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September 18, 2013

Ms. Elizabeth K. Appel  
Acting Director; Office of Regulatory Affairs and Collaborative Action  
1001 Indian School Road NW, Suite 312  
Albuquerque, NM 87104

RE: Support for the Cherokee Tribe of Northeast Alabama's enclosed recommendations

Dear Mrs. Appel:

I would like to take this opportunity to express my support for the efforts of the Cherokee Tribe of Northeast Alabama, a State Recognized Tribe in Alabama, and the enclosed recommendations submitted for your consideration in these latest efforts to fix the recognition process. American Indians, particularly those in the Southeast, have long suffered from the old adage that "History is written by the victor". The history of the Southeast is vastly different from that of the rest of our great nation, and it is that history we would like considered specifically during this process. This regional history is not understood by Indians whose experience is rooted in the Northeast, or West of the Mississippi, and that includes former Southeastern Woodlands Indians who removed in the 1830s. Those who removed began to experience life under the protection of the Federal Government, in lands not claimed by a State. Those who remained, became the victim of the hands off approach of the Federal Government in favor of States Rights. There are many cases of anti-Indian laws and legal actions early on, that continued through the 1960's. Professor Tim A. Garrison of Portland State University is extensively published and lectures on the particular problems Southeastern Woodlands Indians have had with the law in the South. A published study of his was the first to show how state courts enabled the mass expulsion of Native Americans from their southern homelands in the 1830s. Our understanding of that infamous period, argues Professor Garrison, is too often molded around the towering personalities of the Indian removal debate, including President Andrew Jackson, Cherokee leader John Ross, and United States Supreme Court Justice John Marshall. This common view minimizes the impact on Indian sovereignty of some little-known legal cases at the state level (Garrison, 2002).

Because the federal government upheld Native American self-dominion, southerners bent on expropriating Indian land sought a legal toehold through state Supreme Court decisions, much in the same way the continued oppressing African Americans from emancipation through the Civil Rights movement. This is the experience former Southeastern Indians who removed, are unable to comprehend as they did not experience it. This lack of understanding is also a major reason why they continue to deny the legitimate experience of those who stayed, as well as the all but unattainable documentation they wish to preserve as requirements for recognition. As Garrison discusses Georgia v. Tassels (1830), Caldwell v. Alabama (1831), Tennessee v. Forman (1835), and other cases, he shows how pro-removal partisans exploited regional sympathies. By casting removal as a states' rights, rather than a moral, issue, they won the wide support of a land-hungry southern populace. The disastrous consequences to Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles caused significant problems for those who stayed from removal, through Jim Crow and the Civil Rights era, and are still unfolding today (Garrison, 2002).

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The Cherokee in particular, began to assimilate to western ways long before the removal, but this fact was intentionally suppressed in legal decisions, but evidence exists. Those that stayed behind, continued to adopt western ways of farming and manufacturing, mixing bloodlines with their non-Indian neighbors, and accepting Christianity, as they had done for decades before the removal. They desperately clung to their heritage, even though it was actually illegal to be an Indian in Alabama for a time. As the laws began to change, and Jim Crow gave way to Civil Rights, Indian communities in Alabama began to come out of the shadows. Real progress was not made in Alabama until the 1980's as elders still feared the persecution of their youth. Alabama's Indians began to re-discover their heritage as it should be celebrated, in the open. They sacrificed their language in an effort to maintain their existence on the land of their ancestors. Alabama has in place, procedures for the recognition of Indian Tribes by the State. I support the request of the Cherokee Tribe of Northeast Alabama that they be required to meet 4 out of the 7 specified criteria. Based on what I know of Federally Recognized Tribes of my ancestors (Chippewa and Seneca), I believe many of the currently Federally Recognized Tribes would be hard pressed to meet all 7 of the criteria if they had to re-certify under the new criteria. In this, I am simply asking for something that resembles an equal protection under the law.

As an American Citizen, I concur with the Tribe's objection to the references on marriage within our race or tribe as both discriminatory and racist, if not all together un-American. Members of Recognized Tribes are also American Citizens and should be able to pursue the American dream without prejudice. Indians who do not live on a reservation have to find work, get an education, and socialize within the off-reservation communities where they live. Current reservations are restricted to only those that the governing Tribe will allow residence to, and it has been that way for many years. In the course of nature, young men and women will fall in love with someone they socialize with, so there is a natural reason to reduce or eliminate this requirement as well as the discriminatory and racist reasons discussed above. Please consider these points, and those enclosed and supported by the Cherokee Tribe of Northeast Alabama as you consider adjusting the requirements. The history of the Southeast is different than that of the rest of the nation, and the Indians that are in this region share that unique history which must be taken into consideration.

Sincerely,



Robert R. Russell  
Executive Director

Reference: Garrison, T. A. (2002). *The legal ideology of removal the southern judiciary and the sovereignty of Native American nations*. Athens, Ga.: University of Georgia Press.