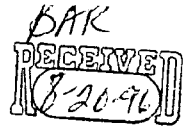




# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240



JUN 14 1996

Mark C. Tilden, Staff Attorney  
Native American Rights Fund  
1506 Broadway  
Boulder, Colorado 80302-6296

Dear Mr. Tilden:

Thank you for your letter dated March 21, 1996, on behalf of the United Houma Nation, Inc. (UHN), requesting an additional extension of six months (180 days) for submission of the group's response to the Proposed Finding against Federal acknowledgment. The UHN petition for Federal acknowledgment was placed on active consideration status on May 20, 1991. The Proposed Finding was published in the FEDERAL REGISTER on December 22, 1994. The Proposed Finding stated that the UHN failed to meet mandatory criteria 83.7(b), 83.7(c), and 83.7(e) for certain specific reasons and during certain specific time periods.

The regulatory 180-day comment period expired June 20, 1995. Through you, by letter dated May 12, 1995, the UHN requested a two-year extension of time to respond to the Proposed Finding against acknowledgment of the United Houma Nation as an Indian tribe. In reply, the BIA pointed out:

Under 25 CFR Part 83, the Bureau of Indian Affairs (BIA) does not have the authority to grant an extension of this length (which is one and one-half years past the expiration of the standard response period). From the date of publication of the FEDERAL REGISTER notice of a Proposed Finding, the petitioner has 180 days to respond. That period may be extended for another 180 days for good cause. If the petitioner has obtained a 180-day extension, and at the end of that period can demonstrate that it is making progress toward completion of the response, the Bureau may, for good cause, grant an additional extension of time.

The BIA granted a 180-day extension from June 20, 1995. On October 10, 1995, through you, the UHN requested a second 180-day extension, which was granted. This extended the period of time for submission of the UHN response until June 16, 1996. Your current request dated March 21, 1996, is for a third extension beyond the regulatory time period.

Your requested extension could be seen as unnecessary because the UHN has already been granted 540 days to submit its response to the Proposed Finding, more than any other petitioner under the new regulations. However, with some degree of reluctance, I am granting a portion of your requested extension. The UHN will have 150 additional days to file its response to the Proposed Finding. Although the regulations do not contemplate granting unlimited extensions, it is my understanding that a portion of the UHN indicated on October 24, 1995, that it intended to respond separately to the proposed Finding and is now being treated as a separate petitioner. Under this circumstance, I believe that a 150-day extension is justifiable. This extension will accord you adequate time to respond to this change in circumstance.

Prior to the placement of the UHN petition on active consideration, the BIA issued two Obvious Deficiency (OD) letters dated December 12, 1986, and May 27, 1987, the second at the request of UHN's counsel. The OD letters pointed out potential problems: for example, in the December 12, 1986, letter, the BIA wrote, "Several documents in the petition suggest that the group may not be a tribe and that the group's membership may not be Indian," "The petition could provide a more comprehensive description of the contemporary Houma community," and requested that the petition "describe in more detail how the government in the villages relate to the group's centralized government both in the past and the present" (John D. Geary, Acting Deputy COIA to Kirby Verret, 12/12/1986). On April 8, 1987, BIA staff met with Ms. Arlinda Locklear, UHN counsel, and Dr. Jack Campisi, UHN researcher. The May 27, 1987, OD letter was issued in response to points raised at that meeting and detailed problems with the definition of UHN community structure as presented in the petition, both the social organization of the bayou communities and "the nature, size and contacts of the Houma population living away from the home area, e.g., residents of New Orleans . . ." as well as emphasizing the importance of presenting a description of informal historical political leadership (John D. Geary, Deputy to the AS-IA to Kirby Verret 5/27/1987). Thus, the UHN was aware, prior to active consideration, that these issues would be of importance in the evaluation of the petition.

The very detailed technical reports that accompanied the proposed finding published on December 22, 1994, identified possible sources for research, including the original church records and deeds. The Bureau of Indian Affairs (BIA) has maintained open lines of communication with the UHN throughout the petitioning process, particularly regarding areas where additional documentation was needed. Since the Proposed Finding was issued, the BIA has met with UHN officers and UHN petition researchers in several technical assistance meetings. At all of these, UHN legal counsel has been

present. At two of these meetings, the UHN brought a court reporter and transcribed the meeting dialogue. It is the responsibility of the petitioner to supervise its own researchers and ensure that their reports are completed in a timely fashion.

The staff of the Branch of Acknowledgment and Research (BAR) has provided the petitioner with copies of all administrative file material other than that protected under the Privacy Act, and with substantial additional material which was not part of the file, but which was requested by the UHN researchers, such as the introductory bibliography on methods in historical demography. In addition, you have had the ability to review the files, with only limited exceptions, in the BIA office since research began on the petition. The UHN's FOIA request for the material denied under FOIA exemptions is under advisement in the Office of the Solicitor. None of the withheld material directly impacted the three major issues in the Proposed Finding of (1) the tribal identity of the earliest known UHN ancestors; (2) the structure of the modern UHN community; and (3) the maintenance of political influence or authority during certain defined time periods.

There are no "pending BAR decisions" (as described on page two of your March 31, 1996, letter) that will impair the UHN response. The petition filed by the UHN and other federally non-recognized groups with the Department of the Interior to amend or rescind the acknowledgment regulations is not a "BAR decision" in any way, nor is the petition filed by the UHN for informal rulemaking to amend or rescind 24 CFR 83.7(e). Further, by letter dated November 27, 1995, the AS-IA denied the May 31, 1995, "petition for rulemaking" filed by UHN to review 25 CFR 83.7(e). Your comments regarding the impact of the 1994 amendments to the Indian Reorganization Act on the Federal acknowledgment regulations were also addressed in that letter. This letter responds substantially to your subsequent request for informal rulemaking referenced in your most recent request for an extension of time.

Notwithstanding the above, to facilitate your application, an extension of 150 days is granted, until November 13, 1996, pursuant to 25 CFR 83.3 and 83.10(g). All specific requests that the UHN may have, such as one for an on-the-record hearing, should be scheduled in accordance with an assumption that the group's response will be filed with the BIA by November 13, 1996.

Third-party comments from interested and informed parties will also be due on November 13, 1996. Under the regulations, commenters are to provide their comments to the petitioner at the same time they provide them to the BIA. The BIA will consult with the UHN to ensure that the UHN has copies of all comments received by the BIA. The UHN will receive a regulatory time period of 60 days to respond to the third-party comments.

As the UHN is an interested party, it will also be furnished with copies of official administrative correspondence pertaining to the scheduling of the Biloxi, Chitimacha Confederation of Muskogees, Inc. (BCCM), a group which withdrew from the UHN petitioner effective October 24, 1995. The UHN will have opportunity to submit third-party comments pertaining to the BCCM in accordance with the regulatory schedule.

If you have any additional questions, please contact the Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, N.W., Mail Stop 4641-MIB, Washington, D.C. 20240, or call (202) 208-3592.

Sincerely,

/S/ Ada E. Deer  
Ada E. Deer  
Assistant Secretary - Indian Affairs

cc: Laura Billiot, Chairwoman UHN  
Bob Anderson  
Michael Anderson

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