rancheria successfully obtained funding from the Administration of Native Americans, U. S. Department of Health and Human Services, to strengthen their tribal government structure. Both the BIA's Agency Superintendent, Central California Agency, and the Regional Director, Pacific Region, as well as the Acting Director, Office of Tribal Services, recommend administrative reaffirmation of the status of the Lower Lake Rancheria.

Therefore, by action today, I am reaffirming formal recognition of the following Indian tribes:

King Salmon Tribe in Alaska;

Shoonaq' Tribe of Kodiak in Alaska; and

Lower Lake Rancheria in California

The Federal recognition of the Tribes and the trust relationship between the United States and the Indian Tribes are hereby reaffirmed, subject to further discussion and negotiation between the tribes and the BIA with respect to respective tribal membership lists, if necessary. All laws and rules of law of the United States of general application to Indians, Indian tribes, or Indian reservations which are not inconsistent with the 1934 Indian Reorganization Act, the Rancheria Act, or the 1971 Alaska Native Claims Settlement Act, as amended, shall apply to the respective Alaskan tribes and Lower Lake Rancheria, and their respective members. Each of the Tribes listed above is recognized as an independent tribal governmental entity, separate from any other nation, band, village, rancheria or Indian tribe.

By this memorandum, I am directing that the Bureau of Indian Affairs, specifically the Alaska Region, and Pacific Region officials deal with the respective tribes accordingly. Further, I direct that the Office of Tribal Services include the Tribes mentioned above in the "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," a

list published in the **Federal Register** most recently on March 13, 2000 (Vol. 65, No. 49), pp. 13298-13303, pursuant to Section 104 of the Act of November 2, 1994, Pub. L. 103-454, 108 Stat. 4791, 4792.

The Bureau of Indian Affairs will maintain contact with the respective tribes to address the relevant details in maintaining a government-to-government relationship in accordance with Executive Orders 13084 and 13175 as well as the Executive Memorandum of April 29, 1994, on Government-To-Government Relations with Native American Tribal Governments.

Please contact the Director, Office of Tribal Services, at (202) 208-3463, if you have any questions regarding this matter.

cc: Office of the Special Trustee
Office of American Indian Trust
Director, Office of Indian Education Programs
Director, Office of Trust Responsibility