



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

IN REPLY REFER TO:

Tribal Government Services  
3715-P5 Enrollment Appeals

**FEB 24 2012**

CERTIFIED MAIL NO. 7009 3410 0000 1318 9338  
RETURN RECEIPT REQUESTED

Dennis G. Chappabitty  
Attorney at Law  
P. O. Box 2050  
Elk Grove, California 95759

Dear Mr. Chappabitty:

This letter is to inform you of my review and recommendations to the Pala Band of Mission Indians regarding the appeals filed by you on behalf of Keith C. Denver, Anthony Allen Freeman, Cheryl Lynn (Freeman) Majel, Luanne Cynthia (Freeman) Moro, Keith Christopher Denver, Gina Denver Howard, Jacqueline (Boisclair) Withers, and Mai Tahirih Boisclair. These individuals are appealing the June 1, 2011, decision of the Executive Committee of the Pala Band of Mission Indians (Band) to disenroll your clients on the bases that they do not possess 1/16 degree Indian blood of the Pala Band. Eight appeals were received at the Pacific Regional Office on June 29, 2011, and were timely filed.

The Band's enrollment requirements are set forth at Article II-Membership of the CONSTITUTION OF THE PALA BAND OF MISSION INDIANS, (Constitution) which was approved by the Acting Regional Director on July 26, 2000, (approved retroactive to the adoption by the Band on November 12, 1997) as follows:

The membership of the Band shall consist of:

## Section 1. MEMBERSHIP REQUIREMENTS

- (A) Those persons whose names appear on the Pala Allotment Rolls as approved by the Secretary of the Interior on April 12, 1895, and November 3, 1913, who were living on the date of the approval of the Pala Band's original Articles of Association by the Commissioner of Indian Affairs.
- (B) All living descendants of persons on the Allotment Rolls covered in Section 1(A) above regardless of whether the original allottees are living or deceased, provided

**TAKE PRIDE  
IN AMERICA** 

that they are direct lineal descendants and have one-sixteenth (1/16) or more degree of Indian blood of the Pala Band.

- (C) Those persons who have been adopted by the Band and such adoption has been approved by the Bureau of Indian Affairs.

The Band applied Section 6 – Reevaluation of Membership Applications, of Pala Band Ordinance No. 1 (Ordinance), revised July 22, 2009, to disenroll of your clients and it states:

- A. Reevaluation of Approved Applications.

- (1) Should the Executive Committee subsequently find that an applicant or the person filing the application on his/her behalf misrepresented or omitted facts that might have made him/her ineligible for enrollment, his/her application shall be reevaluation in accordance with the procedure for processing an original application. Any decision of the Executive Committee that the member's name should be removed from the roll shall be subject to the affected member appealing that decision as specified herein.

The Band then applied in Section 5 – Action of the Executive Committee of the Ordinance which states:

- A. The Executive Committee shall review each application for enrollment and the Executive Committee shall make a preliminary determination on the application before forwarding the application to the Bureau of Indian Affairs, for its review and recommendation based on a review of its records. The Enrollment Ordinance is in accordance with the provisions of its Constitution and changes made to that Constitution.

The Band's enrollment Ordinance does not provide Bureau of Indian Affairs with the authority to decide enrollment appeals. However, Section 7 – Appeals of Eligibility Decisions does provide authority to the Bureau of Indian Affairs to review and make a recommendation on enrollment appeals to the Executive Committee.

## CONCLUSION

Enrollment Ordinance No. 1 states the Band retains the authority to decide appeals and also states "appeals" are to be filed with Bureau of Indian Affairs for review and recommendation. Section 7 - Appeals of Eligibility Decisions does provide authority to the Bureau of Indian Affairs to review and make a recommendation on enrollment appeals to the Executive Committee and does not provide Bureau of Indian Affairs the authority to decide enrollment appeals.

Ms. Majel, along with several other descendants of Margarita Britten, was notified on June 5, 1985 that their enrollment applications were being denied because they possessed 1/32 degree



Pala blood. As you are aware, the minimum requirement for enrollment is 1/16 or more of Indian blood from the Band. Ms. Majel appealed this decision in a timely matter based on being a descendant of Margarita Britten, who possessed 4/4 Indian blood degree, which qualified her as eligible for enrollment.

In a memorandum dated January 17, 1986 the Sacramento Area Office (now Pacific Region Office) requested the Assistant Secretary – Indian Affairs (ASIA) to determine the blood degree of Margarita Britten. Sacramento Area Office records indicated her blood degree as 4/4 and recommended her blood degree to be increased to 4/4 degree Cupa Indian blood. ASIA issued a decision on May 17, 1989 that Margarita Britten was a full-blood Indian, and that Ms. Majel possessed 1/16 Cupa Indian blood, and possessed the minimum blood degree required for enrollment. ASIA based this decision on following documents: 1913 Pala Allotment Roll, which indicates Margarita Britten as 4/4 degree of Indian blood, supporting evidence of relatives that applied for enrollment with the Band as well as relatives requesting a change to show the 4/4 degree of Indian blood, and statements by Carolina Nolasquez and other record supporting documents. This decision was final for the Department of the Interior.

Based on the review of our records along with the fore-mentioned ASIA decision concluding Margarita Britten as being a fullblood Indian, our recommendation to the Band is to change its disenrollment decision of the eight individuals and to have them remain on the tribal membership roll of the Pala Band of Mission Indians. We find these eight individuals meet the provisions of Section 1 of the Band's Ordinance No. 1 and recommend the Band to enter Keith Christopher Denver, Anthony Allen Freeman, Cheryl Lynn (Freeman) Majel, Luanne Cynthia (Freeman) Moro, Gina Denver Howard, Jacqueline (Boisclair) Withers, Milton K. Denver, and Mai Tahirih Boisclair back on its membership roll, as it has been proven that they possess the required degree of Indian blood.

You also inquired in your appeal notice if the current Constitution was valid and if it was passed and voted on in accordance with the Band's governing documents. Our records indicate the Constitution of the Pala Band of Mission Indians was adopted to replace the Articles of Association by Resolution 97-36. This resolution was passed at a duly called meeting of the Pala Band of Mission Indians General Council held on November 19, 1997, by a vote of "27 For" "0 Against" with a quorum present.

Sincerely,

Acting

  
Regional Director

cc: Superintendent, Southern California Agency  
Chairman, Pala Band of Mission Indians