



Salinan T'rowt'raahl

A California Indian Tribal Community - Elders' Council

Jose' Freeman - President

Gregg Castro - Secretary/Treasurer

Formerly known as "Salinan Nation Cultural Preservation Association"

August 13, 2013

Elizabeth Appel, Acting Director
Office of Regulatory Affairs & Collaborative Action
US Department of the Interior
1849 C Street, NW
MS 4141
Washington, DC 20240

Subject: "1076-AF18"

Dear Ms. Appel:

This letter is comment on the preliminary discussion draft that proposes revisions to the procedures for establishing that an American Indian Group exists as an Indian Tribe. We are a Salinan Indian Group from southern Monterey and northern San Luis Obispo counties in California who are not yet federally acknowledged. We request to be kept informed on the ongoing decision making process regarding the proposed revisions and further request to be kept informed regarding any opportunities for additional comment.

Commentary

Our review of the procedures and the proposed revisions indicates a continuation of a centuries-long tradition of governmental policies ultimately designed to undermine tribal sovereignty and assimilate Indian people into the mainstream of America. Our Indian community certainly wishes for a collaborative and mutually beneficial coexistence with the United States. And, we do support a verification process to evaluate claims of Indian lineage.

Simultaneously, we also maintain and defend our right to determine our course as a sovereign people under our traditional form of governing. This right is founded on a continued occupancy of at least 10,000 years in our homeland. We submit that the process initiated for revising the procedures for acknowledgement offers an opportunity for correcting a historical injustice to Indian people in California and beyond.

The injustice is in requiring California Indians to "prove" that our political sovereignty and community integrity continued despite a history of governmental policies and practices enacted to disrupt and dismantle that same continuity. The historical record reflects that three successive intrusive nations beginning with Spain, then Mexico and eventually the United States imposed repressive policies on sovereign, California Indian people. These officially sanctioned guidelines were designed to extinguish native culture and disrupt political continuity. This aggressive effort to disrupt tribal continuity resulted

in a historical/cultural trauma that has yet to be acknowledged and repaired although indigenous communities are now addressing it internally through traditional means.

We submit that there is ample historical and ethnographical evidence to demonstrate that a surprising degree of continuity in indigenous community and traditional self-governance has been maintained despite intense pressures to relinquish our identity and assimilate from our communities into the external society. In reality, and despite government sanctioned murder, slavery, theft of lands, forced relocations and compulsory assimilation, the cultural identity, affiliation and some aspect of traditional forms of governing of many California Indian people has continued to persist throughout the decades albeit unrecognizable or denied by the BIA.

The continuity of California Indian people and our form of “government” is based on tradition which is apparently not acceptable under the current criteria for federal acknowledgement. We submit that the criteria are ultimately flawed because they are based on a foreign worldview that is linearly oriented and missing the flexibility needed to accommodate a differently oriented culture. Nevertheless, that continuity, albeit modified and disrupted in some cases, has continued to the present time. Unfortunately, many of us, especially in the mission areas, fell in the cracks of federal acknowledgement due to bureaucratic ignorance and our own concealment from the holocaust of the missions.

History

The first recorded foreign intrusion into “California” was undertaken by the Spanish from 1769 continuing through the independence of Mexico in 1821 and ending with the secularization of the missions in 1834. “The most striking quality of the Spanish Empire was its commitment to preservation, conversion and exploitation of the native population...Indeed, one of the distinctive aspects of the Spanish empire was the union of church and crown, each supporting the other in the extension of Spanish and Christian civilization...On the frontier the missions were the primary instrument for the cultural transformation of the Indians and for their inclusion within the empire.” (1)

The brief Mexican influence continued the cultural disruption of California Indian people. “Under the secularization decree of 1834 half of the mission lands were to be reserved for those Indians who wished to remain at the mission; few Indians however, were able to retain their property for long...Most of the rancheros in the Mexican period abandoned the padres interest in conversion and their communal model of economic organization but expanded the practice of forced labor, bringing California into rough conformity with the dominant form of Indian labor control in eighteenth-century Latin America...” (2)

Even as the Mexican government was exerting its influence, the American government was making its own plans for Indian people and their land. “In his second Annual Message, delivered in December 1830, Andrew Jackson expressed sentiments widely shared by his countrymen: ‘Humanity has often wept over the fate of the aborigines of this country...but its progress has never for a moment been arrested, and one by one have many powerful tribes disappeared from the earth...What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns and prosperous farms, embellished with all the improvements art can devise or industry can execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization and religion?’” (3)

In 1850, the Legislature of the newly formed state of California sanctioned what they likely hoped was a fatal blow to California Indian sovereignty. “The 1850 Act [An Act for the Government and Protection of Indians] and subsequent amendments facilitated removing California Indians from their traditional

lands, separating at least a generation of children and adults from their families, languages, and cultures (1850-1865), and indenturing Indian children and adults to Whites” (4).

“The United States enacted ‘civilization’ programs soon after being an independent nation and by the 1870’s such ideas coalesced into a full-fledged assimilation program aimed at integrating Indians into the dominant culture...[For example] The 1887 General Allotment (Dawes Act) sought to assimilate Indians into the American mainstream by dividing collectively controlled reservation lands into individually owned allotments of land...[This policy] continued a long tradition of Europeans and Euroamericans to make Indians more like themselves...The Dawes Act undermined Indians’ self-sufficiency while other assimilation programs disrupted Indian cultural practices and interfered with traditional leadership...” (5)

We are wondering why the date of 1934 was chosen as a new starting point from which petitioning groups would be required to demonstrate continuity of community and political influence. Is it coincidental that the Indian Reorganization Act (IRA) was enacted in 1934? The IRA was enacted, in part, to stimulate self-governing and stop the loss of tribal lands to non-Indians.

