Hearing on H.R. 2837 - *Indian Tribal Federal Recognition Administrative Procedures Act of 2007*

October 3, 2007

Written Statement Submitted on Behalf of the United Houma Nation, the Shinnecock Indian Nation, the Pamunkey Tribe, and the Little Shell Tribe by the Native American Rights Fund

The Native American Rights Fund represents the United Houma Nation, the Shinnecock Indian Nation, the Pamunkey Tribe, and the Little Shell Tribe. We appreciate the opportunity to submit testimony on H.R. 2837 - *"Indian Tribal Federal Recognition Administrative Procedures Act of 2007"*. This statement is based on our experience in representing the above, and other, tribes seeking and obtaining federal recognition.

H.R. 2837 is a response to the various problems that have been identified in the acknowledgment process established and currently used by the Bureau of Indian Affairs (BIA). Non-federally recognized tribes are mindful and appreciative of your dedication and earnestly hope that your efforts will bear fruit this Congress in the form of a fair and reasonable federal recognition process for Indian tribes to replace the present burdensome, expensive and unworkable administrative recognition process. Our experience with the process convinces us that the present administrative process is beyond repair and nothing less than a comprehensive remaking of the process by Congress can restore fairness and reason to the recognition process. We support the effort to deal with those problems. H.R. 2837 provides solutions to some of the problems. We have recommendations as to the others and as to some parts of the bill itself.

RECOGNITION

Although the government recognized most of the currently federally-recognized tribes in historic times, it continues to acknowledge tribes to the present day. Under current law, Congress, the Department of the Interior (Department or DOI) and the Judiciary have authority to recognize tribes. In section 103(3) of the Tribe List Act, 25 U.S.C. § 479a Note, Congress expressly stated that "Indian tribes presently may be recognized by … a decision of a United States court[,]" in addition to recognition through an Act of Congress or through administrative proceedings.

RECOGNITION PRACTICE

1. Congress

Congress has always had the broad constitutional power to recognize Indian tribes. *United States v. Sandoval*, 231 U.S. 28 (1913). Currently, it recognizes tribes through special legislation. It has done so eleven times after the federal acknowledgment process was established in 1978 (while the BIA has acknowledged fifteen). *See e.g.*, Act of October 10, 1980, 94 Stat. 1785 (Maliseet Tribe of Maine); Act of October 18, 1983, 97 Stat. 851 (Mashantucket Pequot Tribe of Connecticut), Act of November 26, 1991, 105 Stat. 1143 (Aroostook Band of Micmacs); Act of September 21, 1994, 108 Stat. 2156 (Little Traverse Bands of Ottawa Indians and the Little River Band of Ottawa). This is congruent with its intent not to abdicate its constitutional responsibility. Indeed, the GAO noted that "BIA's recognition process was never intended to be the only way groups could receive federal recognition." *Indian Issues: Basis for BIA's Tribal Recognition Decisions Is Not Always* Clear, GAO-02-936T, p.8. Thus, Congress reviews and acts on requests for special recognition legislation on a case-by-case basis.

2. Judiciary

Section 104 of the Tribe List Act, 25 U.S.C. § 479a-1, requires that the Secretary annually, on or before every January 30, "shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

The Federally Recognized Indian Tribe List Act of 1994, Pub. L. 103-454, 108 Stat. 4791, 25 U.S.C. § 479a *et seq.*, specifically addresses the means available to Indian tribes seeking federal acknowledgement. In Section 103(3) of the Tribe List Act, 25 U.S.C. § 479a Note, Congress expressly stated that "Indian tribes presently may be recognized by . . . a decision of a United States court[,]" in addition to recognition through an Act of Congress or through administrative proceedings. In Sections 103(7) and (8), Congress stated that "the list published by the Secretary should be accurate, regularly updated, and . . . should reflect all of the federally recognized Indian tribes in the United States . . . ." This should include any tribe recognized by a United States court, and any court of the various fifty states. *Montoya v. United States*, 180 U.S. 261 (1901); *United States v. Candalaria*, 271 U.S. 432 (1926); *Koke v. Little Shell of Chippewa Indian of Montana, Inc.*, 68 P.3d 814 (Mont. 2003).

