

(3) Technical Assistance Letter(s)

- May 5, 1995



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20245



IN REPLY REFER TO:

Tribal Government Services - AR
MS: 2611-MIB

MAY 5 1995

Mr. D.K. Sprague
c/o Mr. William L. Church
5721 Grand River Drive
Grand Ledge, Michigan 48837

Dear Mr. Sprague:

Thank you for delegating Mr. Roger Sprague, Mr. William Church, and Reverend and Mrs. Lewis W. Church to meet with staff of the Branch of Acknowledgment and Research (BAR) on January 26, 1995, concerning the Technical Assistance (TA) review of the Match-e-be-nash-she-wish Band of Potawatomi 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 Match-e-be-nash-she-wish Band's petition for Federal acknowledgment as an Indian tribe. This letter is issued under section 83.10(c). It describes any obvious deficiencies or significant omissions apparent in the Match-e-be-nash-she-wish Band's petition.

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 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 Match-e-be-nash-she-wish Band consists of descendants of treaty signers, and as such had prior unambiguous Federal acknowledgment, which will permit the petition to be evaluated under 25 CFR Part 83.8. The preliminary TA review indicates that this unambiguous Federal acknowledgment continued as long as the band's members continued to comply with the provisions of the Treaty of 1855 by residing in Oceana County in anticipation of receiving allotments under that treaty. Approximately 1870, the band decided to return to its home area in Allegan County, Michigan. Since 1870, the Federal government has dealt with band members as individual Indians entitled to attendance at BIA schools, etc., but has not dealt with the band as an entity. Therefore, 1870 will be used as the last date of unambiguous prior acknowledgment unless other documentation verifying a later date is submitted.

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, this is modified to require proof of external identification of your group as an American Indian entity since the last date of unambiguous prior Federal acknowledgment -- in your case, since 1870.

Review of the material submitted in your petition indicates that you have gathered adequate documentation to address 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

Under 83.7, this criterion requires a demonstration that the petitioning group has been a community from historical times until the present. Under 83.8, prior unambiguous Federal acknowledgment, this criterion is modified to require only the demonstration of modern community. Demonstration of historical community at each point in time is not required.

As the BAR staff indicated in the January 26, 1995, meeting with your representatives, your petition can be strengthened by submitting the following types of material for the contemporary period -- within the last ten years or so. Specifically, we need to know how members who live in Bradley/Salem and in other communities interacted with each other. Some ways to show interaction for your group could include shared religious practices, participation in cooperative labor projects, marriage within the group (or to other Indians), sharing a culture distinct from non-group members residing in nearby communities, and providing for their families' welfare.

We do not require that you provide information on all of these activities. These are suggestions and examples of activities which can demonstrate interaction -- i.e., community.

As we discussed in the January 26 meeting, the following types of materials might be available to your group. Gather as many of these kinds of evidence as you can.

From 1950 to the present -- submit a list of marriages of members that includes the member's name, spouse's name, and spouse's ethnicity (either from the petitioning group, other Indian group, or non-Indian). From what we already know of your case, we believe that the level of intermarriage may provide good evidence for community. Most of this information will be available on the ancestry charts you have already submitted. The ethnicity of the spouse may be provided from the personal knowledge of your group's elders.

From 1980 to the present -- provide the guest lists of members attending weddings, graduations, showers, house warmings, camp meetings, and funerals, etc. and include the date and location of each gathering. If any group member maintains a scrapbook, that might be a good source for finding these newspaper clippings, etc. For each category of group gathering, also provide a brief narrative as to how and why the category of gathering establishes your group as being a distinct, socially cohesive community.

Provide any lists of members you may have, dating from 1950 to 1990.

From 1950 to present -- provide a list, by decade, of the total number of births and deaths of your membership. This can also be done on the basis of the genealogical charts that you have already gathered.

For the following items, much of the documentation may already be in your files in the form of the oral interviews which your researchers have done with the group's members. If the oral interviews that you have already done were taped, or transcripts made, you may wish to submit copies as exhibits to the petition. The following tasks are not all required. We advise you to combine elements from these tasks, guided by the nature of evidence available to you without undertaking new and costly research.

