

EXHIBIT A



THE BURT LAKE BAND OF
OTTAWA & CHIPPEWA INDIANS, INC.

6461 East Brutus Road • P.O. Box 206 • Brutus, Michigan 49716
Phone: (231) 529-6113 • Fax: (231) 529-2006
www.BurtLakeBand.org

October 2, 2015
President Barack Obama
White House
1600 Pennsylvania Avenue
Washington, DC 20002

Re: Burt Lake Band of Ottawa and Chippewa Indians

Dear Mr. President:

I hope this finds you well and in good spirits. I am Bruce Richard Hamlin, Chairman of the Burt Lake Band of Ottawa and Chippewa Tribal Council. Since time immemorial, our ancestral home has been along the beautiful shores of Burt Lake in Michigan's northern Lower Peninsula. On behalf of all the Members of the Burt Lake Band of Ottawa and Chippewa Indians of northern Michigan (BLB), I implore you to end the federal government's continual denial of our sovereignty and rights under the treaties entered into with the United States Government.

Burt Lake Band has also been known as the Cheboygan Tribe of Ottawa and Chippewa Indians and were signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit. My Great-Great-Great-Great Grandfather was a man named Kiminichigan. He was the interpreter and a negotiator on the 1836 Treaty. Kiminichigan's grandson, Augustine Hamlin, Jr., held the same honor during the 1855 Treaty of Detroit. I proudly possess a copy of the 1855 Treaty signed not with signatures of the native leaders, but with their clan symbols representing over 50 Native American Chiefs and headmen. The signatory symbols were recognized and understood by all Native Americans that their Band had entered into a sacred trust with the Federal Government as to the terms, conditions and obligations under the Treaties.

In both of these Treaties, Burt Lake Band ceded most of their ancestral land for smaller tracts of land along the shores of Burt Lake. To prevent the Federal Government from moving us off our reservation and out of our homes along Burt Lake, we "purchased" our ancestral homes and the land along Burt Lake from the Federal Government so we could hold title in "perpetuity". We purchased our land back from the Federal Government with the financial allotment provided us individually under the Treaty of Detroit. We entrusted the title to our land to William A. Richmond, agent with the Office of Indian Affairs in Michigan. We knew and trusted William A. Richmond as he was one of the signers on behalf of the federal government on the Treaty of Detroit. As was common practice, William A. Richmond placed our land "...in trust to the Office of Governor of Michigan and his Successors for the Cheboygan Band of Indians whom which Kie-She-go-we is Chief."

President Obama Correspondence

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Over the next several decades, our land was at times mistakenly deemed taxable by the county treasurer. At other times, when we attempted to pay our taxes, we were turned away in recognition of our trust status. Eventually, ignorance prevailed and the trust status of our land was forgotten. The county treasurer declared our land taxable and it was escheated to the State of Michigan for non-payment of taxes. A wealthy timber baron was allowed to purchase our land for pennies on a dollar and obtained a court order to remove us from our ancestral homes.

During the cold rainy night of October 15, 1900, while the native men were in town collecting their paychecks, the local sheriff without notice forcefully evicted women, children and the elderly from their homes and burnt every home down to the ground and handed our ancestral lands to a timber baron for non-payment of taxes. Our people scattered, some moved in with neighbors and families in nearby villages, others further away. The judge who signed the Order evicting us from our homes claimed that if he had known the facts, he never would have signed the eviction Order.

When we asked for help from the Federal Government and its Indian agent to reclaim our land, the agent handed the case over to the State of Michigan which declared our lands "...held by Indians as real estate is held by other citizens of the State and were taxed the same as other lands".

The Michigan Legislature recognized that our land was illegally taken and passed a Joint Resolution in 1903 authorizing the State of Michigan to purchase up to 400 acres "...for the benefit and use of said (She-boy-gan) band of Indians and their descendants". Michigan's Joint Resolution #20 remains in effect today but the State of Michigan never purchased any land for our tribal Members.

Finally, in 1911 the Federal Government filed suit claiming that our ancestral land never should have been taxed by the State of Michigan and acknowledged that Burt Lake Band "...is under the care, control and guardianship of the plaintiff [federal government] and said band is now and was at all times mentioned in this bill of complaint recognized by plaintiff through its chiefs or head men..." Several years later the Federal Court dismissed our case citing that the U.S. Government failed to put the proper tax exempt language in the deeds to the Burt Lake Members when they purchased the land. Despite numerous requests by BLB to appeal the decision, an appeal was never filed.

