

# Congress of the United States

Washington, DC 20515

March 26, 2015

The Honorable Sally Jewell  
Secretary  
Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

Dear Madam Secretary:

We are writing to request your cooperation in evaluating the procedures used for acknowledging tribal status and the impacts of modifying the regulations governing such determinations. The Department of the Interior has published proposed regulations to modify the tribal acknowledgment regulations set forth at 25 C.F.R. Part 83. For years, the Part 83 procedures have been criticized as burdensome, time-consuming, confusing, and expensive. In addition, the procedures are not based on standards or guidelines established by Congress, whose power to regulate Indian affairs under Article I, Section 8 of the Constitution has been characterized by the Supreme Court as “plenary” and “exclusive.” We are concerned that the Department’s proposed rules fail to address many of the issues that have been identified and could create new problems that lead to unintended and unjustifiable outcomes.

Many of these potential problems would result from proposed changes that relax the criteria for federal acknowledgement in section 83.7. Several of us have provided comments on the proposed regulations, either to Department of the Interior officials or directly to you, raising specific concerns. Many more commenters have identified problems with the proposed regulations, including a number federally recognized Indian tribes, some of which argue the proposal undermines the unique status of tribes and their relationship with the United States.

We do not support the sweeping changes that have been proposed to the criteria.

Before making any changes, the federal government must understand the impacts the proposed changes will have on tribal and non-tribal communities to ensure that any rules the Department ultimately adopts do not result in flawed decisions. Such impacts may include the reduction of existing tribal shares of discretionary funding if deficit reduction rules prevent budget increases necessary to meet new tribes’ service needs.

States unfamiliar with tribal issues and acknowledgment must also be engaged because they are likely to be affected by the proposed rules. While the states we represent have been involved with tribal issues and are very familiar with the acknowledgment process, many other states have no experience with the regulations the Department proposes to revise, let alone how to establish sound tribal policies and strong intergovernmental relationships. Failure to engage those states now will do a disservice to newly acknowledged tribes and undermine investment in the process the Department ultimately establishes.

To that end, we request the Department to refrain from issuing final regulations until we have conducted the oversight necessary to evaluate thoroughly the issues associated with recognition, consider how best to address those issues, and engage further with you and your staff. We must also ensure that any changes that are made promote fair, accurate, and transparent decisions.

We would like to meet with you in the next two weeks to discuss how we will coordinate with the Department as we undertake this Congressional oversight.

Sincerely,



Rob Bishop  
Chairman  
Committee on Natural Resources



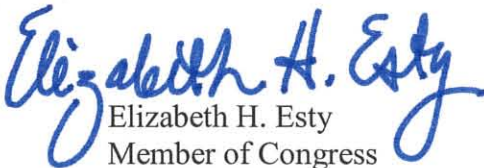
Don Young  
Chairman  
Subcommittee on Indian, Insular,  
and Alaska Native Affairs



Mike Thompson  
Member of Congress  
Fifth District of California



Joe Courtney  
Member of Congress  
Second District of Connecticut



Elizabeth H. Esty  
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