

# The Modoc Nation

*Moatokni maklaks*

P.O. Box 506 Independence, OR. 97351

Government for the Modoc people of Southern Oregon and Northern California

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September, 23<sup>rd</sup> 2013

To : The BIA, Assistant Secretary - Indian Affairs Kevin K. Washburn, Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action, U.S. Department of the Interior, 1849 C Street, N.W., MS-4141-MIB, Washington, D.C. 20240

RE: 1076-AF18

The Modoc Nation (formerly known as the “Modoc Tribe”), a federally recognized native nation by virtue of the Lakes Treaty of 1864 and the Klamath Tribe Restoration Act of 1986, hereby submits the following issues and comments that we would like make regarding the BIA, Federal Recognition process.

## **Background information necessary to understand these comments**

It must be understood that although the BIA refer to the “Klamath Tribes” as if it were a single entity. It is not. In fact, The Council Grove of 1864 “Definitions and Acronyms” recognizes the plurality of the so-called “Klamath Tribes” with the following definition: “**Klamath Tribes** shall mean: the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, parties to the Treaty of Council Grove of 1864.” The three aforementioned tribes had a single government, which ostensibly represented the interests and agreement of the three federally recognized tribes of which it was then composed: the Klamath Tribe, the Modoc Tribe, and the Yahooskin Band of Snake Indians.

These three tribes are not the same people – they each have unique tribal identities, cultures, histories, ancestral homelands, values and conflicting and competing interests. The three tribes were forced onto a single reservation by the federal government in 1864, and within a few years the local Indian Agent appointed a Klamath man named Allen David to be “Chief” of the three tribes. The constant harassment of the Modoc Tribe at the hands of the Klamath Tribe, the failure of the U.S. government to provide food and supplies required under the 1864 Treaty (leading to the Modocs’ eating of their horses to stave off starvation), and the Indian Agent’s disrespect of Modoc sovereignty by putting a Klamath in a position superior to their own leaders – all contributed to the Modoc Indian War of 1872-73.

Our leader, Keintpoos, whom whites knew as Captain Jack, asked Judge Elisha Steele, whom President Abraham Lincoln had appointed to draw up a treaty. Judge Steele, however, lacked the authority to do this. He may have known that Congress had rejected treaties made with numerous California tribes in 1851 and 1852, allowing their lands to be taken without compensation or legal claim. Nonetheless, Judge Steele made an agreement with Captain Jack to establish a reservation in the Tule Lake area. In return, Modocs were to stop stealing livestock.

Back in Washington, D.C., the Office of Indian Affairs decided to negotiate a different treaty that would remove all of the Indians of the Upper Klamath Basin onto a reservation on the Oregon side of the border. Indian Superintendent J.W.P. Huntington convened over a thousand Indians at a place they called Council Grove, north of Upper Klamath Lake.

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In return for ceding their traditional territories—more than 20 million acres of south-central Oregon and northeastern California, including an expanse of high desert country to the east of the Klamath Basin—the Modoc Tribe, the Klamath tribe, and the Yahooskin Band of Northern Paiutes were to inhabit less than 2 million acres on Klamath lands. No whites except for Indian agency employees and Army personnel were supposed to live there. In addition, the Indians were to receive thousands of dollars' worth of supplies over the next fifteen years, after which they were expected to become self-supporting. However, supplies did not arrive for several years, until the Senate ratified the treaty. Even after the goods came, the Indian agent failed to distribute them fairly or fully. As a result, Captain Jack's band of Modocs left the reservation, and the Treaty of 1864 helped to bring about what it was supposed to avoid: an uprising, a massacre, and a full-scale war. Captain Jack, John Schonchin, Boston Charley, Black Jim were hung with black hoods on. Hanging is one of the worst deaths considered by our people because their last breath cannot go to the Creator, Great Spirit. Barncho and Slolux received life imprisonment at Alcatraz.

This was a great injustice done to our people, who were lied to by the Government from the beginning and only wanted to live in peace with our own people.

Note: The Klamath Indians were never part of our tribe and were enemies much of the time.

For almost one hundred years, the Modoc Tribe has never accepted the legitimacy of the Klamath tribal government because each government was based upon a singularly flawed constitution that employed a one-person-one vote system to elect a single tribal "executive committee" or, as it is now called, "tribal council." Because the Klamath Tribe outnumbers the Modoc Tribe and the Yahooskin Band of Snake Indians by a ratio of at least ten to one, the latter two tribes are essentially disenfranchised. Even worse, the system fails to address or protect the separate tribal status of the component tribes. The result is dictatorial rule by the Klamath Tribe over the Modoc Tribe and the Yahooskin Band of Snake Indians. The Modoc Tribe and people have ignored and endured the Klamath dominated tribal government's well-known culture of corruption and oppression until finally we could no longer do so.