Mr. President, the deeds of the Burt Lake Band and the Huron Pottawatomie Indians containing the exact same language [as being held by the Governor of Michigan in perpetuity] was recorded on the exact same date, June 1, 1848. The Pottawatomie land continues today as tax exempt Reservation land. In fact, the Pottawatomie used their deed, word for word the same language as

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our deed, to establish their reaffirmation status with the BIA. The Huron Pottawatomie Nation had its reaffirmation status awarded in March of 1996. Can anyone justify how the BIA fails to reaffirm our status when we have the exact same language in our deeds and recorded on the exact same date as the Pottawatomies?

In 1934, we petitioned the Federal Government to assist us under the Indian Reorganization Act (IRA) and once again the Federal Government ignored us while acknowledging our Tribe existed. The Federal Government claimed that since the Burt Lake Band did not own communal land, it could not provide us assistance under the IRA. We did not own communal land because the State of Michigan escheated our land for non-payment of taxes and burned us out of our homes.

In more recent times, Burt Lake Members sought reaffirmation from the Bureau of Indian Affairs under 25 CFR part 87 of the BIA's recognition process. (A process described as broken and designed to make the tribes fail as stated by senior BIA officials) Burt Lake Band's Petition for Reaffirmation was stalled for more than 25 years. During this 25 years of delay and denial of Burt Lake Band members their rights and obligations under the Treaties, BIA and Congress recognized the other "homeless" communal property Tribes in Michigan, including:

- (A) The Sault Ste Marie Tribe of Chippewa Indians was reaffirmed by a Memorandum of the Commissioner of India Affairs on September 7, 1972.
- (B) The Grand Traverse Band of Ottawa and Chippewa Indians was reaffirmed by the Bureau of Indian Affairs, Branch of Acknowledgement on May 27, 1980.
- (C) The Lac Vieux Desert Band of Lake Superior Chippewa Indians had its Federal status reaffirmed by an Act of Congress at the request of the Administration on September 8, 1988.
- (D) The Little Traverse Bay Band of Odawa Indians and the Little River Band of Ottawa Indians each had its Federal status reaffirmed by an Act of Congress on September 21, 1994.
- (E) The Pokagon Indian Nation had its Federal status reaffirmed by an Act of Congress on September 21, 1994.
- (F) The Huron Potawatomi Nation had its Federal status reaffirmed by the Bureau of Indian Affairs Branch of Acknowledgement and Research on March 17, 1996.
- (G) The Gun Lake Tribe (Match-She-Be-Nash-She-Wish) had its Federal status reaffirmed by the Bureau of Indian Affairs Office of Federal Acknowledgement on August 23, 1999.

In 2006 after 25 years of waiting, the BIA acknowledged that Burt Lake Band had been a federally recognized tribe but ultimately denied us Reaffirmation. BIA continues to deny us our sovereignty and rights granted under the Treaties. When it comes to reaffirming our legal status, the BIA passes the decision off to Congress by claiming "... Congress may consider taking

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legislative action to recognize petitioners that do not meet the specific requirements of the acknowledgement regulations, but may have merit.”

Now, nine years after BIA’s denial of our Petition for Reaffirmation through their broken recognition process, the BIA claims they have fixed the recognition process. However, petitioners who received negative findings under the old, broken regulations are not allowed to re-petition.

Once again, the Federal Government shirked its responsibility to the Burt Lake Band. The BIA’s decision on Reaffirmation claimed that Burt Lake Band was negligent for not presenting sufficient evidence of continual reliance upon the tribe for social services and tribal leadership. How can you have a continual reliance when you have had your entire village burned to the ground and your land illegally stolen? Is it not miraculous enough that we have managed to stick together all these years?

Throughout his 18 year career, Congressman Bart Stupak championed our cause in the US House of Representatives. The US House of Representatives actually passed legislation “reaffirming” our legal status under the Treaties by a vote of 240-176. However, once again the Federal Government created an impossible hurdle to reaffirmation by requiring our legislation to only be considered under a suspension of the House Rules and therefore requiring a 2/3 majority to pass.

Although we are a rather small Band of Ottawa and Chippewa Indians, our treaty rights are as equal as any Band in Michigan. The Michigan Congressional delegation has continually introduced legislation that would restore our legal rights. Our Tribal Membership Rolls accurately identify our tribal members. Every last one of us in the Burt Lake Band can trace our lineage back to the Durant Roll of 1908 and to the families forcibly and illegally removed from our village in October of 1900.


Mr. President, we are convinced that you may be the only hope we have left for regaining our sovereignty and rights under the Treaties with the Federal Government.

