

(3) Technical Assistance Letter(s)

- September 12, 1994

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Tribal Government Services. - AR

Ms. Agnes Cunha
939 Lantern Hill Road
Ledyard, Connecticut 06339

Dear Ms. Cunha:

The Branch of Acknowledgment and Research (BAR) staff has completed an initial technical assistance (TA) review of your petition for Federal acknowledgment as an Indian Tribe. This review is provided under 25 CFR Section 83.7, the Acknowledgment regulations, to ensure that the Paucatuck Eastern Pequot's petition is not rejected because of technical problems or omissions in the petition, and that the petition will be considered on its merits. The TA review thus provides you, the petitioner, the opportunity to submit additional documents or materials that will strengthen the petition, before it is placed on active consideration.

This review is not a preliminary determination of your petition. The letter is not to be taken as evidence that BAR has, or will, reach a positive or negative conclusion either on the petition just reviewed, or on the portions of it not discussed in this letter. Moreover, if a petitioner responds to the recommendations in the TA review it does not mean that the group can meet the seven mandatory criteria by simply submitting additional information.

General Comments. As you study your petition for completeness, we suggest that you review the Acknowledgment criteria carefully. Also, we encourage you to try to provide evidence that demonstrates that your group meets each criterion. There are some general problems that affect the whole petition.

There is no bibliography with the narrative. The bibliography is indispensable to the BAR staff when matching the petition's documentation to the citations in the text. No specific form for the bibliography is required, but it should, at the least, include author's full name, date of publication, title of publication, and, if a book, publisher's name and city where published.

Some of the documents and sources cited in your petition materials were not included:

1. Cover page missing on a 31 page draft report on the topic of the Federal Government retaining the exclusive right to govern in the field of Indian affairs.
2. Cover page missing on a document that may be from the State of Conn., pages 140 through 503. Topic: Public Record and Meetings.
3. Cover page missing on a book that is titled "History of the Indian of Connecticut by De Forest.
4. Cover page missing on a report titled "New England and Long Island Indians," pages 71 to 130.
5. Cover page missing on a report with a Chapter One title of "Indian of Connecticut: An Introduction," pages 1 through 124.

Please send the cover pages of these reports and publications. Also, when sending copies of evidence in the future, please send xeroxed copies, not only typed abstracts or extracts.

Criterion 83.7(a): External identification of the group as an American Indian entity on a substantially continuous basis since 1900. The documentation that you presented in the petition is essentially sufficient to address Criterion 83.7(a).

Criterion 83.7(b): A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. This criterion requires extensive documentation in the petitioner's narrative providing evidence that the group has been a distinct community which maintained consistent relations and interactions among the membership throughout its history.

To meet the intent of criterion (b), you must provide more documentation that details how members living on- and off-reservation interacted with each other, shared ritual ceremonies, participated in cooperative labor projects, followed patterns of kinship/clan membership, shared a culture distinct from surrounding communities, provided for the family's welfare, and practiced in- or out-group marriages.

The narrative provided BAR was primarily a historical outline of the group without human interactional context. For example, the narrative stated that in 1848 the group's membership had "fallen to fifteen people, mostly children, in three families"; and yet, did not offer any substantive social, cultural, or interactive

context of life experienced by the 15 member population. Importantly, such context -- necessary to determine the "distinct community" aspect of the group -- was virtually ignored from 1848 to the present.

To provide "distinct community" evidence necessary to support criterion (b), describe the activities of the membership and the qualities inherent to a distinct Indian community from 1848 to the present at key milestones in the group's history.

To assemble the documentation to support your group's case as a distinct indigenous community, consider your first-edition narrative as a building block upon which to add material from other sources such as texts, journals, news stories, family letters, video interviews, and oral transcriptions. Pages one through three of the narrative can serve as a model of how to present documented material describing membership activities during a specific time period. Also, these first three pages provided illustrations on Pequot community life during early European contact, circa 1650, when tribal members cooperated in collecting, growing, or processing berries, corn, artichokes, squash, beans, wild game, and shellfish. These shared activities suggest that people cooperated in economic activity, had a division of labor, and traded with each other. The narrative needs more such examples; particularly from 1848 to the present.

In developing a petition narrative it is important to document -- where documentation exists -- the formal and informal aspects of community life since 1848. The evidence listed under criterion 83.7(b) describes elements of community life. Included are marriage patterns, social relations, informal interaction, cooperative labor activities, patterns of discrimination, and rituals.

Consider responding to some of the questions below. By doing so, you will develop your case that your group is a distinct community.

