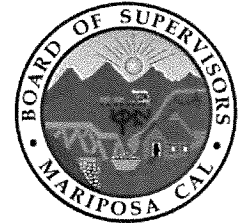




MARIPOSA COUNTY

Board of Supervisors · 209-966-3222



RESOLUTION - ACTION REQUESTED 2019-255

MEETING: May 21, 2019
TO: The Board of Supervisors
FROM: Rosemarie Smallcombe, District I Supervisor
RE: Southern Sierra Miwuk Nation Letter of Support

RECOMMENDATION AND JUSTIFICATION:

Approve a letter of support to the Department of the Interior Bureau of Land Management in Support of Federal Acknowledgement of the Southern Sierra Miwuk Nation; and Authorize the Board of Supervisors Chair to sign the letter.

Please see the attached request letter from the America Indian Council of Mariposa County for more information on the issue.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved letters in support of other efforts that will benefit the County or its residents.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the letter. Individual members of the Board may write their own letters of support as desired.

ATTACHMENTS:

Mariposa Board4_25_19 (DOCX)
Draft letter (DOCX)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Marshall Long, District III Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

Mariposa County Board of Supervisors

District 1 ... ROSEMARIE SMALLCOMBE
District 2 MERLIN JONES
District 3 MARSHALL LONG
District 4 KEVIN CANN
District 5 MILES MENETREY



DALLIN KIMBLE
County Administrative Officer

RENÉ LAROCHE
Clerk of the Board

P. O. Box 784
Mariposa, CA 95338
(209) 966-3222
(800) 736-1252
Fax (209) 966-5147
www.mariposacounty.org/board

Via Facsimile (202) 208-5320
Ms. Tara Sweeney
Assistant Secretary – Indian Affairs
Department of the Interior
1849 C Street, N.W.
MS-4660-MIB
Washington, D.C. 20240

Re: Petition for Federal Acknowledgement of the Southern Sierra Miwuk Nation

Dear Assistant Secretary Sweeney,

I am writing in behalf of the Mariposa County Board of Supervisors to object to the Proposed Finding issued by your office on November 16, 2018 and to support the application for Federal Acknowledgement of the Southern Sierra Miwuk Nation (SSMN), a California tribe whose aboriginal territory and villages encompassed Yosemite Valley and other areas of Mariposa County, and most of whose members reside within the County. We have two principal concerns with the Proposed Finding.

1) The Proposed Finding does not accurately reflect the status of the SSMN, which also is represented through its non-profit, the American Indian Council of Mariposa County.

Mariposa County has worked successfully and over an extended period of time with the SSMN, primarily through the American Indian Council of Mariposa County, on many issues and projects of mutual interest and concern. We have worked through many of the SSMN leaders and with many members of the SSMN community, which we recognize as a "distinct Indian community."

For example, for a number of years, Mariposa County has contracted with the American Indian Council to provide mental health services for our Native American community through the Mi-Wu Mati Healing Center in Mariposa. As another example, the County has signed a Memorandum of Understanding with the Stanislaus National Forest and the American Indian Council to provide for the protection, preservation, environmental enhancement and economic development of the Jordan Creek/Bower Cave Special

Interest Area. The County also has a number of less formal relationships with the American Indian Council through which we collaborate on efforts to support the cultural integrity and economic viability of the Southern Sierra Miwuk Nation.

2. We object to the limited basis of the Assistant Secretary for Indian Affairs' (AS-IA) Proposed Finding. That Finding evaluated only a portion of one of the seven mandatory criteria stipulated under Part 83.7. It is unclear why the AS-IA chose to limit their review to a 29 year period from 1982 to 2011 when 27 CFR 83.7(b) clearly requires evaluation of the group "from historical times until the present."

We ask that the AS-IA fully assess the SSMN community as required under CFR 83.7(b) as well as the other criteria for acknowledgement. We also ask that the AS-IA fully consider all the evidence submitted in support of the SSMN's petition as the narrow scope of the preliminary finding strongly suggests that evidence has been set aside for reasons that are not at all clear. We hope that the further assessment will be fully open and transparent as to the evidence considered and the rationale for all conclusions. We believe that thorough analysis will lead the AS-IA to conclude that the SSMN exists as a distinct Indian community and has existed as such from historical times until the present.

Thank you for your attention to our request.

Sincerely,



Myles Menetrey, Chair
Mariposa County Board of Supervisors

cc:

Senator Dianne Feinstein
2500 Tulare Street, Suite 4290
Fresno, CA 93721

Senator Kamala D. Harris
2500 Tulare Street, Suite 5290
Fresno, CA 93721

Congressman Tom McClintock
2200A Douglas Blvd., Suite 240
Roseville, CA 95661



**AMERICAN INDIAN COUNCIL
OF MARIPOSA COUNTY**

SOUTHERN SIERRA MIWUK NATION
P.O. Box 186 · Mariposa, California 95338
SouthernSierraMiwukNation.org

April 25, 2019

Mariposa County Board of Supervisors

P.O. Box 784
Mariposa, CA 95338

Re: Southern Sierra Miwuk Nation

Dear Chairman Miles Menetrey of the Mariposa County Board of Supervisors,

I am writing on behalf of our Tribe, the Southern Sierra Miwuk Nation (aka American Indian Council of Mariposa County, Inc.) (“SSMN” or “Tribe”), to request your support in our longstanding effort to obtain federal acknowledgment as an Indian tribe by the Federal Government.