I implore you to review our tortured history with the state and Federal Governments and restore our long overdue rights under the Treaties of 1836 and 1855. As American citizens, our tribal members have not ignored our obligations to the United States. We have fought and died in every American war since the Civil War. While America has fought and defended its citizens at home and around the globe, the Federal Government will only acknowledge us as a signatory to two Treaties then fails to grant us our sovereignty and rights called for in the Treaties.

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If I or any of the Members of the Burt Lake Band of Ottawa and Chippewa Band of Indians can be of further service to our country, please do not hesitate to call upon us.

Respectfully yours,



Bruce Hamlin
Chairman, Burt Lake Band of Ottawa and Chippewa Indians

Cc: US Senator Debbie Stabenow
US Senator Gary Peters
Congressman Justin Amash
Congressman Dan Benishek
Congressman Mike Bishop
Congressman John Conyers
Congresswoman Debbie Dingell
Congressman Bill Huizenga
Congressman Dan Kildee
Congresswoman Brenda Lawrence
Congressman Sandy Levin
Congresswoman Candice Miller
Congressman John Moolenaar
Congressman David Trott
Congressman Fred Upton
Congressman Tim Walberg
Former Congressman Bart Stupak

EXHIBIT B

PUBLIC ACTS
OF
THE LEGISLATURE

OF THE
STATE OF MICHIGAN

PASSED AT THE
REGULAR SESSION OF 1903

CONTAINING JOINT AND CONCURRENT RESOLUTIONS, AMEND-
MENTS TO THE CONSTITUTION, AND THE STATE
TREASURER'S REPORT FOR THE YEAR
ENDING JUNE 30, 1903



BY AUTHORITY

LANSING MICHIGAN
ROBERT SMITH PRINTING CO., STATE PRINTERS AND BINDERS
1903

St. Joseph	\$52 86
Tuscola	1,034 48
Van Buren	163 67
Washtenaw	47 18
Wayne	1,152 43
Wexford	584 09

which said sums are still retained by the State; therefore
Resolved by the Senate and House of Representatives of the State of Michigan, That the Auditor General be and he is hereby directed to credit to the several counties of the State, such sums of money as may be due them as such collection fees, as appears above.
 Approved June 18, 1903.

[No. 20.]

A JOINT RESOLUTION for the relief of the Cheboygan Band of Indians, who were located upon the shores of Burt lake in Cheboygan county.

WHEREAS, Proceedings in ouster based upon a tax title has deprived the band of Indians located upon the shores of Burt lake in Cheboygan county, of the land which they held and on which they made their homes; and

WHEREAS, During the years eighteen hundred forty-six, eighteen hundred forty-seven and eighteen hundred forty-nine the lands in question were purchased from the United States government and conveyed to, "The Governor of the State of Michigan, in trust for the She-boy-gan band of Indians of whom Kie-she-go-way is chief;" and

WHEREAS, The lands so purchased are described as follows:

	Acres.
N. W. 1/2 of S. W. 1/4 of Sec. 28, T. 36 N., R. 3 W.	80
Lot 3, Sec. 28, T. 36 N., R. 3 W.	61
Lot 4, Sec. 28, T. 36 N., R. 3 W.	64 45-100
Lot 5, Sec. 28, T. 36 N., R. 3 W.	43 85-100
N. W. 1/4 of N. E. 1/4 and Lot 2, Sec. 29, T. 36 N., R. 3 W.	71
Lot 1, Sec. 29, T. 36 N., R. 3 W.	18 50-100
E. 1/2 of N. E. 1/4, Sec. 29, T. 36 N., R. 3 W.	80
	<hr/>
	418 80-100

and,

WHEREAS, These lands were not purchased or patented under any special act of congress in relation to this band of Indians, but were purchased at private cash entry at the rate of one dollar and twenty-five cents per acre; and

WHEREAS, It is the opinion of the officials of the Department of the Interior that the individual members of this band of Indians not having sufficient money to purchase for each of them a forty acre tract of land,

made up a purse and purchased these lands, paying the government price therefor; and in order to protect the interests of all concerned, they agreed among themselves to have the land purchased in the name of, and patented to the Governor of Michigan, as the proper person to hold these lands in trust for them as this was not an uncommon method among the Indians; and

WHEREAS, Subsequently under the treaty of July thirty-first, eighteen hundred fifty-five, with the Ottawa and Chippewa Indians townships thirty-five and thirty-six north, range three west, were reserved for the Sheboygan Indians for a definite period and were then patented directly to the Indians according to their several selections after which time the lands were held by the Indians as real estate is held by other citizens of the State and were taxed the same as other lands; and