Marriage patterns. Can you describe the extent that people married either in or out of the tribal group from 1900 to the present? Describe marriage patterns for particular periods in time, such as 1900, World War I, tenure of Chief Silver Star, and post Chief Silver Star.

Social organization. Are there instances in the group's history where organizations or relationships united members into a more cohesive group? Provide documentation describing how these relationships or organizations affected members living away from the community. Did they participate?

Informal interaction. Provide documentation that describes the common patterns in the way community members interacted or dealt with each other on a day-to-day basis. In what ways did these patterns vary from generation to generation? Did they differ if the individual lived outside the community's area? Describe the differences.

Cooperative labor. For any period of time during your petitioning group's history, how did members provide food and shelter for their families? Did they work for others or rely on subsistence farming, or hunting, or gathering, or a combination of these activities? Did different members participate in these kinds of activities at different times or ages? Consider discussing examples relating to hunting, commercial fishing, subsistence farming, pow wows, church activities, youth groups, seasonal berry gathering, etc.

Patterns of discrimination. What evidence describes discrimination against the group by neighboring communities, schools, churches, or other civic groups?

Rituals. In what ways did religious practices unite the group -- that is, make the group a more cohesive unit? In what ways were the religious institutions, including churches, important to people in the community? To what extent has the group's membership participated in religious practices from 1900 to the present? Is there a particular church that is predominantly Eastern Pequot?

Again, these questions might help you address the intent of criterion (b) by showing documented evidence of cohesive group interaction. Interviews with elders, letters, federal census reports, or other records describing events from earlier times, as well as relevant documentation from library and newspaper archives may provide the information needed.

While answering these questions, it is important to keep in mind that the intensity of social interaction and strength of relationships were not normally uniform within the membership of any tribe. Nor were they the same through time. For example, before 1800, virtually all of the Eastern Pequots lived on a reservation and all members interacted widely. However, in recent times individuals moved off the reservation and away from the core community. Some of the off-reservation membership may have continued to interact with reservation members and maintained the group's social core.

Describe how peripheral groups, if there were any, interacted with the core or with other peripheral groups. It is important to describe and document any changes in the core and periphery through time.

Criterion 83.7(c): The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. Criterion (c) requires demonstration that a petitioning group exercised political influence over its membership in the past and that political influence has been maintained up through the present. To meet this criterion requires proof that the group had established leaders, as well as members who followed the leadership. Thus, there must be evidence that leaders influenced their followers and that the followers in turn influenced the leaders.

The narrative supplied names of leaders Chief Silver Star and Helen LeGault and documented how some of their decisions involving overseers and the State of Connecticut affected the welfare of the core community. What evidence showed the members' role in community decision-making? The following questions, derived from the regulations, may serve as a guide:

Mobilization of members and resources. How did members rally to address issues of community-wide importance? If meetings were used during Chief Silver Star's tenure and afterward, who organized meetings? How were resources mobilized to address issues facing the community? Were there formal leaders and informal leaders? How many attended meetings and how often?

Consideration of issues. What were some of the issues through time? What kinds of people (gender, age, occupation, family faction) in the community were involved in considering these issues?

Widespread knowledge. Did people in the community have knowledge of the issues under consideration by the leadership? What kinds of opinions or views have been expressed regarding these issues? How did the participation of the members show that the community knowledge and opinion were a part of the political process? Comment on these questions at milestones in your group's history from 1900 to the present.

Community organization. Which leaders have influenced how certain monetary, land, and facility resources were allocated in the reservation community? If so, how? How were disputes settled over time? Describe the respective role of the leadership and the general membership in resolving disputes. Were there instances in which leadership has intervened in individual disputes or decision making? Comment on these questions at milestones in your group's history from 1900 to the present.

It is important to remember that the conflict between the Paucatuck Eastern Pequot and Sebastian family factions within the community is not evidence against the continued existence of a tribe, or its political viability. Sometimes a dispute or factionalism is evidence that supports the existence of community or political process since disputes can show that people were taking an issue seriously.

Criterion 83.7(d): Governing Document and Membership Criteria.
Governing Document. Governing documents must be signed, executed, and dated by the appropriate signatories of the governing body. BAR is in receipt of the 1988, 1989, undated, and 1993 Constitutions. While documentation shows that the 1989 Constitution was ratified, there is no evidence for the 1993 Constitution's ratification. Is the 1989 or 1993 Constitution in effect for your group? If the 1993 Constitution is in effect, send supporting evidence of minutes of meetings where the governing documents were discussed by the membership and a list of members present at those meetings. Also, provide BAR with the evidence that the 1993 Constitution was submitted to the membership for a ratification vote.