Indeed, twenty-five California tribes, from 1978 to 1992, received a judicial recognition of their status. Those tribes are now on the Tribe List.[1] Most recently, on November 7, 2005, the

[1] 1978–Hopland Rancheria; 1979 (Tillie Hardwick Settlement)-the Rancherias of Big Valley, Blue Lake, Buena Vista, Chicken Ranch, Cloverdale, Elk Valley, Greenville, Mooretown, North Folk, Pinoleville, Potter Valley, Quartz Valley, Redding, Redwood Valley, Rohnerville, and Smith River; 1981-Table Bluff Band; 1983-Table Mountain Rancheria; 1983-Big Sandy Band of

United States District Court for the Eastern District of New York issued a Memorandum and Order, on a full factual record developed in extensive, contested summary judgment proceedings, in which it expressly determined that the Shinnecock Indian Nation "plainly satisfies" the "federal common law standard for determining tribal existence," "that the Shinnecock Indians are in fact an Indian tribe" and "recognized the Shinnecocks as a Tribe." State of New York, et al. v. The Shinnecock Indian Nation, et al., 03 CIV 3243 (E.D.N.Y.), __, November 7, 2005 Order at 5, 12, 14. [This Order also is reproduced in full at 400 F. Supp. 2d 486 (E.D. N.Y. 2005).] Specifically, the District Court determined that the Shinnecock Indian Nation was "an Indian Tribe not only when the first white settlers arrived in the eastern end of Long Island in 1640, but were such in 1792 when New York State enacted a law confirming that fact and that [the Nation] remain[s] an Indian Tribe today," falling "squarely within the umbrella of the Montoya v. United States, 180 U.S. 261 . . . (1901) and Golden Hill [Paugusett Tribe v. Weicker], 39 F.3d 51 [(2nd Cir. 1994)] line of cases . . . continuing to the present, [that] establish a federal common law standard for determining tribal existence that the Shinnecock Indian Nation plainly satisfies." Order at 10-12. These are the leading applicable cases regarding judicial recognition of Indian tribes. Finally, the Court determined that there was "no requirement or need for further inquiry into this matter," that is, its holding that recognized the Shinnecock Indian Nation to be an Indian tribe for purposes of federal law is final. Order at 10. This ruling in the Shinnecock case is entirely consistent with the Tribe List Act, which specifically addresses the means available to Indian tribes seeking federal acknowledgement. Yet, the Department of the Interior has wrongly refused to place the Nation on the Tribal List. This inequity should be addressed by the Congress.

As was reported in a 2005 report to Congress, the Congressional Budget Office ("CBO") in preparing a cost estimate for H.R. 5134, "a bill to require the prompt review by the Secretary of Interior of the long-standing petitions for federal recognition of certain Indian tribes," reported to the U.S. House of Committee on Resources:

> "CBO expects that the department probably would be unable to comply with the deadlines in the bill even with additional resources. In that event, the affected tribes *could pursue judicial recognition as they may under current law*."

Letter, From Peter H. Fontaine, CBO to Richard Pombo, Chairman U.S. House Committee on Resources, Nov. 18, 2004 (emphasis added).

3. Department of the Interior

Prior to 1978, DOI made acknowledgment decisions on an ad hoc basis using the criteria "roughly summarized" by Assistant Solicitor Felix S. Cohen in his *Handbook of Federal Indian Law* (1942 ed.) at pp. 268-72. In 1978, the Department issued acknowledgment regulations in an

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Western Mono; and 1991-(Scott's Valley Settlement) Lytton Band of Pomo Indians, United Auburn Band of Pomo, Scotts Valley Band of Pomo and Guidiville Band of Pomo.

attempt to "standardize" the process. Both the process and the criteria established in the regulations were different than those used prior to 1978.

A. The Acknowledgment Regulations

In the 1970s various controversies involving nonrecognized tribes,[2] including an increase in the number of requests for recognition,[3] led the Department to review its acknowledgment practice. That in turn led to the promulgation of the 1978 acknowledgment regulations. 43 Fed. Reg. 39361 (Sept. 5, 1978) *currently codified* at 25 C.F.R. Part 83.[4] In publishing the regulations, the government explained that prior to 1978, requests for acknowledgment were decided on a "case-by-case basis at the discretion of the Secretary." 43 Fed. Reg. at 39361. The 1978 regulations were an attempt to develop "procedures to enable the Department to take a uniform approach" in the evaluation of the petitions. *Id.*

Under the 1978 regulations, groups submit petitions for recognition to the Assistant Secretary for Indian Affairs. 25 C.F.R. § 83.4. The petition must demonstrate all of the following "in order for tribal existence to be acknowledged": (a) identification of the petitioner as Indian from historical times; (b) community from historical times; (c) political influence from historical times; (d) petitioner's governing document; (e) a list of members; (f) that petitioner's membership is not composed principally of persons who are not members of any other North American Indian tribe; and (g) that petitioner was not terminated. 25 C.F.R. § 83.7(a)-(g).

