

(3) Technical Assistant Letter

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Tribal Government Services - AR

Mr. Aurelius H. Piper, Jr.
P.O. Box 1645
Bridgeport, Connecticut 06601

Dear Mr. Piper:

The Branch of Acknowledgment and Research (BAR) has completed an initial review of your petition for Federal acknowledgment of the Golden Hill Paugussett as an Indian tribe, as required under section 83.9(b) of the Acknowledgment regulations (25 CFR 83). In this preliminary review, the BAR's professional staff have examined the petition's historical narrative and its supporting documentation for apparent inadequacies in the evidence it offers to satisfy the seven mandatory criteria of section 83.7(a-g) of the regulations. This letter describes the obvious deficiencies and significant omissions that we have found in the Golden Hill Paugussett petition.

The Acknowledgment regulations provide an obvious deficiency (OD) review to ensure that a petition will be considered on its merits and will not be rejected during actual consideration because of technical problems. Thus, this letter does not constitute a preliminary determination of the Golden Hill Paugussett petition. It does not mean that the BAR has reached or will reach a positive or negative conclusion on the petition, or on the portions of it not discussed in this letter. The OD review is a limited, preliminary review conducted over a period of several weeks by a staff anthropologist, genealogist, and historian. Only when a petition is placed under active consideration is it reviewed and evaluated in depth by the Acknowledgment staff to determine whether or not the group meets the requirements to be acknowledged as an Indian tribe.

Although we recently received your letter dated July 26 requesting that we delay this OD review a second time, we are providing it for your benefit now because BAR staff members already had completed their work on it and we believe it could provide useful guidance to you and your consultants. We can conduct another OD review at your request when you revise your petition. As you will see, our judgment is that additional research by Mr. Wojciechowski on the colonial period is not what your petition needs. We want to encourage you to demonstrate that your group has continuously maintained tribal relations

since 1800 and to focus almost exclusively on the history of your group since that date.

The BAR received a documented petition on behalf of the Golden Hill Paugussett Tribe on April 12, 1993, a revised petition on June 10, 1993, and additional documentation up to July 27, 1993. None of these submissions, however, was certified by your group's governing body. The historical narratives contained in the petitions of April and June, while similar in content and wording, are different manuscripts. The presentation of the petition's supporting material is disorganized. It appears that we have received at least three overlapping series of documents. Some of these volumes are not titled and the same volume numbers have been used for different volumes. Much of the content of the supporting material is redundant. Thus, your petition will be improved if you will settle on one version of the narrative, organize the supporting documentation to match the narrative, and eliminate the duplication.

Your response to criterion (a) needs to be strengthened. Criterion (a) requires that outsiders have identified your group as American Indian on a "continuous basis." Accounts by scholars and local historians, the petition shows, have identified the Paugussett as an historical tribe during the colonial period. The petition also shows that newspaper accounts have identified the Sherman/Piper family as American Indian during recent decades. **What the petition needs is better evidence that links the historical Paugussett tribe with the modern Sherman/Piper family as a continuous Indian entity.** A lack of continuity is suggested by the almost complete absence in your supporting material of documentation from the century between 1817 and 1927, and by the petition's statement that the tribe was "reestablished" by William Sherman. You should provide evidence that, throughout the period from 1800 to the present, non-members identified your group as a continuation of the Paugussett tribe.

Your petition is deficient because it does not speak to the central issues under criterion (b) of community, residence, and descent. Criterion (b) requires that a petitioning group live "in a community" which is viewed as "distinct from other populations." Note, however, that the regulations do not require that the group exhibit an "Indian" culture. In general, what is missing from the petition is any discussion of the lives of the members of the group and how they have interacted with each other as a community. **Thus, the petition needs to demonstrate that a community exists beyond the single household of the tribal chief.** In support of a claim that the group is a "community" and has a "distinct" Indian culture, the petition discusses the importance of tribal rituals, kinship and clan membership, and the intensity of social relationships around the quarter-acre reservation. There are obvious deficiencies in the presentation of each of these topics.

The tribal rituals discussed in the petition need to be described

in detail only if it can be shown that these practices are indicative of the social cohesion necessary for a community to exist. Tribal rituals and ceremonies mentioned specifically in the petition or referred to in the supporting documentation include weddings, births, birthday parties, funerals, and corn harvest ceremonies, and the rituals involved in designating sacred ground, acquiring personal Indian names, planting native crops, constructing sweat lodges, building wigwams, brewing bark teas, burning cedar offerings, and producing beadwork and crafts. Do these rituals bring people together periodically? If so, are these occasions indispensable, or at least vitally important, for the conduct of social interaction throughout your group?

