

**(3) Technical Assistance Letter(s)**

- April 5, 1995



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20217



Tribal Government Services - AR  
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SIGNATURE

Mr. Carl L. Frazier  
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P.O. Box 206  
Brutus, Michigan 49716

*Dr. Mace 03/28/95*  
*Reckord 3/27/95*  
*Acty. Dufford 3/31/95*  
*J. Mace 4/5/95*

Dear Mr. Frazier:

Thank you for meeting with the Branch of Acknowledgment and Research (BAR) staff on January 26, 1995, concerning the technical assistance (TA) review of the Burt Lake Band's petition for Federal acknowledgment.

The BAR has completed an initial review under sections 83.10(b) and 83.10(c) of the acknowledgment regulations of the Burt Lake Band's petition for Federal acknowledgment as an Indian tribe. This letter is issued under section 83.10(c). It describes any additional information needed, that is apparent on the basis of a preliminary review, to make the Burt Lake Band's petition ready for active consideration.

The TA review is provided for in the acknowledgment regulations to ensure that a petitioner is not rejected because of technical problems in the petition and that the group's status will be considered on its merits. The TA review provides the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information and/or clarification prior to the actual active consideration period.

The TA review is not intended to be a preliminary determination of a case. This TA letter does not constitute any evidence that a positive conclusion has been or will be reached on the petition, or on the portions of it not discussed in this letter. Nor does the TA review imply in any way that the group would meet the seven mandatory criteria by simply submitting additional data. The TA review is a limited, preliminary review conducted over a period of several weeks by a staff anthropologist, genealogist, and historian. Only during the active consideration phase is the petition reviewed and evaluated in depth by the BAR staff to determine whether or not the group meets the requirements to be acknowledged as an Indian tribe.

With the requested information and/or documentation, the BAR staff can fully evaluate the petition when it is placed on active consideration. The staff's research during the active consideration period is for the purpose of verifying and/or elaborating on an already complete petition. The staff's caseload no longer permits them to do the research necessary to fill in gaps in the petition on behalf of the petitioner as they have sometimes done in the past.

Petitioners have the option of responding in part or in full to the TA review or of requesting, in writing, that the Assistant Secretary - Indian Affairs proceed with the active consideration of the documented petition using the materials already submitted. The decision as to whether or not the group chooses to address the deficiencies noted in the TA review should be made by the petitioning group and not solely by its researchers.

Once you have submitted new materials in response to the TA review, you may request that they also be reviewed. The Assistant Secretary - Indian Affairs will provide the additional review. The additional review will not be automatic, and will be conducted only at the request of the petitioner.

The limits of these preliminary reviews must be taken into consideration. We do not know all of the questions that an in-depth review during active consideration might raise.

Prior Unambiguous Federal Acknowledgment. A review of the documentation submitted indicates that the historic Burt Lake Band was previously acknowledged as a tribe and that the present-day petitioner is the same group as the Burt Lake Band at the last point of Federal acknowledgment. This is not a determination that the group has continued to exist as a tribe since that point. The preliminary TA review indicates that the last unambiguous Federal acknowledgment was in 1917. Barring the submission of other evidence to show the Burt Lake petitioner was not previously recognized, the date of 1917 will be used as the starting point for evaluation of the Burt Lake Band's petition. This will permit the petition to be evaluated under 25 CFR Part 83.8, which reduces the burden of evidence to demonstrate continuous tribal existence. For these reasons, this TA letter does not address the historical materials submitted concerning the group before 1917.

Please note that these conclusions are solely for the purposes of a determination of previous acknowledgment under 25 CFR 83, and are not intended to reflect conclusions concerning successorship in interest to particular treaty or other rights.

We have tried to make this preliminary determination on prior Federal acknowledgment as conclusive as possible. However, you should be aware that determination of the point of last Federal

acknowledgment under 83.8 is subject to challenge and review, not only in the final determination comment process, but also in any reconsideration.

Criteria 83.7(a) and 83.8(d)(1):

EXTERNAL IDENTIFICATION OF THE GROUP AS AN AMERICAN INDIAN  
ENTITY ON A SUBSTANTIALLY CONTINUOUS BASIS SINCE 1900

Criterion 83.7(a) requires proof of the external identification of your group as an American Indian entity since 1900. Under the provisions of 83.8 (d)(1), this is modified to require proof of continued external identification of your group as the same tribal entity that was previously acknowledged since the last date of unambiguous prior Federal acknowledgment -- in your case, since 1917.