WHEREAS, While the Governor was not acting in his official capacity for the State when these lands were conveyed to him in trust, and the position of the State in regard thereto is the same as it would be if the patents had run to any other person, it is equally true that these Indians lived together as if in tribal relations and had no idea that their lands were subject to taxation by the State; nor should we be surprised that they did not understand the effect of the non-payment of taxes upon their title to, and possession of the lands; in perfect security they built their little homes and a church upon the lands and regarded their settlement as a regular Indian reservation; and

WHEREAS, The unfortunate situation in which these Indians were placed was called to the attention of the federal government and received in reply the dictum of the Secretary of the Interior that "It is not within the powers of this department to afford any relief," was received; and

WHEREAS, There seems to be at least a moral obligation upon the part of the State to restore the land to this band of Indians, of whom there are about three hundred, since these Indians are living together practically as a tribe and should be treated as such by the State; and

WHEREAS, these Indians, ousted from their lands, are destitute and in need of aid on the part of the State, and no method has been found by which the necessary relief can be obtained through the medium of the courts; and

WHEREAS, Article III of the ordinance of seventeen hundred eighty-seven, for the government of the territories of the United States north-west of the Ohio river declares that "The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent, and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars, authorized by congress; but laws, founded in justice and humanity, shall from time to time be made, for preventing wrong being done to them, and for preserving peace and friendship with them;" and

WHEREAS, It is of record that the circuit judge, (since deceased,) who signed the decree of ouster in the tax proceedings, afterward declared that had the provisions of the ordinance of seventeen hundred eighty-seven been called to his attention, he would have declined to grant the judgment of ouster; and

WHEREAS, It seems equitable and fair to these people, who while having to some degree the rights of citizenship as well as some of its duties, have not ceased to be in a large measure the wards of the State, and that

such action should be taken as will restore them to their homes; now therefore;

Be it resolved by the Senate and House of Representatives of the State of Michigan, That there is hereby set aside and appropriated from any lands, the title to which is in the State, not to exceed four hundred acres, the same to be held in trust by the State, for the benefit and use of said She-boy-gan band of Indians and their descendants, so long as they may require or use the same for homes and farms; with full power and authority on the part of said band of Indians to enter upon, improve, occupy and control the same as if the said lands were owned by them in severalty, except, and provided always, that they shall have no power to encumber or convey the same; and that said right of occupancy and use shall continue until a period of five years shall have elapsed after said lands shall have been deserted and vacated by said band of Indians and any and all of their lineal descendants. Said lands shall be selected by the Commissioner of the State Land Office, after consultation with representatives of said band of Indians, and with their concurrence and approval, and with the approval of the State Swamp Land Board. The lands hereby set aside and reserved for the use and benefit of the said above described band of Indians, and taken and reserved from sale for the purposes of this joint resolution, shall be exempt from taxes of every kind during the full period they are held under and by virtue of the provisions of this joint resolution; at the expiration of such period, said lands shall revert to the State and become its property to the same extent as though it had not at any time been set aside for any purpose.

This joint resolution is ordered to take immediate effect.
Approved June 18, 1903.

EXHIBIT C



23

Mr. Mark L. Burnas,
Supt., Consolidated Chippewa Agency.

My dear Mr. Burnas:

We have a communication from Peter Shawanaisig of Ecorse,
Michigan, who is making inquiry for organization under the act
for a group who call themselves Cheboygan Band of Indians.

Any statement you may have to offer relative to the status
of this group as it concerns Indian Reorganization will be
appreciated.

Sincerely yours,

(Signed) John Collier
Commissioner.

7 eon 50

CLP 7-1-17

R-75

ANNEX 3

UNITED STATES DEPARTMENT OF THE INTERIOR

WASHTON FIELD OFFICE
300 North Broadway Avenue
Grand Lake, Minnesota
August 12, 1938



Commissioner of Indian Affairs
Washington, D.C.

Dear Sir:

Reference is made to above cited Office letter dated July 28, 1938, asking for any statement I may have to offer relative to the status of a group of Indians who were stationed at Grand Lake, Minnesota, for whom Federal arrangements of training, etc., are being inquiry for organization under the act.

These Indians could not come under the Indian Reorganization Act due to the fact that they are not enrolled or do not live on any reservation, but I wish something can be done under the State Rehabilitation program to help improve economic conditions for these Indians.

Although each of these Indians were contacted, I have never met Peter Champagne of Grand Lake, Michigan, but I understand that this man lives near the northern tip of the southern peninsula, but far from Grand Lake, and that there is quite a few other Indian residents, probably of Ottawa and Chippewa, in this district.

Very respectfully yours,

M. L. Burns
M. L. Burns
Superintendent

[RE-TYPED COPY]

UNITED STATES
DEPARTMENT OF THE INTERIOR
INDIAN FIELD SERVICE
Consolidated Chippewa Agency
Cass Lake, Minnesota
August 15, 1935

Commissioner of Indian Affairs
Washington, D.C.