To some extent, the IRA succeeded. But, it did do at the expense of traditional leadership by emphasizing a form of governing that was alien to many indigenous structures. In fact, many traditionalists opposed the IRA from the beginning. “Ten California reservations and rancherias reconstituted themselves under Reorganization Act laws, while many others adopted other forms of governing councils to avoid the paternalistic overtones of Reorganization Act governments...almost every decision had to be approved by the secretary of the interior...” (6)

There are many more examples of American government policies and legislation that negatively impacted Native American structures of culture, leadership and sovereignty. The end result has been confusion, self-doubt and, a weakening of indigenous identity. It has also pitted Indian against Indian in an age-old practice of “divide and conquer.” It is truly remarkable then that traditional cultural values, sovereignty, and identity, albeit considerably impacted, have continued to persist in some form despite a massive centuries-long assault. The desire for many native people to determine our own destiny has persisted for centuries and will not fade away.

Conclusions

There is full evidence in the history of US governmental relations with Native Americans to demonstrate an explicit recognition by the government of the right of Native Americans to their own sovereignty. Simultaneously, there exists a seemingly willful blindness to the governments’ own historical policies and practices that undermined that sovereignty. In effect, the current acknowledgement process and procedures disenfranchises the very people intended for enfranchisement.

In evaluating current and proposed requirements for acknowledgement, we are reminded of a Senate Permanent Sub-Committee on Investigations for Communist Activities hearing in June 1954. During that hearing Senator Joseph Welch stated to Senator Joseph McCarthy, “You have done enough. Have you no sense of decency, sir, at long last? Have you left no sense of decency?”

Embracing a sense of decency for the injustice done to Native Americans is essential to any real rendering of justice. The on-going injustice needs to be acknowledged and repaired. Doing so would support California Indian people in engaging more deeply in the crucial and long-overdue work of healing the inter-generational trauma including the impact of genocide. We believe that one seemingly

paradoxical result of such healing would be a greater inclination for participation and productivity in the larger society due to increased esteem.

Repairing the injustice requires a substantial review and consideration of the process for federal acknowledgement in light of the centuries-long policies and practices alluded to in this commentary. In the immediate instance, the criteria need to take into account the real historical context that generated “gaps in the continuity” of California Indians especially in the mission areas. The Advisory Council on California Indian Policy submitted a report to the Congress regarding this matter in 1997 (7). Their findings need to be resurrected and considered.

Recommendations

We strongly recommend formation of a **Native American Reparations Commission** to review the full history of governmental relations with native communities. The commission should consist of native leaders from both recognized and unrecognized tribes, governmental representatives, legal authorities with expertise and interested/informed public especially knowledgeable historians and anthropologists. The commission should be commissioned to review the history of injustice and make binding recommendations to bring justice to bear.

We strongly recommend that a **Cultural/Sovereignty Recovery Program** be established within the BIA/OFA. Its’ purpose would be to evaluate and assist petitioning Native American groups in recovering their culture and, political sovereignty. In particular, traditional forms of governing would be encouraged where desired by the petitioning communities.

We strongly recommend that the **Native American Reparations Commission** be charged with evaluating the impact of the Hispanic mission system on California Indians; in particular, to review the impact on traditional governing and loss of rights and control over tribal lands. This review would also examine the continuity of culture and traditions through the mission era.

In terms of the proposed revisions, we strongly recommend that petitioning groups be given the opportunity to demonstrate continuity through alternative avenues where “substantial disruptions” to political influence of community continuity appear to be present. One such alternative would be the use of *continuity credits* to compensate for perceived gaps in various historical periods where political, social or community continuity may not be fully demonstrable or obvious through current acknowledgement criteria.

Continuity time credits would be given in exchange for evidence that the petitioning Indian Group, in addition to meeting other criterion, engaged in one or more of the following activities for a sustained period of time:

- 1) Sharing information with researchers including ethnographers, historians and linguists pertaining to the specified group’s culture and language;
- 2) Working in a volunteer capacity as an Indian entity in activities that directly benefited Indian people;
- 3) Working on the process of federal acknowledgement;
- 4) Interacting with local, county, state or federal governmental entities on behalf of one’s own Indian Group.
- 5) Practicing traditionalists actively involved in cultural renewal, healing, and preservation within their native community.

Where such activities can be documented, continuity credits would be given on the ratio of four years of continuity for one year of eligible activity. We submit that ideas and thinking of this type will help level the playing field of federal acknowledgement and contribute to the possibility of true justice for the Indian people of California.

We submit that removing the “Letter of Intent” from the process will disadvantage some Indian Groups in their fundraising efforts. Being listed as a “Petitioner” with the BIA/OFA provides a degree of credibility and, along with other facets, some sense of seriousness about the intent on the part of the petitioning Indian Group to follow through on the process. If there is agency concern about backlogged or inactive petitions, perhaps occasional follow-up letters can be sent to determine if the petition is still active in the petitioner’s community. We suggest that this part of the process be retained.

Finally, we support a substantive expansion of the intent to consider the “history and circumstances of the petitioning group” when determining whether or not substantial interruption has occurred.

Respectfully yours,

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