Upon receipt of a petition, the Assistant Secretary causes a "review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe." 25 C.F.R.

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[2]In 1972, the Passamaquoddy Tribe of Maine sued the federal government to force it to file a land claim on its behalf under the Indian Nonintercourse Act, 25 U.S.C. § 177, even though it was not then federally-recognized. *See, Joint Tribal Council of Passamaquoddy Tribe v. Morton*, 528 F.2d 370 (1st Cir. 1975). In the mid-1970s, a number of nonfederally recognized tribes attempted to assert treaty fishing rights in the *United States v. Washington* litigation. *See, United States v. Washington*, 476 F.Supp. 1101 (W.D. Wash. 1979), *aff'd*, 641 F.2d 1368 (9th Cir. 1981), *cert. denied*, 454 U.S. 1143 (1982).

[3]For example, the Stillaguamish Tribe requested recognition in 1974. When the Department of the Interior refused to act on the request, the Tribe filed suit. The federal district court in Washington, D.C. ordered the Department to make a decision on the request. *Stillaguamish v. Kleppe*, No. 75-1718 (Sept. 24, 1976). The Department recognized the Stillaguamish Tribe in October 1976.

[4]The proposed acknowledgment regulations were first published for comment on June 16, 1977. 42 Fed. Reg. 30647. They were redrafted and published for comment a second time on June 1, 1978. 43 Fed. Reg. 23743. They were published in final on September 5, 1978.

§83.9(a). Most of the technical review is carried out by the Office of Federal Acknowledgment (OFA).[5]

The next step is active consideration by OFA. 25 C.F.R. § 83.9(d). The Assistant Secretary, then issues proposed findings for or against recognition. 25 C.F.R. § 83.9(f). Petitioners have the opportunity to respond to the proposed findings. 25 C.F.R. § 83.9(g). After consideration of responses to the proposed findings, a final determination is made. 25 C.F.R. § 83.9(h). The Assistant Secretary's final determination is final unless the Secretary of the Interior requests reconsideration. 25 C.F.R. § 83.10(a).

B. Practice under the Acknowledgment Regulations

The process used to consider petitions under the 1978 regulations is not as simple as the regulations suggest. In response to discovery requests in *Miami Nation of Indiana v. Babbitt*, No. S 92-586M (N.D. Ind. filed 1992), the Department described the actual process used in processing petitions for recognition under the regulations.

Once a petition is placed on active consideration, a three person team is assigned to evaluate it. *Miami* Discovery Responses. The team consists of an anthropologist, a genealogist, and a historian. *Id.* Each member of the team evaluates the petition under the 25 C.F.R. Part 83 criteria and prepares a draft technical report. *Id*. Evaluation of the petition consists of verifying the evidence submitted by the petitioners, supplementing the evidence submitted where necessary, and weighing the evidence as to its applicability to the criteria. *Id.* The individual reports are cross-reviewed by each team member. *Id*. Preparation of the reports includes comparing the petition to past determinations and interpretations of the regulations. *Id.*

Following completion of the draft technical reports, there is an "extensive internal review, termed peer review". *Id.* Peer reviewers are other OFA professional staff not assigned to the case. The technical reports are reworked "until the professional staff as a group concludes that the report provides an adequate basis for a recommendation to the Assistant Secretary." *Id*.

After review and editing by the OFA chief, the acknowledgment recommendations and reports are subject to legal review by the Solicitor's Office and Bureau of Indian Affairs line officials up to the Assistant Secretary. *Id*. If those officials require more information or clarification, OFA typically provides the information through meetings. *Id*.