Dear Sir:

This is an answer to above cited Office letter dated July 23, 1935, asking for any statement I may have to offer relative to the status of a group of Indians who call themselves Cheboygan band of Indians for whom Peter Shawanasige at Brutus, Michigan, is making inquiry for organization under the Act.

These Indians should not come under the Indian Reorganization Act due to the fact that they are not enrolled or do not live on any reservation, but I think something can be done under the State Rehabilitation Program to help improve economic conditions for these Indians.

Although some of these Indians were contacted, I have never met Peter Shawanasige of Brutus Michigan, but I understand that this man lives near the northern tip of the southern peninsula, not far from Cross Village, and that there is quite a populous Indian Settlement, presumably of Ottawa and Chippewas in this district.

Very respectfully yours,

/signed

M.L. Burns
Superintendent

ANNEX 4A

EXHIBIT D



THE BURT LAKE BAND OF
OTTAWA & CHIPPEWA INDIANS, INC.

6461 East Brutus Road • P.O. Box 206 • Brutus, Michigan 49716
Phone: (231) 529-6113 • Fax: (231) 529-2006
www.BurtLakeBand.org

September 25, 2013

By e-mail

Ms. Elizabeth Appel
Office of Regulatory Affairs & Collaborative Action
U.S. Department of the Interior
1849 C Street NW., MS 4141
Washington, DC 20240

consultation@bia.gov

Re: 1076–AF18: comments of the Burt Lake Band of Ottawa and Chippewa Indians on proposed revisions of 25 C.F.R. Part 83, *Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*

Dear Ms. Appel:

Thank you for the opportunity to comment on the preliminary discussion draft of proposed revisions to the procedures for establishing that an American Indian group exists as an Indian Tribe. An overhaul of these procedures is long overdue, and we applaud the Department's initiative in undertaking this effort.

The Burt Lake Band

The Burt Lake Band of Ottawa and Chippewa Indians (the Burt Lake Band or the Band) is a sovereign Indian Tribe with its headquarters in Brutus, Emmet County, Michigan. It has approximately 250 enrolled members, a constitution, and an elected tribal council.

Why We Comment

The Burt Lake Band was previously known as the Cheboiganing Band of Ottawa and Chippewa Indians.¹ The United States recognized the Cheboiganing

¹ In some documents, Cheboiganing is rendered as Cheboigan or Cheboygan.

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Comments of Burt Lake Band
September 25, 2013
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Band on a government-to-government basis through the 1836 Treaty of Washington, 7 Stat. 491, and the 1856 Treaty of Detroit, 11 Stat. 621. In 1911 the United States prosecuted litigation on behalf of the Band.² The State of Michigan has formally recognized the Burt Lake Band since 1986.

Despite this evidence that the Burt Lake Band has long existed as a Tribe with that existence acknowledged by the United States, the Bureau of Acknowledgment and Research (the BAR, now the Office of Federal Acknowledgment (OFA)) did not agree that we should be included on the Department's list of Federally recognized tribes eligible to receive services from the Bureau of Indian Affairs. After 21 years of examining our petition for acknowledgment and the many volumes of evidence we submitted, in 2006 the BAR declined to acknowledge that we exist as an Indian Tribe. In rejecting the Band's petition, the BAR was nonetheless satisfied that the Band had been identified as an American Indian entity on a substantially continuous basis since 1900.

Despite the BAR's decision, we continue to exist and to exist as an Indian Tribe. We have not gone away, and we will not go away.

We consequently have a profound interest in reforming the process through which Indian Tribes are acknowledged, both to allow our own status to be correctly recorded and to assure that others who may be similarly situated are not subjected to a similar ordeal.

Our comments

In general, the Burt Lake Band supports the revisions set forth in the preliminary discussion draft. Our efforts to secure acknowledgment through the BAR process under the current regulations, as noted above, took more than 21 years and ended unfavorably. To satisfy the regulations, we submitted volumes of historical, anthropological, and genealogical research and documents.

Kevin Gover, a former Assistant Secretary-Indian Affairs, described the BAR professional staff as so obsessed with its document-by-document analysis of tribal history and leaf-by-leaf look at family trees that it had lost the ability to see a broad picture. Tribes with undeniable histories and continuity confronted unreasonable, almost impossible, standards of proof.³

² *United States v. McGinn*, U.S. Circuit Court for Eastern Michigan., Equity No. 94.

³ *Indian Country Today*, Aug. 21, 2001.