Review of the material submitted in your petition indicates that you have gathered adequate documentation for active consideration of this criterion.

Criteria 83.7(b) and 83.8(d):

A PREDOMINANT PORTION OF THE PETITIONING GROUP  
COMPRISES A DISTINCT COMMUNITY AND HAS EXISTED AS A COMMUNITY  
FROM HISTORICAL TIMES UNTIL THE PRESENT

Below is specific advice based on the technical assistance review of the Burt Lake petition.

As the BAR staff indicated in the January 26, 1995, meeting with you and your associates, your petition can be strengthened by submitting the following types of material for the contemporary period -- within the last five to ten years.

The petition must demonstrate that the present-day group meets the requirements of criteria b. There is a brief discussion of the present-day group in the petition. The discussion, however, is not supported by any other data or documentation. The petition would be greatly strengthened if you would provide a detailed description of the ways in which the present-day membership forms a cohesive, distinct social community. Documents and interviews should support the description. The BAR can provide specific technical assistance concerning the most effective and efficient ways to provide this material.

The summary descriptions in the petition suggest that community institutions could be good evidence that the members maintain social contact with each other. Ghost suppers would be particularly good information because they would show that some

cultural distinctions from non-Indians exist. Social gatherings at monthly meetings could also provide evidence of community. For activities to demonstrate community, a broad proportion of the membership must participate.

As we discussed in our brief meeting with you, it is not always necessary that members living away from the home area show close social contact with each other. It is necessary to show that peripheral members have close ties with individuals in the home area. This may be shown in a variety of ways -- that they are close relatives, that they visit frequently, that they often move back and forth from the home area to the cities, or simply that they are quite knowledgeable about the group's affairs. Not all of these means need be used. Your group may chose which kind of information is easiest to collect and best illustrates community cohesion.

Criteria 83.7(c) and 83.8(d)(3):

THE PETITIONER HAS MAINTAINED POLITICAL INFLUENCE OR  
AUTHORITY OVER ITS MEMBERS AS AN AUTONOMOUS ENTITY  
FROM HISTORICAL TIMES UNTIL THE PRESENT

Under 83.8 (d), the petitioner needs to demonstrate that it meets the requirements of criterion c only from the point of last Federal acknowledgment -- in your case, 1917 -- until the present-day. The requirements to demonstrate criterion 83.7(c) for the present-day group is not modified by previous acknowledgment. However, the burden of evidence to meet this criterion between last Federal acknowledgment and the present day is greatly reduced. Under section 83.8(d)(3), the group need only show that knowledgeable external authorities, such as state or Federal officials in close contact with the band, identified group leaders and/or a governing body who exercised political influence or authority. This identification of political influence must be substantially continuous since 1917.

Alternatively, if adequate evidence cannot be produced based on external identification of leaders alone, this section of the regulations allows a demonstration of criterion c under the regular requirements of criterion c, as an alternative. This approach may be simpler and more efficient, since it allows a broad variety of different kinds of evidence, which may be more readily available, to be used. Among these are evidence demonstrating community which, while not directly required, can be used as supporting evidence of political influence. In the case of Burt Lake, there is preliminary evidence that significant community cohesion, in the form of continued inter-marriage with other Indians, existed for at least two decades after 1917. The BAR can provide further TA with this approach.

The petition offers a good beginning to describe political leadership and influence in the present-day group and historically from 1917 to the present, by mentioning a number of leaders and their actions, as well as actions taken by the group in the 1950's, 1970's and 1985. The documentation of these actions in the petition is useful but not sufficient in itself. The descriptions are very brief and general and need to be supported by more detail and documentation (which may include oral history) concerning these leaders and their actions, community interest in and support of them and authoritative external identification of them, if available. Any other leaders, not already mentioned, should also be described. You may find it useful to examine the activities of the Burt Lake Band unit of the Northern Michigan Ottawa Association to see if this can be used as evidence of political activity.

