



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

September 22, 2014

Mr. Karl Johnson
Office of Hearings and Appeals
Departmental Cases Hearings Division
U.S. Department of the Interior
351 S. West Temple, Suite 63000
Salt Lake City, UT 84101
Transmit via U.S. Mail & Email: karl_johnson@oha.doi.gov

RE: RIN 1094-AA54
Proposed Rule: Hearing and Re-Petition Authorization Processes
Concerning Acknowledgment of American Indian Tribes.

Dear Mr. Johnson:

The Rural County Representatives of California (RCRC) submits these comments to Docket ID: RIN 1094-AA54, Proposed Rule – Hearing and Re-Petition Authorization Processes Concerning Acknowledgment of American Indian Tribes. RCRC is an organization of thirty-four rural counties in California, comprising nearly half of the land mass of the State and nearly 3 million residents. RCRC works with its member counties to advocate on behalf of rural issues at the state and federal levels. RCRC provides the rural county perspective on issues as diverse as land use, water and natural resources, housing, transportation, wildfire protection polices, and health and human services, among others, in the legislative and regulatory processes.

RCRC is keenly interested in the proposed changes to the criteria and procedure for acknowledgment of American Indian Tribes, as well as the hearing and re-petition authorization process concerning such acknowledgment. Tribal acknowledgment and the subsequent prospect of the federal government taking land into trust for those tribes have profound consequences for local governments.

RCRC has provided comments on the proposed changes to the acknowledgment process and has similar concerns for the streamlined appeals process proposed by this rule. We appreciate the Department's objective of making the appeals process more efficient and transparent, but we urge the Department to ensure local governments are

1215 K Street, Suite 1650, Sacramento, CA 95814 | www.rcrcnet.org | 916.447.4806 | FAX: 916.448.3154

Mr. Karl Johnson
American Indian Tribes
September 22, 2014
Page 2

appropriately notified and given the opportunity to provide input on acknowledgment decisions and the appeal of those decisions.

Under the proposed rule, local governments are not guaranteed notice of an acknowledgment petition, proposed findings on such decisions, or referrals to the Office of Hearings and Appeals (OHA). Without such notifications, local governments may not qualify as an “interested party” and would not receive notice of a referral. Further, the rule proposes that any party may file a petition to intervene within 15 days of a referral to OHA. Even if a local government gained knowledge of a referral, the ability to intervene within 15 days would be difficult in most counties, but clearly impossible in more rural and remote areas where the Board of Supervisors may only meet once or twice a month. RCRC recommends that the proposed rule allow 45 days for a petition to be filed. Alternately, or in addition to a 45 day window, automatically granting a local government intervener privileges would also be a welcome change to the appeals process and would allow for more robust involvement by the affected jurisdiction.

RCRC would also like to respond to the rule’s request for comment on the type of OHA judge who should preside over an administrative appeal; an administrative judge with OHA, an administrative law judge, or an attorney assigned by OHA. RCRC recommends the appointment of an experienced administrative judge who is impartial to the proceedings. Other courts do not substitute attorneys for judges, and we encourage OHA to follow that precedent.

RCRC supports the OHA and Bureau of Indian Affairs (BIA) effort to update its regulations governing the federal acknowledgment process and appeals hearing process. RCRC has significant concerns that if the proposed rules were finalized in their current forms, local government participation would be severely limited. RCRC strongly believes the federal acknowledgment process would be better served by greater public involvement, with specific requirements to notify and engage local governments, and a more comprehensive and impartial approach to resolving acknowledgment and appeals issues. The benefits to tribal acknowledgment and the impacts of the surrounding region are significant and warrant both a timely and a thorough review and appeal process.

Sincerely,

A handwritten signature in cursive script that reads "Cyndi B. Hillery". The signature is written in black ink and is positioned below the word "Sincerely,".

Cyndi Hillery
Legislative Advocate