[5]Technically, recognition decisions are made by the Assistant Secretary - Indian Affairs. Review of petitions and recommended decisions is done by the OFA staff (formerly called the Branch of Acknowledgment and Research, which was formerly called the Federal Acknowledgment Project).

C. The 1994 Revisions to the Acknowledgment Regulations

In 1991, DOI proposed revisions to the 1978 regulations. 56 Fed. Reg. 47320 (Sept. 18, 1991). The revisions were not finalized until February 25, 1994. 59 Fed. Reg. 9280 (February 25, 1994) codified in 25 C.F.R. Part 83 (1999 ed.). In promulgating the revisions, the federal government stated:

> None of the changes made in these final regulations will result in the acknowledgment of petitioners which would not have been acknowledged under the previously effective acknowledgment regulations. Neither will the changes result in the denial of petitioners which would have been acknowledged under the previous regulations.

59 Fed. Reg. at 9280.

The 1994 revisions specify the types of evidence that will be accepted to establish the two most troublesome criteria, community and political influence. These are listed in 25 C.F.R. § 83.7(b) and (c). They also include a special provision for determining whether a group was previously recognized and the effect of previous recognition. 25 C.F.R. § 83.8.

PROBLEMS TO BE ADDRESSED BY H.R. 2837

There are a number of concerns with the Department's recognition practice under the acknowledgment regulations. Even before the current Departmental process was established in 1978, there was doubt that the Department and its Bureau of Indian Affairs could deal fairly with applicants for recognition. In addition, practice before the Department and BAR has shown a number of weaknesses in the procedures used to review and determine petitions. Those concerns, along with concerns about some of the provisions of H.R.2837 and proposed solutions are set out below.

1. Independent Decision-Making

One of the fundamental issues is who should make recognition decisions. Congress has the ultimate authority, but DOI has interpreted the general grant of rulemaking in 25 U.S.C. §§ 2 and 9 to allow it to do so as well. It was under those general statutes that the Department issued the existing acknowledgment regulations. The numerous oversight hearings on those regulations and the legislative attempts to change the Department's acknowledgment process have all indicated that it is questionable that DOI's Bureau of Indian Affairs, which manages the government's relationship with federally recognized tribes, can make an impartial decision on the recognition of "new" tribes.

In the years 1975 to 1977, the American Indian Policy Review Commission (AIPRC) conducted a review of "the historical and legal developments underlying the Indians'

relationship with the Federal Government and to determine the nature and scope of necessary revisions in the formulation of policy and programs for the benefit of Indians." Final Report American Indian Policy Review Commission, Cover Letter (May 17, 1977). The review included a study of the status of nonrecognized tribes and resulted in reports and recommendations concerning recognition policy. *Id.* Chapter Eleven; Report on Terminated and Nonfederally Recognized Indians, Task Force Ten, AIPRC (October 1976). The AIPRC described the posture of DOI in making recognition decisions and expressed concern about the ability of the Department to deal fairly with nonrecognized tribes.

> The second reason for Interior's reluctance to recognize tribes is largely political. In some areas, recognition might remove land from State taxation, bringing reverberations on Capitol Hill. There also is the problem of funding programs for these tribes.
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> Interior has denied services to some tribes solely on the grounds that there was only enough money for already-recognized tribes. . . . Already-recognized tribes have accepted this 'small pie' theory and have presented Interior with another political problem: The recognized tribes do not want additions to the list if it means they will have difficulty getting the funds they need.

Final Report AIPRC at 476.

Concern with impartiality has echoed in the various hearings on recognition that have been held since 1977. There is widespread apprehension that the Department, the Bureau of Indian Affairs, and OFA are subject to inappropriate political influence in making recognition decisions. *See e.g.* the Statement of Raymond D. Fogelson, Dept. of Anthropology, University of Chicago on S. 611 a Bill to Establish Administrative Procedures to Determine the Status of Certain Indian Groups Before the Senate Select Committee on Indian Affairs, 101st Cong., 1st Sess. 177 (May 5, 1989) ("While I respect the individual conscientiousness, competence, and integrity of members of B.A.R., I believe that an office separate from B.I.A. will be more immune to possible allegations of conflicts of interests or to the potential influence of Bureau policy and attitudes. It seems to me that the B.I.A. has enough to do in administering Federal Indian programs and serving the needs of the Indian clientele without also assuming the additional role of gatekeeper."); Deposition of John A. Shapard, Jr., former chief of BAR, in *Greene v. Babbitt*, No. 89-00645-TSZ (W.D. Wash.) at p. 33 ("there's a general, all-persuasive attitude throughout the bureau that they don't want anymore tribes"); *see also,* the Statement of Allogan Slagle in *Oversight Hearing on Federal Acknowledgment Process Before the Senate Select Committee on Indian Affairs*, 100th Cong., 2nd Sess. 198 (May 26, 1988) ("No matter how fair the BIA/BAR staff attempt to be, and no matter how they try to see that their decisions reflect a common standard, the perception of many tribes is that there are inequities in the way that the requirements are enforced.")