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Comments of Burt Lake Band

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That was the Burt Lake Band's experience. We are a small Tribe and, like many Native Americans, we are not wealthy. It is no secret that, under the current regulations, a Tribe seeking acknowledgment cannot afford to do so unless it has financial backing, and that this financial backing often comes from gaming interests. The very fact of this backing generates political opposition to the Tribe's efforts, not only from those opposed to gaming in general but from neighboring acknowledged Tribes that have casinos and do not want competition.

We note that the Burt Lake Band's efforts to gain acknowledgment through the BAR process started in 1985, before the Supreme Court decision that gave birth to Indian gaming.⁴

Threshold determination. We suggest that the proposed regulations specifically recognize the threshold authority of the Assistant Secretary to restore to the list of acknowledged Tribes any Tribe omitted from that list because of administrative error. If the administrative error is clear, neither the Tribe nor the OFA should be required to go through the still arduous Part 83 procedures. If it is not clear that an administrative error was committed, the Assistant Secretary would always be free to require the Tribe to go through the Part 83 procedures.

Burden of proof. Assistant Secretary Gover, in his comments mentioned above, noted the unreasonable, almost impossible, standards of proof Tribes are required to meet to satisfy the Part 83 criteria. Most Indian Tribes historically did not have written languages and relied on oral tradition to pass knowledge from one generation to the next. The acknowledgment process, however, heavily relies on histories, anthropological accounts, government records, and other written documents. Most of these documents were not prepared by members of the petitioning Tribe but by non-Indian outsiders. Even if a Tribe had these documents in its possession at one time, an impoverished Tribe without secure storage facilities may be hard-pressed to locate and present the documents when it petitions for acknowledgment.⁵

Because of these factors, the Burt Lake Band believes § 83.6(e) of the proposed revised regulations is particularly important. That provision requires that the evaluation of a petition take into account that evidence is simply not available for some situations and time periods. It also makes clear that fluctuations in tribal

⁴ *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

⁵ As the *Cobell* litigation demonstrates, even the Federal Government with its supposedly secure storage facilities has difficulty in locating and providing documents related to tribal affairs that it had a clear duty to maintain.

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activity during particular periods should not in themselves be a cause for denying acknowledgment.⁶

Re-petitioning. The Burt Lake Band obviously supports § 83.3(f) and § 83.10(r), allowing a group previously denied Federal acknowledgment to re-petition if it would qualify under the revised regulations. Allowing new petitioners to be recognized under less onerous criteria without giving the same opportunity to a Tribe denied acknowledgment under prior more stringent criteria would be grossly unfair.

When a Tribe re-petitions, any criteria found to have been met in the review of its earlier petition should be conclusive for the new petition without further review. Given the stringent standards previously applied, administrative economy would not be served by revisiting the earlier conclusion in the Tribe's favor.

Distinct community. Indian Tribes, like many other groups and organizations in American society, undergo change over time, including shifts in membership. Tribes adapt to modernization just as does any other group, and should not lose the protection of Federal law because they adapt. Adaptation does not mean that the Tribe has voluntarily abandoned its political existence or has been assimilated into the non-Indian society. A Tribe should not be denied acknowledgment because of its failure to meet an unduly restrictive definition of "distinct Indian community."

Change is often caused by circumstances beyond the Tribe's control, for example, when tribal members seek work outside of the traditional tribal area during difficult economic times. Smaller Tribes are particularly susceptible to economic fluctuations.

Change is also often caused by the actions of the neighboring non-Indian communities. The Burt Lake Band can attest to a particularly egregious example: In 1884, a local timber baron illegally obtained tax titles to the Cheboiganing Band's communal trust-property. In 1900, armed with a writ of assistance from the state court and with the aid of the local sheriff, he forcibly removed Band members from their homes, doused the buildings with kerosene, and burned the Band's village to the ground, leaving the members of the Band immediately homeless and destitute. The members of the Band to this day refer to this incident as the "burnout."

Because of circumstances beyond their control, many tribal members have been forced to reside in a geographical area that is not exclusively or almost

⁶ In some circumstances, local prejudice against Indians may have caused members of a Tribe to "lay low" to avoid trouble. What appears to be a period of inactivity may have just been a period when activities were not publicized.

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Comments of Burt Lake Band

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exclusively composed of members of the group. Tribes should not be prejudiced by actions that are reasonable responses to economic circumstances, especially when—like the burnout—those responses were caused by the neighboring non-Indian community. The incursions of outsiders into traditional tribal areas likewise should not count against a Tribe seeking acknowledgment.

For a small Tribe like the Burt Lake Band, it does not make genetic sense to require that a specified percentage of the marriages in the group be between members of the community.