From 1980 to the present -- provide a documented narrative illustrating how, when, and where members assisted each other in the same community and from different communities in times of need (examples: illness, lack of food, house repairs, money for emergency travel/medical operations, education, etc.). Cite examples for each category showing how a member or members assisted another member or members who were living in the same community (Bradley, Moline, Hopkins, or other community); and, for example, where an individual or individuals lived in two different communities (Bradley and

Wyoming, Bradley and Hudsonville, Grand Ledge and Portage, etc.);

Or:

From 1980 to the present -- provide a documented narrative illustrating why, how, when, and where members socially interacted with each other in the same community or different communities. Possible reasons for interacting might have included: church activities, Match-e-be-nash-she-wish activities, maintaining social ties (visiting), youth seeking information/language instruction from elders, weekly teas (etc.), seasonal hunting/fishing activities, group travel to a church, group travel to a powwow, family/group travel to visit relatives/friends in other communities, etc. Describe how the social interaction of members helped to define the group as a distinct community;

Or:

From 1980 to the present -- if there has been any, provide a documented narrative of instances of discrimination against Match-e-be-nash-she-wish by non-members of the group, instances in which non-members showed that they viewed members as socially distinct, or instances which showed that non-members viewed Match-e-be-nash-she-wish institutions as fundamentally different from non-member institutions. Members of a petitioning group must demonstrate at least a minimal social distinction from non-members. This requires that they identify themselves as distinct and that they be identified as different by outsiders who are not of the group. The existence of cultural differences between the group and outsiders to the group, such as different ceremonies, belief systems, or ways of organizing kinship relations, can also provide strong evidence for the maintenance of a high level of social relations within a group. This criterion requires distinction rather than difference. For example, the Indian Methodist missions, such as those at Bradley and Salem, are distinct from other Methodist churches, even though not theologically different from other Methodist churches;

Or:

From 1980 to the present -- provide a documented narrative showing examples of members grouping together to conduct a labor or economic oriented activity that would benefit the Match-e-be-nash-she-wish community (church repair, cemetery cleaning, etc.). For each example, indicate which members from what town participated in the activity, and how the activity demonstrated group cohesiveness;

Or:

From 1980 to the present -- describe rates of informal social interaction (visiting, telephoning, collaborating on projects, attending events together, etc.) by community. Include both the "social core area" (defined for the Match-e-be-nash-she-wish as within a twenty mile radius from Bradley, to Hastings toward the east, Wyoming toward the north, to Lake Michigan to the west, and to Plainwell to the south) and peripheral members. The "social core" of a group often corresponds roughly with a core geographic area, but does not necessarily do so. Characteristically, peripheral members have significant connection with the social core, although generally not with each other. It is essential to demonstrate that most of the peripheral individuals maintain social ties and interaction with the social core.

We do not expect you to do all of the above. These examples are to guide your work in describing the modern community -- not a list of required work.

Remember, a petitioner needs to show that there is significant social interaction and/or social relationships, not just within immediate or extended families or among close kinsmen, but across kin group lines and other social subdivisions. With a petitioning group as small as the Match-e-be-nash-she-wish Band (actual enrollment, 126; potential maximum enrollment, 240), this should not be difficult.

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

Criterion 83.7(c) requires a demonstration that a petitioning group does now exercise and has in the past exercised political influence over its membership, that there are leaders who have followers whom they influence and who influence them in significant ways, and/or that the group by other means is able to make decisions in matters of consequence and maintain a consensus among its members. The group may also present evidence that its leaders have been authorized to represent it to outsiders or mediate with outsiders in matters of significance.

Under 83.8, this requirement is modified to require that the group identify a named sequence of leaders who were known to reliable external authorities since the last date of unambiguous prior Federal acknowledgment (1870), and show current bilateral political interaction between leaders and followers.

Political authority or other influence may be demonstrated in a variety of ways. Strong evidence of political influence, of course, would be a showing that the group and/or its leaders apportion group resources, enforce rules of behavior, and/or resolve disputes between members (the petition already presented includes some instances of this kind of behavior). However, these ideal kinds of evidence are not necessary to meet the minimum requirements of criterion (c).

Political authority, in the sense of being able to require action or enforce decisions over strong opposition, does not have to be demonstrated, although such political authority would be considered to be a high level of evidence for criterion (c). It is also not necessary that political influence be exercised in all or most areas of members' lives or their relationships with other members. Nonetheless, the political influence of the group or its leaders must not be so diminished as to be of no consequence or of minimal effect. The intent of the regulations is that more than a trivial degree of political influence be demonstrated by showing that the leaders act in some matters of consequence to members or affect their behavior in more than a minimal way.

Please provide BAR with a chronological, named list of leaders from 1870 to the present. Include not only "formal" leaders, such as elected chiefs, but also "informal" leaders--religious figures, medicine women, etc. In the case of the Match-e-be-nash-she-wish Band, where the group's identity has been so closely identified with the church, this group should probably include lay preachers, etc.