Those concerns persist to this day and taint the existing DOI recognition process. In the creation of a Commission and an adjudicatory process to rule on petitions for federal recognition,

H.R. 2837 solves half the problem in the current administrative process, that is, it requires an open decision-making process by a Commission that lacks the institutional biases of the BIA. Because its mission is to serve federally-recognized tribes, the BIA is institutionally incapable of fairly judging non-federally recognized Indian tribes, particularly through the closed decision-making process currently employed by the Bureau. The creation of an independent Commission is an important step that gives non-federally recognized tribes at least the prospect of a fair assessment of their petitions.

We have a suggestion, however, on this aspect of H.R. 2837. We suggest that the Committee consider one additional change to the provisions creating the Commission, that of adding to the end of Section 4(h) the following proviso: "provided that no individual presently employed by the Office of Federal Acknowledgment, Bureau of Indian Affairs, shall be employed by the Chairperson." This limitation is not meant to imply bias or lack of qualifications on the part of any individual staff member at OFA. It is unreasonable, however, to expect that those individuals, many of whom have worked under the dictates of the present acknowledgment regulations for years, could quickly adapt to the dramatically different decision-making process to be used by the Commission (and perhaps applying different criteria such as those suggested below). To insure a smooth and expeditious transition to the new way of doing business, the Commission should be required to employ fresh personnel.

Proposed Changes to H.R. 2837: Add to the end of Section 4(h) the following proviso: "provided that no individual presently employed by the Office of Federal Acknowledgment, Bureau of Indian Affairs, shall be employed by the Chairperson."

2. Hearing Process

Under the process established in the acknowledgment regulations, it is technically the Department's Assistant Secretary - Indian Affairs that makes recognition decisions. The OFA staff, however, do all the work of reviewing petitions, independent research, and decision writing. That work takes a number of years and is, in large part, hidden from petitioners.

H.R.2837 makes a needed change from the DOI process. Formal hearings are provided in Sections 8 and 9. Such hearings will bring more transparency to the decision-making process thereby giving petitioners a much better idea of their obligations and more confidence in the ultimate decision. Such hearings will also focus the examination of the Commission and the staff in a manner that is completely lacking in the present process.

There are three matters that should be made more specific in Sections 8 and 9 of H.R. 2837.

1) It should be made clear that the Commission itself will preside at both the preliminary and adjudicatory hearings. Under the DOI acknowledgment regulations, it is the Assistant Secretary - Indian Affairs that makes recognition decisions. The Assistant Secretary, however, is not involved in most of the work that leads to those decisions. The OFA staff

reviews petitions, does additional research, and writes the recommended decisions. The Assistant Secretary signs off on those decisions. Although there is no doubt that staff will be necessary to aid the Commission in making decisions, the Commission should be much more involved in decision-making than the Assistant Secretary. One way to accomplish that is to make clear that it is the Commission that presides at all hearings.

Proposed Changes to H.R. 2837: Sections 8(a) and 9(a), respectively. should be amended to state that the Commission will preside at the Preliminary Hearing or Adjudicatory Hearing with specific language to the effect "…the Commission shall set a date for a preliminary hearing, in which the Commission shall preside, and …" and "…shall afford a petitioner who is subject to section 8(b)(1)(B) an adjudicatory hearing, in which is shall preside."