If your group wishes to use information about clan membership and kinship as evidence that it meets the requirements of criterion (b), your petition must explain how kinship and clan are indicators of the existence of a community and of interaction between community members. Thus the petition should explain how tribal members' awareness of where they are placed within these groups and of the obligations they acquire from kinship ties and clan membership influence the kinds of social interactions that make a community. The petition's brief discussion of kinship patterns and the reciprocity that characterizes kinship life pertains to American Indians in general and not to the Golden Hill Paugussett in particular. For example, the petition could describe how clan membership and kinship ties influence who may or may not marry whom, how non-members are assimilated into the community, or what kinds of obligations members of clans have toward one another, as opposed to those toward outsiders. If information about clan membership and kinship ties cannot address these issues, then perhaps it can be responsive to the issues under criterion (c).

The petition needs to describe the extent and cohesiveness of social relationships between tribal members. The petition should indicate if there are times when members interact with one another regularly, rather than returning home only for occasional visits, birthday parties, and funerals, or using the telephone and FAX as a means of keeping in touch. In addition, the petition could describe how activities at certain institutions, such as the tribal museum or school, bind group members together. Of special interest in your case are the relations between the group's "core" and peripheral members. We consider the social core of a community to be a group of people within the petitioning group who have a high degree of social connectedness, perhaps because they live exclusively in a certain area and participate regularly in common institutions. Others within the group may have less connectedness, perhaps because they have moved out of the traditional area and have few opportunities to see or meet with other members. While these more peripheral people may not be well connected with each other, they may be strongly connected to members of the core group. The petition needs to show that the group's peripheral members actually maintain contact with core members.

Much of the petition focuses on the narrow issue of the legal title to tribal and State reservation lands. If members have lived in proximity to each other in enclaves distinct from the larger population, then discussion of reservation lands may demonstrate the existence of a community. However, Criterion (b) does not require the petitioner to demonstrate that members lived on State reservation lands or traditional tribal lands. **Information about reservation lands is thus important only if it shows if and how members have maintained connections with each other.** The ledger book of William Sherman which was submitted to the BAR on July 23, 1993, is the kind of documentation that would be helpful for demonstrating that the ancestors of group members did interact on a regular basis as a community.

In addition, criterion (b) requires that a petitioning group's members be "descendants of an Indian tribe which historically inhabited a specific area." That the modern group descends from the historical Paugussett tribe is something the petition needs to show more clearly. The petition traces the descent of the modern group back to a single individual who purchased land in 1875 and transferred it to the State-appointed overseer in 1886. It asserts that this individual descends from the historical tribe, but has not sought to prove that fact. The petition also carries forward from aboriginal times into the nineteenth century a narrative of the geographical movement of the Paugussett tribe, but has not definitively linked that historical tribe to the existing Sherman/Piper family.

Your petition is seriously deficient in its response to criterion (c). It fails to speak to the requirement that the group demonstrate that it has maintained "tribal" political "authority over its members. . . ." **Previous Acknowledgment and judicial decisions have emphasized that a "bilateral" political relationship between leaders and followers must exist within a group in order to meet this criterion.** It is not sufficient to show that a leader has asserted authority or announced decisions for the group; it must be shown that members of the group were aware of these decisions and accepted this authority. It is not sufficient to show that a spokesman for the group has engaged in political discussions with governmental agencies; it must be shown that he was authorized to speak for the group. To help make this point, the petition documentation should include a copy of the tribal resolution cited in footnote 272 of the April 12, 1993, narrative. In short, the petition needs to demonstrate that there was interaction between the group's leaders and its members. The inadequacy of the petition on this point is related to its deficiency in regard to criterion (b), for in both cases the petition fails to demonstrate the existence of a community.

Criterion (c) also requires evidence that the petitioning group has maintained tribal political authority, which may have been informal rather than formal authority, over its members "throughout history" until the present. The petition, however, discusses tribal governmental or political activities only during

the last 20 years. Prior to that time, the petition acknowledges, the State appointed an overseer who exercised wide latitude over tribal affairs. On this specific point, the petition needs to show that the tribe made decisions affecting its members during the tenure of the State overseer. For example, other petitioners have pointed to evidence that their group requested action from its overseer or petitioned the State government about the overseer. In two previous cases the BAR has concluded that a group satisfied this criterion during the period in which it was under the guardianship of the State. Thus, you will want to consult the BAR's findings on the Gay Head Wampanoag and Narragansett petitions, copies of which are enclosed.

Although the constitution and by-laws of the tribe are included as exhibits to the petition, as required by criterion (d), they are not dated, signed, or certified to show that they have been passed by the group's governing body. The petition does not adequately explain the background of the constitution and by-laws. For example, it does not indicate when they were adopted and whether they were submitted to the membership for approval. If any earlier governing documents for the tribe exist, copies should be provided with the petition. The group's criteria for membership are defined by the document titled "Practice and Usage of the Golden Hill Tribe Concerning Membership," while "Rules for Tribal Membership and Government" enhances our understanding of membership criteria. However, neither of these documents are verified by the signatures of the governing body. Also, the eligibility standard in section I(A)(1) is vague. Is membership available to those who descend from any person listed at any time on official membership rolls, including those of the overseers in the early 1800's?