The denial of federal acknowledgment can also force shifts in the tribal community. Tribal members will quite naturally seek to affiliate with neighboring Tribes that are acknowledged and can provide access to the federal benefits and services available only to members of acknowledged Tribes. Affiliating to obtain benefits and services that should be available to them as members of their own Tribe should not be seen as a repudiation of their own Tribe.

Tribes should not be prejudiced because their members enter into affiliations of convenience with other tribes to obtain benefits and services to which they are entitled under the treaties signed by their ancestors.⁷

Conclusion

The Burt Lake Band supports revision of the Part 83 regulations. The preliminary discussion draft is a positive step toward that revision.

We hope the Department will take our comments into account in preparing the next draft of the regulations. We look forward to seeing that draft.

Do not hesitate to contact us if we may be of further assistance.

Sincerely,

Bruce Hamlin
Tribal Chair

⁷ To be sure, some who could be members of a petitioning Tribe can also legitimately be members of another Tribe, and may choose enrollment in the other Tribe rather than in the petitioning Tribe.

EXHIBIT E



THE BURT LAKE BAND OF
OTTAWA & CHIPPEWA INDIANS, INC.

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July 20, 2016

Hon. Sally Jewell, Secretary
Department of Interior
Office of the Secretary
1849 C Street, NW
Mail Stop 7328
Washington, DC 20240

Larry Roberts, Assistant Secretary
Department of the Interior
Bureau of Indian Affairs
1849 C Street, NW
Mail Stop 3642
Washington, DC 20240

-Certified Mail – Returned Receipt Requested-

Re: Agency Decision on Burt Lake Band of Ottawa and Chippewa Indians' Petition of May 13, 1935

Dear Secretary Jewell and Assistant Secretary Roberts:

On behalf of our forefathers, the elders and the Members of the Burt Lake Band of Ottawa and Chippewa Indians, Megwitch. My name is Bruce Hamlin, Chairperson of the Burt Lake Band. Our tribal ancestral home lies along the shores of Burt Lake in Michigan's northern Lower Peninsula. Burt Lake Band has also been known as the Cheboygan Tribe of Ottawa and Chippewa Indians and were signatories to the Treaty of Washington 1836 and the Treaty of Detroit in 1855. I am writing to request that the Department issue a decision on a Petition that the Burt Lake Band submitted in 1935 but has not yet been acted upon.

Background:

My Great-Great-Great-Great Grandfather was a man named Kiminichigan. He was the interpreter and a negotiator on the 1836 Treaty. Kiminichigan's grandson, Augustine Hamlin, Jr., held the same honor during the 1855 Treaty of Detroit. I proudly possess a copy of the 1855 Treaty signed not with signatures of the native leaders, but with their clan symbols representing over 50 Native American Chiefs and headmen. The signatory symbols were recognized and understood by all Native Americans that their Band had entered into a sacred trust with the Federal Government as to the terms, conditions and obligations under the Treaties. While the Members of the Burt Lake Band hold sacred the trust our forefathers had for the Federal Government, that trust has not been reciprocated.

It is undeniable that Burt Lake Band, aka "Cheboygan Band of Indians of which Chief Kie-She-go-we was Chief," was signatory to the 1836 Treaty of Washington and the 1855 Treaty of Detroit. Under these treaties the Band ceded most of their ancestral lands to the Federal Government in exchange for certain rights, privileges and sovereignty. No one disputes that Burt Lake Band is a recognized tribe through its signatory to the Treaties of 1836 and 1855.

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The Burt Lake Band was illegally and forcibly removed and burned out of their homes by a county sheriff in 1900. The sheriff was acting under the authority of a judgment of ouster signed by a Michigan state circuit judge. Both the judge and the Michigan Legislature recognized that the judgment of ouster was illegal and attempted to correct the injustice. The Michigan Legislature passed Joint and Concurrent Resolutions #20 in 1903 providing 418 acres for the Burt Lake Indians who were "destitute and in need of aid."

However, in Resolution #20 the State of Michigan states "... [Michigan] called to the attention of the Federal Government [the dire situation of that Burt Lake Band] and received in reply the dictum of the Secretary of Interior that "It is not within the powers of this department to afford any relief." As throughout the history of the Burt Lake Band, the Federal Government ignored its Treaty obligations, passed the responsibility off to the state of Michigan, and washed its hands of any Treaty obligations to the Burt Lake Band.