## **Modoc Repudiation of the Klamath tribal government and the formation of a Modoc government named The Modoc Nation**

On November 20, 2008, the Modoc Tribe began a long and arduous process of disentangling itself from the Klamath tribal government. On that day we drafted the *Declaration of the Rights of the Free and Sovereign People of the Modoc Indian Tribe (Mowatocknie Maklaksûm)*, the first declaration of rights issued by any native tribe or nation in the Americas to be based on the *Declaration of the Rights of Indigenous Peoples* enacted by the United Nations General Assembly in September 2007.

We began circulating the Declaration and signature sheets for its ratification among the Modoc People. Public meetings were held on October 9, 2009 and January 29, 2010. The main point of this document is that the Modoc Tribe and people have the right to preserve their unique identity and culture through political and economic self-determination. We now have numerous enrolled citizens in our Nation who have proven Modoc ancestry. A website has been placed on the Internet at (<http://www.modoc-nation.blogspot.com>). You can also find us at The Modoc Nation on Facebook.

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We presented our people with a constitution for their consideration and scheduled a gathering and election for June 19, 2010. We placed in two local weekly classified-ads papers one-quarter page ads that appeared every week during the month prior to the election. On the 19<sup>th</sup> of June the Modoc People gathered at the Lava Beds National Monument in northern California and, exercising our sovereignty as a federally recognized Indian tribe, changed our government by unanimously adopting a new constitution and electing a new government. We then issued a *Unanimous Declaration of the Modoc Nation*, a four-page document in which we set forth our reasons for repudiating all allegiance and dissolving all political ties to our former illegitimate government – the *de facto* confederation of three tribes known as the “Klamath Tribes,” described above. We then entered into joint declarations with two other federally recognized tribes, the Pit River Tribe and the Yahooskin Band of Snake Indians, in which each of those native governments formally recognized our new government as “the sole legitimate government” of the Modoc people.

We have presented this background in order to present comments that apply to our people, The Modoc Nation, who are self-governed, not the Klamath people, who are still a part of the Klamath Tribes. We wish to address the issues and concerns we have with the current process and make our recommendations for consideration of potential changes that would benefit all native tribes making application for Federal Recognition.

We believe the whole process needs to be re-written and updated to relate to modern tribes sovereignty. Keeping the current evaluation process eliminates many tribes who are indeed sovereign nations and are indeed native tribes who have been in existence since time immemorial.

To state that a group of forced together tribes by the federal government 150 years ago still constitutes a federally recognized tribe today is absurd but it does ensure genocide of the lesser tribes under that one government structure.

The applications need to be reviewed on a case by case basis not one size fits all.

There needs to be some flexibility on the guidelines and allow a two way correspondence with the tribes petitioning for acceptance.

If more information is needed to complete the process for a favorable outcome, then the tribes should have a chance to present that needed information in a timely manner.

Appeals need to be allowed, stating once a tribe has been rejected that is it forever is a death sentence to the rejected tribes. Even convicted murders are allowed appeals to the higher courts, should not sovereign nations be allowed at least that much?

Many tribes were given treaties over and over again and in good faith the sovereign tribes & nations accepted these conditions which always favored the federal government. These treaties were never upheld by the federal government. Is it not time for the federal government to work with what sovereign nations that still exist and help them instead of continuing the broken promises?

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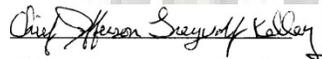
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Does it make sense to reject sovereign nations and tribes that can prove their ancestry and prove their unique identities that have survived even though they have been forced to the brink of extinction over and over by the powers who swore to protect them?

We believe the process should be a sit down, go over with, respectful communication between the BIA and the petitioning tribes.

If a tribe can prove their ancestry and prove their internal governmental structure, that they have been a tribe since time immemorial, than who has the right to reject them or turn them away?

Respectfully submitted,



Chief Jefferson Greywolf-Kelley  
Chief of The Modoc Nation

P.O. Box 506  
Independence, Oregon 97351  
503-838-0280

## **The Modoc Nation**

Modoc-nation.blogspot.com  
The Modoc Nation on Facebook  
[Modoc-nation@hotmail.com](mailto:Modoc-nation@hotmail.com)