Criterion (e) requires that the membership of a petitioning group consist of individuals who can show descent "from a tribe which existed historically" or from historical tribes which combined as a single entity. You need to provide evidence to establish the lineal descent of William Sherman and George Sherman from the historical Paugussett tribe. Ruby Mansfield Sharpe's descent from a specific tribe rather than from the grouping of "Golden Hill Indians" needs clarification as well. Records which you may find helpful in tracing the lineal descent and geographical location of your members include federal census reports, obituaries from newspapers, ship logs, church and school records, court records, State welfare rolls, and reports from the overseer's files. Your petition includes individual history charts of only a portion of the active adult members of the tribe (18 years or older). As outlined in BAR's guidelines, you need to submit individual history charts, as well as pedigree charts showing descent, for each of your members.

Criterion (e) also requires that petitioners provide a "list of all known current members" of the group. Because membership lists have been submitted intermittently by your group, there is some question as to which membership list the BAR is to examine.

The current membership roll, which was submitted July 27, 1993, is dated March 15, 1992, while the roll previously submitted was dated March 15, 1993. On both these rolls, the youngest child recorded was born in 1984; are other children to be placed on the rolls? Please note that BAR guidelines require the full name (including maiden name), current address, and date of birth of all members. The membership list must be certified and signed by the group's governing body or membership committee. According to criterion (f), the membership of a petitioning group must be "composed principally of persons who are not members of any other" tribe. Your petition should discuss this issue of whether or not your group has members who also are members of other tribes. There is no evidence that your membership criteria exclude dual enrollment, and you may want to address this topic in your membership guidelines.

The BAR suggests that you continue to keep your membership list current by recording births and deaths which take place in the interim before the petition is placed under active consideration. When you are notified that the petition is being placed on active consideration status, you should submit a supplemental list which includes additions to the membership, such as newborn infants and individuals who were inadvertently omitted from the original list, and notes the losses in membership, such as members on the original list who are deceased at the time the petition is placed under active consideration. An accurate membership roll is important for at least two reasons. The community defined by your membership list is the group on which the BAR will focus in evaluating your petition. Also, if your group is recognized through the acknowledgment process, this list of members will become the group's base roll for BIA purposes and will be binding on the group for some time to come.

In general, while it certainly is acceptable to submit as documentation a copy of the relevant portion of a book, you have submitted documents which often are too fragmentary to be meaningful. We will provide a few illustrative examples. In the excerpt from the Bicentennial Edition, Town of Woodbridge, Connecticut, only two unnumbered pages are included. It would be helpful to know what page came prior to the one that begins, "In spite of the disappearance of their tribe. . . ." An article about the "Burial Place of Proud and Haughty Redskins" is incomplete and provides neither the date nor the source of the item. The index for the History of Ancient Woodbury is limited only to page 815, but does not even include the Sherman name. The appendix, bibliography, and register of the inhabitants of North Milford from the History of Orange, North Milford, Ct. includes only pages 155 and 162, and not the title page. The information on the pages following page 155 perhaps would be helpful. Many of the copies in the submissions of June 28, 1993, are illegible, some due to copying problems and others due to page placement. Clear, complete, and legible copies of materials are necessary for a proper understanding of the evidence.

A purpose of the OD review of the petition is to provide the petitioner the opportunity to submit additional information or clarification prior to the active consideration of its petition. You may respond in part or in full to the OD review, or you may request the BAR to proceed with its evaluation of your petition using the materials you already have submitted. The decision as to whether or not the group chooses to address the deficiencies noted in the OD review should be made by the group and not solely by its researchers.

If you respond to the OD review, this does not imply in any way that your group meets the seven mandatory criteria simply by submitting additional data. You may request that the BAR also review the materials you submit in response to the OD review for their adequacy. An additional review will not be automatic, but will be conducted only at your request. However, you must take into consideration the limitations of these preliminary reviews. We do not know all of the questions that an in-depth review during active consideration might raise about a petition.

The BAR's caseload no longer permits the Acknowledgment staff to do the research for the petitioner that is necessary to fill in gaps in the petition, as they sometimes have done in the past. The staff's research during the active consideration period will be for the purpose of verifying and clarifying an already complete petition. With the information and/or documentation requested in this OD letter, the Acknowledgment staff will be able to evaluate your petition more effectively when it is placed under active consideration.

Once you have had an opportunity to review this letter thoroughly and to share its contents with your researchers and general membership, we recommend that you contact the Acknowledgment staff about any questions that you may have. If needed, they will provide additional technical assistance to you and your researchers. Please do not hesitate to contact them by writing c/o Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 2611-MIB, 1849 C Street, N.W., Washington, D.C. 20240, or by phoning (202) 208-3592.

Sincerely,

/S/ CAROL A. BACON

Director, Office of Tribal Services

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