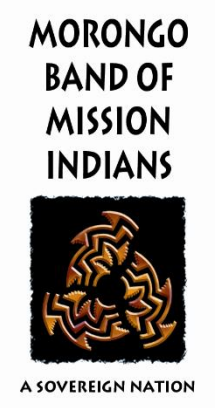

Testimony of

Robert Martin

Chairman of the Morongo Band of Mission Indians

Before the

House Committee on Natural Resources

Subcommittee on Indian, Insular and Alaska Native Affairs

On

"The Obama Administration's Part 83 Revisions and How They May Allow the Interior Department to Create Tribes, not Recognize Them."

April 22, 2015

Mr. Chairman, Doctor Ruiz and members of the subcommittee, thank you for providing the Morongo Tribe with this opportunity to testify before you today. As you know, the Morongo Tribe is located in Riverside County California, about 20 miles west of Palm Springs.

The issue we are discussing is fundamental to all of Indian Country – the standard by which the United States determines which groups of native peoples should be treated as sovereign governments. Establishing a standard that is too restrictive potentially denies legitimate groups the unique rights provided to a sovereign government. Conversely, setting the bar too low undermines the political relationship between federally acknowledged tribes and the United States.

After having reviewed the proposed revisions to the federal acknowledgment regulations the Morongo Tribe believes the Department is setting the bar far too low. We fear that the proposed changes threaten the fabric which currently binds all tribal nations and we ask that the Department of Interior withdraw the proposed rule in its entirety.

The Morongo Tribe does not take this issue lightly. In fact, along with a number of tribes throughout the United States, we asked some of the most well respected scholars within the field of tribal acknowledgement to help us understand the technical aspects of the proposed rule.

The assessments by these experts confirmed our own concerns and conclusions that the proposed revisions would fundamentally change both the criteria and procedures used to review petitions for federal acknowledgement. And in short, the proposed revisions would dramatically weaken the federal acknowledgement process and in doing so, undermine the significance of tribal sovereignty.

In our view, one of the most egregious changes in the Proposed Rule is that the proposal would only require petitioners to demonstrate tribal existence since 1934. This is nonsensical.

Tribal governments possess inherent sovereignty, not because Congress granted it, but because we existed as independent sovereigns before the United States adopted its own Constitution. The Supreme Court has recognized that one aspect of our inherent sovereignty, sovereign immunity, is coextensive with that of the United States. That is why presently, the federal acknowledgement regulations require a demonstration of tribal existence from the founding of the U.S. in 1789, or first sustained contact, if later than 1789.

The Morongo Tribe is concerned that by weakening this standard, the Department is redefining what it means to be a sovereign tribal government in this country. We strongly believe that the source of our sovereignty comes from the fact that our government existed long before the Constitution and our first contact with settlers in the area. We simply cannot understand the rationale behind this change, and we urge the Department to maintain its existing standard.

Our second major concern is the watering down of the requirements for external identification.

Under the existing rules, petitioners must provide evidence of identification by external sources since 1900. This helps the government differentiate historic tribes from groups who only recently assert tribal heritage.

The proposed revisions would replace this strong standard with a lesser requirement that a petitioner provide only a brief narrative with supporting documentation. We cannot understand why a legitimate petitioner could not produce

external documentation of its existence. Consequently, we believe it is critical that the existing criterion for external identification by outside observers such as scholars, media, and State and local governments be preserved.

Third, we are greatly concerned that the Department's proposal allows groups to use evidence with "substantial interruption". The proposal goes on to explain that this means the Department would allow evidentiary gaps of 20 years or more. This is a far cry from the current, more rigorous standard that requires a "substantially continuous existence" and we do not believe the Department adequately justifies the need to weaken the current rules.

The fourth and final issue we are concerned about is that the Department's proposal would allow previously denied petitioners an opportunity to re-petition.

This would mean that in addition to the 68 California groups whose petitions are pending before the DOI, the six California petitioners that have already been denied acknowledgment will have an opportunity to go through the process again under much less stringent standards. We hope this Committee will encourage the Department to rethink the proposal to revisit these applications, because doing so would create two classes of tribes—ones that can meet the current exacting standards and those who cannot. As this committee knows, creating two classes of tribal governments is a recipe for disaster in Indian Country.

It is worth noting that many of the petitioners in our state appear to be from California's densest urban areas. The Morongo Tribe does not believe this is a coincidence; we fear the lower recognition standards could lead to an influx of reservation shopping proposals. For your reference, with my written testimony I included a map illustrating the

locations of the 68 petitioning groups in California. As you will see, there are currently four groups petitioning for federal recognition in the urban areas of our home Riverside County, alone.

Please know that the Morongo Tribe appreciates how difficult it is to expedite the acknowledgement process while preserving the rigorous standards needed to ensure that tribes can continue to enjoy the benefits of sovereignty. A strong process is the only way Indian Country can fully distinguish the difference between being a tribe with inherent governmental rights and powers, and being a group of individuals that is nothing more than what the Supreme Court calls "private, voluntary organizations." (*United States v. Mazurie*, 419 U.S. 544 (1975). The legitimacy of the federal acknowledgement process, no matter how cumbersome, must be protected.

Thank you for your consideration of our concerns.

California
OREGON
NEVADA
ARIZONA
MEXICO
Pacific
Ocean
County boundary
Alpine
County name
County seat
Major city
State capital
N
Crescent City
Del Norte
Siskiyou
Yreka
Modoc
Alturas
Eureka
Humboldt
Trinity
Weaverville
Shasta
Redding
Lassen
Susanville
Red Bluff
Tehama
Quincy
Plumas
Mendocino
Glenn
Willows
Butte
Oroville
Downieville
Sierra
Nevada
Nevada City
Ukiah
Lake
Colusa
Colusa
Yuba City
Yuba
Marysville
Placer
Lakeport
Sutter
Yolo
Auburn
El Dorado
Markleeville
Placerville
Sonoma
Napa
Woodland
Sacramento
Santa Rosa
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Bridgeport
Calaveras
San Andreas
Marin
San Rafael
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San Joaquin
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San Jose
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Mariposa
Santa Clara
Merced
Madera
Santa Cruz
Madera
Fresno
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Salinas
San Benito
Fresno
Inyo
Visalia
Hanford
Tulare
Monterey
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San Luis Obispo
Kern
Bakersfield
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San Bernardino
Santa Barbara
Ventura
Santa Clarita
Santa Barbara
Ventura
Oxnard
Los Angeles
Los Angeles
San Bernardino
Riverside
Santa Ana
Riverside
Orange
San Diego
Imperial
El Centro
San Diego
0
100 mi
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