2) It should be made clear that records relied upon by the Commission will be made available, in a timely manner, to petitioners. Both the present Departmental process and H.R. 2837 include preliminary decisions to which petitioners respond. Our experience with OFA indicates that it is imperative to make clear that the Commission and its staff provide petitioners with the documents and other records relied upon in making the preliminary decision. In one case, DOI issued proposed findings on the United Houma Nation (UHN) petition in mid-December 1994. Under the acknowledgment regulations, UHN had 180 days to respond to the proposed findings. OFA only began making records relative to the proposed findings available to the UHN's researchers in April of 1995 for a response due June 20, 1995. It was past the June 20, 1995 deadline before most documents were received. (We note for the Congress that the UHN submitted its response to the BIA's proposed finding in November, 1996, and it is still waiting for a final decision, over ten years later. That type of delay is unconscionable.).

3) The bill should explain the precedential value of prior DOI recognition decisions and should make the records of those decisions readily available to petitioners. OFA has stated that it views its prior decisions as providing guidance to petitioners. It is very difficult, however, to get access to or copies of the records relating to those decisions or to get guidance from OFA as to the specific decisions it intends to follow in a given case. In one particular instance, for example, the Shinnecock Indian Nation submitted its petition in September, 1998 and subsequently met with OFA staff on March 1, 1999 to obtain technical assistance to strengthen its petition. The OFA staff advised the Nation's representatives to review two specific recognition decisions and federal court opinions. The Nation's representatives requested copies of those decisions and a list of those federal court opinions. OFA eventually provided the copies by March 2000 - a relatively simple task to begin with. It never did provide the list of federal court opinions. With the transfer of petitions to the Commission, the precedential value of OFA, and earlier Departmental decisions, should be explained with specificity. If those prior decisions are considered precedent, the records of those decisions should be promptly made available to petitioners.

Proposed Changes to H.R. 2837: Section 8(c)(1)(A)(i) should be amended to state that all records relied upon by the Commission and its staff in making the preliminary determination shall be made available to petitioners including prior decisions relied upon and records relating

to such prior decisions. Given the deadlines for hearings in the bill, those records must be available immediately, at least within 30 days.

3. The Criteria in H.R. 2837

The criteria in the DOI acknowledgment regulations and in H.R. 2837 are very similar. The creation of the Commission only solves half the problem with the present administrative process. Under Section 5 of H.R. 2837, the Commission would apply the substantially same criteria to the determination of tribal existence as those applied in the present administrative process. As written and applied, the criteria in the present regulations are so burdensome and heavily dependent upon primary documentation that many legitimate Indian tribes simply cannot meet them. If these same criteria are applied by the Commission, the Commission will become overwhelmed in expensive and time-consuming examination of minutiae much of which is unnecessary to the determination of tribal existence. Worst of all, the Commission will fail to recognize legitimate Indian tribes, just as the BIA has done under the current regulations.

Today's testimony by Arlinda Locklear, Esq., reiterates the unreasonableness of the current acknowledgment criteria. We support her testimony.

We ask the Committee to assume full responsibility in establishing reasonable criteria, rather than abdicating its responsibility by simply enacting into law the BIA's acknowledgment regulations, and to consider the recommendations by Ms. Locklear.

4. The Exclusion of Indian Groups Under Section 5 of H.R. 2837.

Unfortunately, H.R. 2837 would exclude Indian groups from the recognition process. That is unwarranted. H.R. 2837, as currently written, is a significant change from the process under DOI's acknowledgment regulations. For that reason, it seems fair to let those groups denied under the regulations have at least one chance under the Commission. And it is even more important for those large tribes like the United Houma Nation, which has over 10,000 members and received a negative proposed finding. The acknowledgment regulations were not designed to handle such large petitioners.

Proposed Changes to H.R. 2837: Section 5(a) should be amended to provide that groups that have been denied recognition under the acknowledgment regulations are allowed a hearing before the Commission. Section 5(a) should be amended by striking "if the Commission determines that the criteria established by this Act changes the merits of the Indian group's documented petition submitted to the Department." Section 5(a)(3)(C) should be deleted.

CONCLUSION

The Congress has broad powers to recognize Indian tribes. Courts also possess the power to recognize Indian tribes. Thus, the administrative acknowledgment regulatory process is only one pathway for Indian tribes to obtain federal recognition and does not displace other legal

methods for determining tribal existence. Congress made this unequivocally clear in the Tribal List Act when it expressly stated that "Indian tribes presently may be recognized by . . . a decision of a United States court[,]" in addition to recognition through an Act of Congress or through administrative proceedings.

Respectfully Submitted,

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