Do pre-1988 governing documents exist? If so provide BAR with copies.

Membership Criteria. BAR staff uses membership criteria to determine if the group descends from the historic tribe. The petition does provide documentation on membership eligibility criteria and how prospective members must prove that they are eligible members; however, some of the group's membership information is missing. BAR requests the following membership criteria be submitted:

1. Supply membership lists used in the past by the group. If such lists do not exist, please explain.
2. Submit the current membership list giving each member's name (including maiden name), residence address, birth date, and parents' names.
3. Description of the process by which membership lists were approved by the group. Provide evidence of the group meeting to consider member applicants and subsequent certification by the group's governing body of approved new members.

Criterion 83.7(e): Membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. There are three major problems

regarding criterion (e). First, the current roll is missing some addresses and does not have the name of parents, maiden names of women, and other information required by the regulations. Since the missing information appears readily available, we do not expect that you will have much trouble correcting this problem.

This membership list is extremely important because it defines the people who make up the modern community. If the group becomes recognized, this list will become the group's base roll for BIA purposes, and a binding document. Similarly, it will be important in evaluating the petition membership criteria discussed in this letter.

Second, there is a serious gap in the genealogical record and documentation around the time of the Civil War. There is insufficient proof in the documents sent to establish that the people living on the reservation after the Civil War are descended from those known to be living there before the War. For example, additional proof is needed regarding the Gardner and Jackson families. How were they linked to families living in the area before 1860, were they identified as Paucatuck Eastern Pequot, or were they even identified as Indian prior to their first appearance on the overseers lists after the Civil War? Similarly, your challenge to Eastern Pequot ancestry of the Sebastian family descendants is difficult to defend, as records included with your petition show that their ancestors lived on the reservation prior to the Civil War.

Third, the petition needs a clear statement on the criteria used for membership qualification. The ratified 1989 constitution gives some membership provisions, but needs more information on how these membership qualifications are determined in practice. Article II of the 1993 Constitution, which contains information on membership eligibility application procedures, application review, dual enrollment, and membership relinquishment, membership eligibility based on a one eighth blood quantum. However, again, there is no documentation showing that the 1993 Constitution was ratified; and, while there are provisions for members relinquishing their membership, there is no information about how others might disenroll a member.

Finally, several questions need to be answered regarding enrollment:

Has removing names from the group's roll been an issue? How is the enrollment of children or minors handled? What kind of proof is used to establish the 1/8 blood quantum?

Criterion 83.7(f): The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. The regulations governing the Acknowledgment process were designed to prohibit this administrative process from breaking up existing federally recognized tribes. The documentation submitted with the petition is sufficient.

Criterion 83.7(g): Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. The material submitted in the petition is sufficient to address this criterion.

As mentioned above, the TA review merely gives the petitioner the chance to submit additional information or clarification before the active consideration period begins. It is a limited, preliminary review conducted over a period of several weeks by a staff anthropologist, genealogist, and historian. These facts imply additional important conditions.

First, because of the limited nature of our review, we cannot predict all the questions that may emerge during an in-depth review. As a result, we may require further information as we evaluate the petition during active consideration. Also, we cannot assure that petitioners at this point that the petition will meet the seven mandatory criteria even if the additional information is provided.

Second, petitioners have the choice of responding in part or in full to the TA review, or of asking us to proceed with the petition using the materials already submitted. It is important, however, that the petitioning group make the choice of how to respond, not the researchers alone.

Third, if your group requests that the materials submitted in response to the TA review be reviewed as well, the BAR staff will provide additional assistance. The petitioner must request this review, however; it will not proceed automatically.

When the BAR staff evaluates a petition during active consideration the research they conduct is to verify or elaborate on an already complete petition. Our caseload no longer permits us to do research for the petitioner that fills in gaps in the petition.

If your group chooses to respond to this TA review letter, we urge strongly that you and your researchers consult with the BAR staff before preparing a response, so that you can use your

research resources more effectively. The BAR staff can provide technical assistance, but we cannot be responsible for actual research on the part of the petitioner.

It is likely that you and your researchers will encounter new questions during your response to the TA review. It may therefore be necessary to request additional information during the active consideration of your petition. The BAR staff will make every effort to consult with you and your researchers regarding these questions prior to the publication of a proposed finding.

We recommend strongly that you contact us at the Branch of Acknowledgement and Research. Our mailing address is Branch of Acknowledgment and Research, 1849 C Street, N.W., MS-2611-MIB, Washington, D.C. 20240 or by at (202) 208-3592.

Sincerely,

Director, Office of Tribal Services