If the Band addresses criterion c using the full level of evidence in 83.7(c), it will be a useful starting point to provide a chronological list of the band's leadership from 1917 to the present. This should include not only formal leadership -- chiefs, chairpersons, presidents, etc.-- but informal leaders (religious leaders; influential social leaders, medicine women, etc.).

There is no reason to avoid discussion of conflicts within the group, as these are often good evidence that the members of the group have a strong awareness of and interest in the decisions of the group and its leaders. Thus, you may wish to find out if there were different positions taken by different parts of the group in the 1950's, 1970's and 1985 in group actions seeking restoration of lands and examine how these differences were resolved.

The BAR can provide specific technical assistance concerning the most effective and efficient ways to provide this material. We would be glad to confer with you further concerning sources of information for criterion b as well as criterion c. The petition narrative indicates that oral histories pertaining to the period between 1917 and the present have already been done. We suggest that you review and evaluate these first, before doing further interview work. Another likely source of documentation is the state records held in the Michigan State Archives at Lansing, particularly those of the State Indian Commission and its predecessors.

Criterion 83.7(d):

GOVERNING DOCUMENT

If the petition contains any indication that your current governing document is not always followed, some attempt should be made under

criterion (c) to explain how the group actually runs politically and to what extent the By-Laws are adhered to.

Do any earlier governing documents exist prior to the date of your group's incorporation? If so, provide copies with your response.

#### MEMBERSHIP CRITERIA

##### Criterion 83.7(e):

#### CURRENT MEMBERSHIP LIST

We cannot overemphasize the overall importance of a group's membership list. It defines the group, that is, those people who make up the community. If recognized, the list of members submitted for acknowledgment purposes will become the group's base roll for BIA purposes, and, as such, will be binding on the group for some time to come, except for minor corrections. Thus, it must be complete.

In evaluating other criteria such as (a), (b), and (c), this community defined in the membership list is the unit which will be focused upon. For this reason, it is extremely important that the membership be defined accurately. In the case of your group, the petitioner runs the risk of failing to meet other criteria because the group, as defined by its membership list, represents only a portion of your community.

You will be notified when the petition is being placed on active consideration. At that time, it will be appropriate to submit a supplemental list. The supplemental list should include those additions to the membership, such as new births, who are considered to be members, any individuals who were inadvertently omitted from the list submitted with the petition, and a note of those members on the original list who are deceased at the time the petition is placed on active consideration.

It should include, at a minimum: Maiden names of women; addresses, birthdates; and nuclear family relationships (particularly parents' names).

#### FORMER LISTS OF MEMBERS

If previous lists of members exist, please provide copies. If they do not exist, please say so.

EVIDENCE OF DESCENT FROM THE HISTORIC TRIBE  
(GENEALOGIES OF CURRENT MEMBERS OF THE GROUP)

Your petition contained ancestral charts for all persons on the membership roll. This is adequate genealogical documentation. When your petition is placed on active consideration, a BAR genealogist will make a site visit and examine the back-up documentation.

Criterion 83.7(f):

MEMBERS OF THE PETITIONING GROUP MAY NOT  
BE ENROLLED IN ANY RECOGNIZED TRIBE

The regulations governing the acknowledgment process were designed to prohibit this administrative process from breaking up existing federally recognized tribes. Your members must have provided written confirmation of their membership in your petitioning group (an enrollment application is adequate for this purpose). This confirmation should be kept in your tribal records, and will be examined by a BAR staff member during the site visit during the active consideration period.

Criterion 83.7(g):

Your petition states that neither your group nor its members are the subject of congressional legislation that has expressly terminated or forbidden a Federal relationship. This is adequate to meet the requirements of 83.7(g).

Once you have had an opportunity to review this letter thoroughly and share its contents with your researchers and general membership, we recommend that you contact the BAR staff so that we can make arrangements to provide additional technical assistance to you and your researchers. You may contact the Branch of Acknowledgment and Research, Bureau of Indian Affairs, at 1849 C Street, N.W., Mailstop 2611-MIB, Washington, D.C. 20240, or call at (202) 208-3592.

Sincerely,

JOANN SEBASTIAN MORRIS

Acting Director, Office of Tribal Services

cc: Administration for Native Americans

cc: Surname;440B;440Chron;400  
Hold:VEDeMARCE;kr;x3592;03/28/95;TADRAFT5.VED/BurtLakeDisk