



INTERIOR BOARD OF INDIAN APPEALS

In re Federal Acknowledgment of the St. Francis/Sokoki Band of Abenakis of Vermont

46 IBIA 13 (10/10/2007)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

IN RE FEDERAL ACKNOWLEDGMENT)	Order Docketing and Dismissing
OF THE ST. FRANCIS/SOKOKI)	Request for Reconsideration of
BAND OF ABENAKIS OF VERMONT)	Final Determination Against
)	Federal Acknowledgment
)	
)	Docket No. IBIA 08-2-A
)	
)	October 10, 2007

On October 3, 2007, the Board of Indian Appeals (Board) received a request for reconsideration of the Final Determination against Federal acknowledgment of the St. Francis/Sokoki Band of Abenakis of Vermont (Petitioner) as an Indian tribe within the meaning of Federal law.¹ The Final Determination was signed by the Assistant Secretary - Indian Affairs on June 22, 2007, and notice of the determination was published in the *Federal Register* on July 2, 2007. 72 Fed. Reg. 36,022. The request collectively consists of six letters signed by individuals, copies of two e-mails from individuals, and accompanying materials, all of which were jointly submitted to the Department of the Interior's Office of Federal Acknowledgment (OFA).² OFA forwarded the submission to the Board as a

¹ The Final Determination concluded that Petitioner did not satisfy four of the seven mandatory criteria required for Federal acknowledgment as an Indian tribe under 25 C.F.R. Part 83, specifically subsections 83.7(a)-(c) & (e): external identification as an Indian entity since 1900; community; political authority; and membership from a historical tribe.

² The letters were from Louise Lampman Larivee, Larry LaPan Sr., Lisa Lampman Rollo, Christine Barratt, Brad Barratt, and Suzette St. Francis. The e-mails were from Shirley St. Francis Phelps and Sandra St. Francis Cline. All of these individuals apparently are associated with Petitioner. Louise Lampman Larivee and Lisa Lampman Rollo identify themselves as daughters of the late Chief Leonard Lampman and direct descendants of the Historical Missisquoi Tribe. Louise states that her letter is for her whole Lampman family band and for all of her people. Members of the Lampman family submitted comments after OFA published a proposed finding against Federal acknowledgment of Petitioner. *See* Summary under the Criteria and Evidence for Final Determination against Federal Acknowledgment of the St. Francis/Sokoki Band of Abenakis of Vermont, June 22, 2007, at 5 & n.4, 8, 33, and 47.

possible request for reconsideration under 25 C.F.R. § 83.11.³ The Board docketed the request, but dismisses it as untimely.

A request for reconsideration of a final determination on a petition for Federal acknowledgment must be filed with the Board, 25 C.F.R. § 83.11(a)(1), and “must be received by the Board no later than 90 days after the date of publication” of the final determination in the Federal Register, *id.* § 83.11(a)(2). The Board “shall dismiss” a request for reconsideration that is not filed within the 90-day deadline. *Id.* § 83.11(c)(1). A requester who does not follow the Federal Register notice instructions and files a request in the wrong office must bear the risk that the request will not be received by the Board within the requisite time period. *In re Federal Acknowledgment of the Nipmuc Nation*, 40 IBIA 149, 150 (2004).

The *Federal Register* notice for the Final Determination specifically referred to 25 C.F.R. § 83.11, and specifically instructed that requests for reconsideration be filed with the Board “no later than 90 days after the publication of the [Final Determination] in the **Federal Register**.” 72 Fed. Reg. at 36,025. Although the request in the present case was received by OFA on September 25, 2007, the regulations clearly require that requests be filed with the Board, and that they be *received* by the Board within the 90-day period in order to be timely. The request was not received by the Board until October 3, 2007, two days after the 90-day deadline expired.

The Board finds that the request in the present case is untimely and concludes that it must be dismissed.⁴

³ The request does not appear to have been served on all interested parties, as required by the regulations, 25 C.F.R. § 83.11(b)(2), but the Board’s dismissal makes that procedural requirement moot.

⁴ Even if the request had been timely, it appears that the individuals who submitted the request may not have standing. None of the individuals is the contact person for Petitioner who is identified in the *Federal Register* notice as April Merrill, *see* 72 Fed. Reg. at 36,022, and the request does not appear to have been submitted on behalf of Petitioner. The Board has previously held that individual members of a petitioning group lack standing to file requests for reconsideration. *See In re Federal Acknowledgment of the Nipmuc Nation*, 41 IBIA 96 (2005) (dismissing Foster and Wheaton requests); *In re Federal Acknowledgment of the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians*, 41 IBIA 100 (2005) (dismissing Henriens request). In addition, except for contesting the result, none of the letters or e-mails states any specific alleged errors in the Final Determination.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1 and 25 C.F.R. § 83.11, the Board docketed but dismisses as untimely this request for reconsideration of the Final Determination against Federal Acknowledgment of the St. Francis/Sokoki Band of Abenakis of Vermont.⁵

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

⁵ The Board has not received any other requests for reconsideration of the Final Determination.