



## INTERIOR BOARD OF INDIAN APPEALS

In Re Federal Acknowledgment of the Pamunkey Indian Tribe

61 IBIA 133 (07/22/2015)

Related Board case:  
62 IBIA 122



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

IN RE FEDERAL ACKNOWLEDGMENT ) Order Docketing and Dismissing  
OF THE PAMUNKEY INDIAN TRIBE ) Request for Reconsideration  
)  
) Docket No. IBIA 15-094  
)  
) July 22, 2015

On July 16, 2015, the Board of Indian Appeals (Board) received a letter from Miriam Jackson Jiggetts (Jiggetts) objecting to the final determination of the Assistant Secretary – Indian Affairs (Assistant Secretary), dated July 2, 2015, to acknowledge the Pamunkey Indian Tribe (Tribe) as an Indian tribe within the meaning of Federal law.<sup>1</sup> The Board construes the letter as a request for reconsideration of the Final Determination, pursuant to 25 C.F.R. § 83.11 (2014).<sup>2</sup> We docket but dismiss the request for lack of jurisdiction because Jiggetts fails to state any grounds for reconsideration over which the Board has jurisdiction.

A request to the Board for reconsideration of a final acknowledgment determination must contain “a detailed statement of the grounds for the request, and shall include any new evidence to be considered.” 25 C.F.R. § 83.11(b). Upon receipt of a timely request for reconsideration, the Board must determine whether the request alleges any grounds over which the Board has jurisdiction.<sup>3</sup> The Board has jurisdiction to review a timely request that alleges 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

---

<sup>1</sup> Notice of the Final Determination for Federal Acknowledgement of the Pamunkey Indian Tribe, Petitioner #323 (Final Determination) was published on July 8, 2015. 80 Fed. Reg. 39144.

<sup>2</sup> The Federal Acknowledgement regulations were recently revised, *see* 80 Fed. Reg. 37862 (July 1, 2015), but the Final Determination was issued under the previous regulations, which provide for filing requests for reconsideration with the Board. All references in this decision are to the current version of 25 C.F.R. Part 83, prior to revision.

<sup>3</sup> The request is considered the appellant’s opening brief. *Id.* § 83.11(b)(1).

- (3) That petitioner's or the Bureau[of Indian Affairs'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 [25 C.F.R.] § 83.7(a) through (g).

25 C.F.R. § 83.11(d).

In her letter to the Board, Jiggetts contends that she should be admitted to the Tribe's membership, but that she has been unsuccessful in obtaining an application from the Tribe. Jiggetts states that she is opposed to the Tribe receiving Federal recognition until the issue of her own membership is adequately addressed by the Tribe. Jiggetts does not address any of the findings of the Assistant Secretary on which the Final Determination is based.

Jiggetts's request fails to allege any grounds for reconsideration over which the Board has jurisdiction. See *In re Federal Acknowledgment of the Snoqualmie Tribal Organization*, 31 IBIA 299, 300-01 (1997) (dismissing a complaint that the petitioner had excluded the requester from membership); *In re Federal Acknowledgment of the Snoqualmie Tribal Organization*, 31 IBIA 260, 261-62 (1997) (dismissing request when requester failed to allege any grounds for reconsideration). Nor has Jiggetts alleged any basis for reconsideration that would warrant referral to the Secretary of the Interior under 25 C.F.R. § 83.11(f)(1) and (2).

Although Jiggetts's failure to allege any ground for reconsideration under § 83.11(d) is sufficient to support our dismissal, it is also apparent that Jiggetts lacks standing to seek reconsideration. See generally *In re Federal Acknowledgment of the Shinnecock Indian Nation*, 52 IBIA 127 (2010) (dismissing requests for reconsideration for lack of standing). Jiggetts's status as a nonmember was unaffected by the Assistant Secretary's decision to acknowledge the Tribe, and it would remain unaffected if that decision were set aside. The issue of her membership is a matter that is solely between her and the Tribe, independent of a decision to acknowledge or not to acknowledge the Tribe. Thus, she has no stake in the outcome of the Assistant Secretary's decision. *Id.* at 130.<sup>4</sup>

---

<sup>4</sup> Jiggetts does not indicate that she served copies of her request on the Tribe, the Assistant Secretary, or other interested parties, as required by 25 C.F.R. § 83.11(b)(2). Our dismissal renders that issue moot.

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, the Board docketed but dismisses Jiggetts's request for reconsideration.

I concur:

\_\_\_\_\_  
// original signed  
Steven K. Linscheid  
Chief Administrative Judge

\_\_\_\_\_  
//original signed  
Thomas A. Blaser  
Administrative Judge