In 1911 on behalf of the Cheboygan Band, the Federal Government sued John McGinn, the timber baron who obtained the judgment of ouster and had the county sheriff burn down our village. In the Complaint against McGinn, the Federal Government sued on behalf of the Cheboygan Band of Indians which "is now and was at all the times mentioned in this bill of complaint a tribe of Indians under the care, control and guardianship of the plaintiff [federal government] and said band is now and was at all times mentioned in this bill of complaint recognized by the plaintiff through its chiefs or head men which it annually elects". The Complaint was an attempt by the Federal Government to obtain Cheboygan Band's ancestral lands from which they were forcibly and illegally removed from their homes and their village burnt down.

Demand for Decision on Petition under Indian Reorganization Act of 1934

After the Congress of the United States passed the Indian Reorganization Act of 1934, the Federal Government began to acknowledge its legal responsibility to the Native Americans. The Burt Lake Band petitioned the Commissioner of Indian Affairs "...praying that the Ottawa and Chippewa Tribes of Michigan be brought under provision of Wheeler-Howard Act and be allowed to qualify under the land provisions of Section 5 of said Act." A copy of that May 13, 1935 Petition and signatures is attached. The Federal Government acknowledged their status as a federally recognized tribe when it acknowledged receipt of Burt Lake's petition for assistance under the Indian Reorganization Act in 1935.

An extensive review of the BIA's file on Burt Lake does not provide any evidence that the Bureau of Indian Affairs ever acted upon the petitioner's request for assistance under the Indian Reorganization Act of 1934.

I have also attached a copy of Congressman Prentiss Brown's July 1935 correspondence requesting that the Bureau of Indian Affairs assist the Burt Lake Band.

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I have also attached the Bureau of Indian Affairs ledger listing numerous internal documents discussing the Burt Lake Band Petition. These documents demonstrate that the Bureau of Indian Affairs and the Commissioner of Indian Affairs were aware of the Burt Lake Band's existence. However, the Department of the Interior has never granted or denied the Burt Lake Band's Petition under the Indian Reorganization Act. The Federal Government thus failed to conduct a referendum vote on behalf of the Burt Lake Band pursuant to the Indian Reorganization Act. The Federal Government chose instead to abandon the Burt Lake Band despite their dire straits.

Once the Petition for assistance and placement of its land into trust under the Indian Reorganization Act was received from the Burt Lake Band, no official from the Federal Government ever communicated any decision, let alone a final decision, on the Petition to the Band. The Members of the Burt Lake Band therefore request that the Federal Government issue a decision to their Petition under the Indian Reorganization Act.

In sum, the Department of Indian Affairs never granted nor denied Burt Lake's Petition requesting assistance and placing its land in trust. The Department internally discussed the Burt Lake Band but never communicated a decision to representatives of the Burt Lake Band nor any of the 41 adult members of the Burt Lake Band who signed the Indian Reorganization Act Petition.

More than 80 years have passed since the Burt Lake Band submitted its Petition and the heirs of the 41 adult tribal members who signed the petition demand an answer to their request for assistance.

Respectfully submitted,

Bruce Hamlin, Chairperson
Burt Lake Band of Ottawa and Chippewa Indians

Attachments

1935 Petition of Burt Lake Band
Congressman Brown's Request to Department of Interior
Department of Interior Ledger on Burt Lake Band Petition

EXHIBIT F



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July 20, 2016

Larry Roberts
Assistant Secretary
Department of Interior
Bureau of Indian Affairs
1849 C Street, NW
Washington, DC 20240
-Certified Mail – Returned Receipt Requested-

Re: 25 CFR Part 83 Acknowledgement Process under Final Rule Adopted July 1, 2015

Dear Assistant Secretary Roberts:

Thank You for meeting with Attorney David Mullon and me on February 26, 2016 to discuss the plight of the Burt Lake Band of Ottawa and Chippewa Indians. We appreciate your time and the frank discussion.

The purpose of this letter is to seek clarification that the Burt Lake Band of Ottawa and Chippewa Indians cannot petition for "reaffirmation" or "recognition" of their Treaty Rights with the federal government under the BIA's new adopted Federal Acknowledgement of American Indian Tribes under 25 CFR Part 83. The newly adopted Final Rule of 25 CFR Part 83 appears not to allow the Burt Lake Band to Petition for "reaffirmation" and/or "recognition" because it was a previous petitioner who was denied under the "broken" 25 CFR Part 83 acknowledgement process.

I would appreciate written clarification on whether Burt Lake Band of Ottawa and Chippewa Indians would be allowed to petition for acknowledgement under the current regulations of 25 CFR Part 83 regulations.

Sincerely,

A handwritten signature in cursive script that reads "Bart Stupak".

Bart Stupak
Attorney for Burt Lake Band of Ottawa and Chippewa Indians
Venable, LLP