As discussed more fully below, our Tribe has been working on our federal acknowledgment petition for almost four decades, during which time we have also successfully worked with Mariposa County on a number of projects. Astonishingly, despite the thousands of pages of materials we have submitted and draft positive findings prepared by the Bureau of Indian Affairs’s Office of Federal Acknowledgement (OFA), the office charged with reviewing petitions for federal acknowledgment, on November 16, 2019 the Assistant Secretary-Indian Affairs (“Assistant Secretary”) issued a Proposed Finding Against Federal Acknowledgment of our Tribe. The Assistant Secretary’s extraordinarily limited finding determined that the SSMN has not interacted as a distinct Indian community during the period between 1982 and 2011. (A copy of the Proposed Finding is enclosed.) As discussed below, this proposed finding flies in the face of the evidence reviewed by the OFA. As the County is well aware, during the period in question, the County has interacted extensively with the SSMN. At this time, we are respectfully asking the County to submit a comment letter to the Assistant Secretary confirming that the County has worked, and continues to work, with the SSMN as a distinct Indian community.

The Assistant Secretary’s seriously flawed preliminary decision is based on the finding that the Tribe is not a distinct Indian community “at present.” The Assistant Secretary defined “at present” as the period from 1982 to 2011. I emphasize that this is a proposed finding, and that we are preparing a full response and major effort to prevail upon the Assistant Secretary to either reverse the finding or withdraw it and prepare a new finding. The finding came as a surprise to our Tribe, which has been recognized as an Indian community by local, federal, and state government agencies, including Mariposa County, through cooperative efforts and agreements on a variety of projects. Some of the projects the County and the SSMN have worked on together include the agreements with the Miwu-Mati Family Healing Center, Mariposa History Center, Indian Taco Booth at the Mariposa County Fairgrounds and other events throughout our history.

Chairperson
William H. Leonard

Vice Chairperson
Gary E. Harlow

Secretary
Irene A. Vasquez

Treasurer
Emily T. Dayhoff

Director At Large
Richard D. Hogan

Our concerns regarding the Assistant Secretary's incomplete and limited discussion of the historical background, the evidence supporting our petition, and our status as an Indian community have been heightened and substantiated by public comment letters on the Proposed Finding submitted by three former professional staff of the OFA,.

The first public comment letter was submitted on December 4, 2018 (copy enclosed), by Dr. Aldo E. Salerno, a former senior historian at OFA. Dr. Salerno states that in 2017 (after years of active consideration) the OFA drafted several versions of a proposed finding, some nearly 200 pages long, reaching majority, affirmative conclusions on all seven mandatory acknowledgment criteria, which it eventually submitted to the Interior Solicitor's office for review. In spite of the work of the OFA, the Assistant Secretary submitted a severely truncated finding on only one aspect of one of the acknowledgement criteria. While Dr. Salerno notes that the Department may reassess the analysis provided by OFA, his letter indicates that the proposed finding withholds evidence reviewed by the OFA and includes misleading statements that conflict with the prior work of the OFA. Further, he states that there were improper ex parte communications between the Solicitor's office and OFA staff during the review of petitions which "tainted the peer review process, cast doubt on its legitimacy, and violated the rules of transparency required by the Department for the acknowledgment process as a whole."

The second letter from former OFA staff was submitted on March 21, 2019 (copy enclosed), by cultural anthropologist Dr. Gordon M. Schoepfle, who earlier served on the three-person OFA team evaluating the SSMN petition, Dr. Schoepfle criticizes the OFA's piecemeal evaluation of the "present" SSMN community, and states that "the Proposed Finding gives the impression that the OFA staff simply selected a small sample of specific interview quotes, apparently without examining all of the information reportedly available." Dr. Schoepfle was so concerned with the flawed process that he disassociated himself from the Proposed Finding in concluding: "I do not feel that it is in my best interests to be associated with the evaluation processes suggested by this sort of OFA-originated document."

A third public comment letter was submitted on April 12, 2019 (copy enclosed) by former OFA staff historian, Dr. Mark A. Nicholas, who worked in an editorial capacity on the SSMN petition. Dr. Nicholas states that the OFA reviewed thousands of pages of acceptable evidence submitted by the SSMN and that after his evaluation of the evidence and the draft pre-decisional positive finding, it was clear to him, and others in the OFA, that the SSMN's claims and evidence met the reasonable likelihood standard. Dr. Nicholas' letter also states that the peer review process does not provide "anything resembling a fair and objective peer-review process, much less a structured one," and that the proposed finding issued by the Assistant Secretary is "by no means a fair representation of the extended evaluation of the group under all seven mandatory criteria that OFA conducted over the years."

On behalf of the SSMN, I am requesting that the Mariposa County Board of Supervisors consider the enclosed materials and the additional information regarding the history of our Tribe at www.SouthernSierraMiwukNation.org. As indicated above, we are also requesting that the Board submit a public comment letter or resolution to the Assistant Secretary confirming that the County has worked, and continues to work, with the SSMN as a distinct Indian community.

Mariposa County is a local government with whom our Tribe has worked successfully on a number of projects, and with whom we expect to have a strong working relationship into

the future as we strive towards our goal of federal recognition. We appreciate the Board's consideration of our request for support at this critical stage of our petition for federal acknowledgment. Should you have any questions regarding this matter, please do not hesitate to contact me at **(209) 628-8601**.

Respectfully,

William Leonard, Chairman
Southern Sierra Miwuk Nation

Enclosures (4): Proposed Finding; and three public comment letters of Dr. Aldo E. Salerno, Ph.D, Dr. Gordon M. Schoepfle, Ph.D, and Dr. Mark A. Nicholas, Ph.D