



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 23 2016

Ms. Lois Martin
4630 Ben Hur Road
P.O. Box 1200
Mariposa, California 95338

Dear Ms. Martin:

The Southern Sierra Miwuk Nation (SSM) is under active consideration for a Proposed Finding (PF) in the Department of the Interior's (Department) Federal acknowledgment process under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83). The SSM chose to have its petition evaluated under the previous version of 25 CFR Part 83, revised as of 1994.

This letter is to advise you that the Principal Deputy Assistant Secretary – Indian Affairs suspended active consideration due to technical problems with the SSM's documented petition. Under §83.10(g):

The Assistant Secretary has the discretion to suspend active consideration of a documented petition, either conditionally or for a stated period of time, upon a showing to the petitioner that there are technical problems with the documented petition or administrative problems that temporarily preclude continuing active consideration.

Due to the circumstances, as discussed below, we believe that suspending active consideration is a proper decision at this time.

The Office of Federal Acknowledgment (OFA) initially evaluated the SSM documented petition under §83.8 which allows for a "reduced burden of proof for petitioners demonstrating previous Federal acknowledgment." If a petition has substantial evidence of unambiguous previous Federal acknowledgment, then the petitioner will be required to demonstrate that it meets only those requirements of §83.7 as modified by §83.8. Only the first three of the seven criteria are modified: 83.7(a), 83.7(b), and 83.7(c).

- Criterion 83.7(a), as modified, requires the petitioner to demonstrate that external sources have identified it as an American Indian entity "since the point of last Federal acknowledgment," and as the same entity as previously acknowledged, or portion that evolved from it.
- Criterion 83.7(b), as modified, requires the petitioner to demonstrate that a predominate portion of the petitioning group "comprises a distinct community at the present." The petitioner need not provide evidence to demonstrate existence as a community historically.

• Criterion 83.7(c), as modified, requires the petitioner to demonstrate "political influence or authority is exercised within the group at present." In addition, a petitioner must provide sufficient evidence to meet the criterion in §83.7(c) from the point of last Federal acknowledgment to the present by "demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority together with demonstration of one form of evidence listed in §83.7(c)."

The OFA reviewed the three historical Miwok bands: the "Yo-semi-te," "Po-to-yun-te," and the "A-wal-a-che," combined under the leadership of Bautista, and considered 1857 as the last date of unambiguous Federal acknowledgment. During the final preparations and internal reviews of the PF draft document, however, technical problems with the documented petition became apparent, particularly with the petitioner's evidence under criteria 83.7(b) and 83.7(c), as modified by §83.8, leaving this issue unresolved.

For criterion 83.7(b), as modified, the technical problem with the documented petition is the lack of evidence in the record for the "present period" (1990 to the present), even though during OFA's site visit, we learned that there was additional evidence available. Specifically, OFA requested copies of any SSM meeting and committee minutes for events from 1990 to the present, and any other documentation that would indicate participation of the members in formal and informal events. The petitioner stated that it could provide copies of minutes and other documentation evidence which OFA has not received to date. Although the current administrative record contains partial copies of such meetings, they do not contain the evidence we need for our evaluation. We recommend the SSM petitioner provide copies of any minutes and other documentation to show the required participation of the "predominant portion of the petitioning group" in its events since 1990. The SSM petitioner should submit any other evidence to demonstrate significant social relationships and social interaction broadly among its members since 1990.

For criterion 83.7(c), as modified, the technical problem with the documented petition is the lack of evidence for "at present," even though during OFA's site visit we learned that there was additional evidence available that is not in the record. The petitioner should also provide any other evidence such as that listed in 83.7(c) for this period. Finally, for the time period before 1990, the record does not contain the required identification and additional form of evidence listed in §83.7(c) for each leader/time period. Specifically, there must be evidence of a knowledgeable external identification of a leader and evidence that the leader exercised political influence or authority over the petitioner's members. The regulations require such evidence on a substantially continuous basis.

If such evidence under criteria 83.7(b) and 83.7(c), both as modified by §83.8, cannot be produced, then the evaluation will proceed under 83.7, unmodified.

The OFA is able to provide technical assistance to the SSM petitioner during this suspension and to discuss the above mentioned technical problems with the documented petition. Under §83.10(i):

The Assistant Secretary has the discretion during the preparation of the proposed finding, however, to request additional explanations and information from the petitioner or from commenting parties to support or supplement their comments on a proposed finding. The Assistant Secretary may also conduct such additional research as is necessary to evaluate and supplement the record. In either case, the additional materials will become part of the petition record.

We regret that these technical problems necessitate this suspension. This suspension is for 120 days, at which point OFA will inform you when active consideration likely will resume. If the technical problems are corrected before 120 days, then active consideration may resume at an earlier time.

Please contact OFA as soon as possible to arrange for further assistance. We would like to schedule a teleconference or a meeting with you to provide informal technical assistance, elaborate on our concerns and share information. We look forward to our continued work together to resolve these technical problems with the documented petition.

Sincerely,



Director, Office of Federal Acknowledgment

cc: Interested and informed parties