



INTERIOR BOARD OF INDIAN APPEALS

In Re Federal Acknowledgment of the Snoqualmie Tribal Organization

31 IBIA 260 (11/19/1997)

Reconsideration denied:

31 IBIA 298

Related Board cases:

31 IBIA 299

34 IBIA 22



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

IN RE FEDERAL ACKNOWLEDGMENT OF THE SNOQUALMIE TRIBAL ORGANIZATION	: Order Docketing and Dismissing : Request for Reconsideration : : : Docket No. IBIA 98-26-A : : : November 19, 1997
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On November 13, 1997, the Board of Indian Appeals received a filing from Lon J. Posenjak, who identifies himself as the Chairman of the Snoqualmoo Tribe of Whidbey Island. The filing is apparently intended to be a request for reconsideration of an acknowledgment determination made by the Assistant Secretary - Indian Affairs, i.e., the Final Determination To Acknowledge the Snoqualmie Tribal Organization, published at 62 Fed. Reg. 45,864 (Aug. 29, 1997).

Posenjak's filing states in its entirety:

Re: Procedures used by the BIA-BAR on the recognition of the members of the Snoqualmie Tribe.

I am hereby requesting a hearing per Bureau of Indian Affairs Interior §83.11 Independent review, reconsideration and final action-25 C.F.R. Ch. 1 (4-1-97 Edition).

We feel that all Snoqualmoo and Snoqualmie people should be recognized. The Point Elliott Treaty which was signed by my great, great, great grandfather Chief Pat Kanim and the United States of America. This was to entitle all Snoqualmoo people under Chief Pat Kanim's authority, not just a select few, to receive the benefits from the Federal Government in exchange for taking over all of our land. One way to determine who is Snoqualmie is by examining the list on Docket 93. The enrollments of the Snoqualmoo and Snoqualmie Tribes would also provide names of those who should be included in recognition. Under the Point Elliott Treaty we were all called Snoqualmoo Indians, and at a later time the White People called us Snoqualmie Indians. So when I use the word Snoqualmoo for our people, I'm referring to all Snoqualmie and Snoqualmoo people.

Your assistance in solving these discrepancies will be greatly appreciated. I'm looking forward to hearing from you and your staff.

Regulations governing the acknowledgment of Indian tribes are found in 25 C.F.R. Part 83. Section 83.11, cited by Posenjak, describes the procedures for requesting reconsideration of a final acknowledgment determination made by the Assistant Secretary. This section requires that a request for reconsideration be filed with the Board no later than 90 days after publication of the Assistant Secretary's determination in the Federal Register (subsection 83.11(a)(2)) and that it "contain a detailed statement of the grounds for the request, and \* \* \* include any new evidence to be considered." Subsection 83.11(b). Further, the request for reconsideration is to serve as the opening brief of the party requesting reconsideration. Subsections 83.11(b)(1), 83.11(e)(5).

Subsection 83.11(d) provides:

The Board [of Indian Appeals] shall have the authority to review all requests for reconsideration that are timely and that allege any of the following:

- (1) That there is new evidence that could affect the determination; or
- (2) That a substantial portion of the evidence relied upon in the Assistant Secretary's determination was unreliable or was of little probative value; or
- (3) That petitioner's or the Bureau's research appears inadequate or incomplete in some material respect; or
- (4) That there are reasonable alternative interpretations, not previously considered, of the evidence used for the final determination, that would substantially affect the determination that the petitioner meets or does not meet one or more of the criteria in § 83.7(a) through (g).

Under this provision, the Board's jurisdiction over requests for reconsideration of the Assistant Secretary's acknowledgment determinations is limited to those requests which make at least one of the listed allegations. Posenjak's filing fails to make any of these allegations. Accordingly, the Board lacks jurisdiction over this request for reconsideration.

Under subsection 83.11(f)(1), the Board is required to "describe in its decision any grounds for reconsideration other than those in paragraphs (d)(1)-(4) of this section alleged by a petitioner's or interested party's request for reconsideration." Any request for reconsideration which alleges such other grounds is to be referred to the Secretary of the Interior under subsection 83.11(f)(2).

As far as the Board can determine from his request for reconsideration, Posenjak is objecting either to the membership of the Snoqualmie Tribal Organization or to the fact that the Snoqualmoo Tribe has not been

acknowledged. 1/ As noted above, all of Posenjak's allegations and arguments were required to be included in his request, which is also to serve as his opening brief. Accordingly, the Board must make its determination here on the basis of the filing Posenjak has already made.

The Board finds that, not only does Posenjak's filing fail to allege any of the grounds in subsection 83.11(d), it also fails to allege any other basis for reconsideration that would warrant referral to the Secretary.

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, this request for reconsideration is dismissed for lack of jurisdiction. 2/

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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1/ According to the Assistant Secretary's Final Determination concerning the Snoqualmie Tribal Organization, the Snoqualmoo Tribe has filed a separate petition for acknowledgment. 62 Fed. Reg. at 45,864.

2/ For purposes of this decision, the Board has assumed that Posenjak has standing to file this request for reconsideration.

The Board has also assumed that Posenjak mailed copies of his request for reconsideration to the interested parties, as required by 25 C.F.R. § 83.11(b)(2), even though his filing does not show that he did so.