



# United States Department of the Interior

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20240

NOV 09 2011

Mr. Kevin Brown  
175 Lay Landing Road  
King William, Virginia 23086

Dear Mr. Brown:

This letter is to confirm that the Office of Federal Acknowledgment (OFA) on Wednesday, September 28, 2010, at the Department of the Interior (Department) in Washington, D.C., provided informal technical assistance (TA) to the group known as the "Pamunkey Indian Tribe" (Petitioner #323). OFA provided this TA in response to a consultation telephone call on September 19, 2011, requesting a meeting to discuss the TA letter OFA sent to the group on April 14, 2011. This letter also addresses Attorney Mark Tilden's letter of September 19, 2011.

In the meeting, we indicated that there was sufficient information in the submitted petition materials to evaluate the group under criteria 87.3(a), 87.3(b), and 87.3(c). Criteria 87.3(f) and 87.3(g) lacked only minor items. We identified significant omissions in criteria 87.3(d) and 87.3(e).

Your researchers described how they planned to supplement the materials for criteria 87.3(a), 87.3(b), and 87.3(c). This included a discussion on how the group might redact identifying information from the submitted materials without obscuring important topics discussed in the documents themselves.

Under criterion 87.3(d), we addressed the changes made to the 1954 governing document by ordinances or amendments mentioned in meeting minutes, but not reflected in the copy of the governing document the group submitted to OFA. You indicated that the group would submit a list of these ordinances and amendments. We discussed the statement in the petition that all current members descend from individuals named on a number of lists and documents (Federal census records, reservation census records, and group voting lists) from the early 20th century, and whether descent from these individuals was a formal membership requirement. We also discussed with you the difference between *members* and *citizens* as described in the petition documentation.

During the discussion you stated the group's membership criteria require an individual must be a relative of a current or past member and have actual interaction with the group. If that is an accurate description, then it will allow the group to maintain control over its future membership as long as both aspects are clearly defined in an ordinance or resolution and not left open to interpretation. From our discussion it is clear that your group does not consult the early 20th

century lists for membership decisions although your representatives described that all current members do descend from historical individuals on those lists.

Under criterion 87.3(e), we reminded the group of the requirement to provide copies of any previous membership lists, as well as a statement describing the circumstances surrounding the preparation of the former and current lists. As the petition documentation referenced (but did not include) a membership list prepared in 1954, we reiterated that the absence of this list needed explanation. We also requested more information regarding the personal interviews for membership that the petition documentation referenced, specifically regarding whether each person was asked the same questions, or if questions were different for each applicant.

Criteria 83.7(f) and 87.3(g) lacked only minor items, which we suggested could be remedied by the inclusion of a statement affirming that the group is composed principally of persons who are not members of any federally recognized tribe, and another stating that the group is not subject to congressional legislation expressly terminating or forbidding the Federal relationship.

As the meeting concluded, we discussed the group's request for a nine-month extension for responding to its TA review letter, as well as various actions the group might take to speed the group's placement on the "ready" list. We also discussed the requirements for beginning a threshold study (preliminary review) to determine whether the group would qualify for a waiver of the priority provisions to place the Pamunkey petitioner at the top of list of petitioners waiting for active consideration, per the May 23, 2008, Guidance and Directive (73 FR 30147).

The group's counsel, Mr. Mark Tilden, suggested that the group could submit a focused response to the TA review letter, and that the group's petition could then be placed on the "Ready, Waiting for Active Consideration" list. This would allow the Department to assign a genealogist, when available, to conduct the 90-day review to determine whether this petition meets the requirements outlined in Section IV of the 2008 "Guidance and Direction" for expedited processing. The petitioner could continue to work on supplementing its petition in response to the issues raised in the TA letter during the 90-day review. In the event that the review resulted in the petition being moved to the top of the "Ready" list, the petitioner could continue its research during whatever additional time elapsed until the petition was put on active consideration, and also during the 60 days at the beginning of Active Consideration during which a petitioner may submit additional materials.

The Department is open to this approach, if the focused response satisfies the basic deficiencies outlined in the TA review letter. On October 11, 2011, we received a faxed copy of the group's research plan that we discussed would be needed to consider the group's request for a nine-month extension for responding to its TA review letter. By submitting this research plan, and considering the request as outlined in your attorney's letter of September 19, 2011, the due date for responding to the TA Review letter is now on or before Wednesday, July 11, 2012.

Finally, your researchers asked if they could make arrangements to view the FAIR database system the following day. Our office gave Ms. Michelle Kiel and Dr. Michael Lawson an introduction to the FAIR database the next day.

Should you have any questions, please do not hesitate to contact us at the Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., MS 34B-SIB, Washington D.C. 20240, or call (202) 513-7650.

Sincerely,

(sgd) R. Lee Fleming

Director, Office of Federal Acknowledgment

cc: Mr. Mark Tilden