It must be shown that there is a political connection between the membership and leaders and, thus, that the members of the group and its leadership maintain a bilateral political relationship. This connection must exist broadly among the membership. It has sometimes been phrased that not only must there be leaders, but there must also be followers. On occasion, a small body of people carries out legal actions or makes agreements affecting the economic interests of a group, and the membership may be significantly affected without the slightest awareness or consent of those affected and without significant political processes occurring. A group which operates in this way, generally does not demonstrate evidence which would meet criterion (c).

Political connections between leaders and members may be informal, through public opinion or other indirect connection. The existence of a significant level of social cohesion is an important form of supporting evidence because political influence, where coercive authority is not exercised, requires social connections and obligations as its basis.

The acknowledgment regulations allow for consideration of the cultural differences between tribes and the historical circumstances affecting their organization. However, when a petitioner is evaluated, the fact that it no longer has a land base, controls significant resources, and is subject to the legal and political institutions of non-Indian society, may inform the evaluation, but the BAR cannot set aside the requirement that to be acknowledged as a tribe, some form of political authority, leadership, and decision-making must be retained.

Under criterion (c) of the regulations, a petitioner must be politically autonomous from the governing body of a recognized tribe. You should be aware that the regulations governing the Acknowledgment process are designed to bar this administrative process from breaking up presently acknowledged tribes. Groups with a membership predominantly made up of members of a federally recognized tribe and which believe there are historical or other reasons why they should be separate must seek a remedy through other means such as legislation or, in some cases, judicial action.

Please see the discussion under criterion 83.7(f) for possible application of this standard to your group's petition.

Criterion 83.7(d):

A COPY OF THE GROUP'S PRESENT GOVERNING DOCUMENT,
OR IN THE ABSENCE OF A WRITTEN DOCUMENT, A STATEMENT DESCRIBING
IN FULL THE MEMBERSHIP CRITERIA AND THE PROCEDURES THROUGH WHICH
THE GROUP CURRENTLY GOVERNS ITS AFFAIRS AND ITS MEMBERS.

You have submitted a written constitution. It must be dated, signed, and certified to show that it has been passed by the group's governing body or membership.

If it is not dated, signed, and executed, explain the background and current status of the constitutional document submitted with the petition. When was it written? Has it ever been submitted to the membership for a vote? If so, when and what were the circumstances? If minutes exist of meetings where the governing documents were discussed, please provide them, including any lists of persons who were present at these meetings.

If the petition contains any indication that the governing document is not always followed, some attempt should be made under criterion (c) to explain how the group actually runs politically.

Do any earlier governing documents exist? If so, provide copies with your response.

Please present a copy of your group's membership application and a statement covering the function of your enrollment committee.

Criterion 83.7(e):

A LIST OF ALL KNOWN CURRENT MEMBERS OF THE GROUP AND A COPY OF EACH AVAILABLE FORMER LIST OF MEMBERS BASED ON THE TRIBE'S OWN DEFINED CRITERIA. THE MEMBERSHIP MUST CONSIST OF INDIVIDUALS WHO HAVE ESTABLISHED, USING EVIDENCE ACCEPTABLE TO THE SECRETARY, DESCENDANCY FROM A TRIBE WHICH EXISTED HISTORICALLY OR FROM HISTORICAL TRIBES WHICH COMBINED AND FUNCTIONED AS A SINGLE AUTONOMOUS ENTITY.

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 a 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.

The membership list submitted on October 27, 1994, did not include as much data as is needed for purposes of BAR evaluation. It should include, at a minimum: Maiden names of women; addresses, birth dates, and nuclear family relationships (particularly parents' names).

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

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.

As you are aware, many of the members of your group are carried on the rolls of Huron Potawatomi, Inc. Should the HPI petition for Federal acknowledgment receive a favorable determination from the Assistant Secretary prior to active consideration of the Match-e-be-nash-she-wish Band's petition, this enrollment situation will have to be clarified.

Criterion 83.7(g):

THE PETITIONER IS NOT, NOR ARE ITS MEMBERS, THE
SUBJECT OF CONGRESSIONAL LEGISLATION WHICH HAS EXPRESSLY
TERMINATED OR FORBIDDEN THE FEDERAL RELATIONSHIP

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 at: Bureau of Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, (202) 208-3592.

Sincerely,

JOANN SEBASTIAN MORRIS

Acting Director, Office of Tribal Services

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