



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

NOV 29 2002

Honorable Jerry Haney
P.O. Box 1498
118 West 2nd Street
Wewoka, Oklahoma 74884-1498

Dear Chief Haney:

Thank you for your letter of October 24, 2002, advising me that certification of the General Council representatives for one of the Freedman bands could not be accomplished and recommending a Secretarial election for Chief, Assistant Chief and all Band Representatives. While the Department has recommended new elections for Chief, Assistant Chief and all Band Representatives as an effective way to resolve all questions as to the legality of the composition of the Seminole General Council and have indicated a willingness to assist the Seminole Nation with the cost of such new elections, we know of no authority for the Secretary to call and conduct such elections.

Judge Walton made it clear in the hearing before him on October 3, 2002, that it was only the representatives for the two Freedman Bands and the two other bands for which there was evidence in the existing administrative record that individuals had been wrongfully denied the opportunity to run for office that were at issue in the *Seminole Nation v. Norton* litigation. In light of Judge Walton's clarification of his September 23 Memorandum Decision, the Department has recognized you as Chief, Mr. Factor as Assistant Chief, and now recognizes the General Council Band Representatives for all the bands except the two Freedman Bands.

Initially, there was a question concerning one of the representatives of the Tallahassee Band. As we have previously indicated, we understood that the individual who had been denied the right to run for office because he lacked the $\frac{1}{4}$ degree Seminole blood was a candidate in a subsequent election and was defeated. Although the individual was not satisfied with the election because of insufficient notice and other reasons, we are not aware of any reasons which would preclude our recognizing the results of the election.

Similarly, there was a question concerning one of the representatives of the Hecete Band because an individual had been denied the right to run for office because she lacked the $\frac{1}{4}$ degree Seminole blood. A subsequent election was held for the Band's representative to the General Council and the individual's name was placed on the ballot and she was defeated. She and another individual objected to the process followed but we do not have clear evidence that the election was in violation of any tribal or band laws or traditions. We see no basis, therefore, for declining to accept the results of the Hecete Band's special election.

Letter to Honorable Jerry Haney
Re: Certification of elections

2

We are aware that these special band elections are in some respects significantly different from band elections that are held at the same time as the elections for the Chief and Assistant Chief. There is, or may be, less notice of the elections and no clear right of absent members to vote by absentee ballot. It is not clear that Title 10 of the Nation's Code applies to these special elections. The Nation's Constitution simply provides that "[i]t shall be the responsibility of the bands to fill, pursuant to Seminole tribal customs, any vacancy which may occur in their representation." See Article IX, Section 3, sentence 3.

The elections for the representatives of the two Freedman Bands present a somewhat more difficult problem. We were advised that the Bruner Band held its election on or about October 12 and elected Lena Shaw and Helen Renfro. We have not, however, seen any documentation of that election. The minutes of a November 15 Band Chiefs meeting indicate that Ms. Shaw forwarded the election documents to you. This documentation should be provided to us.

As to the Dosar-Barkus Band, there were apparently two separate elections that were held by different factions of the Band on October 19th with differing results. Thus far, the Bureau has been unable to resolve which of the elections was proper. Initially, the General Council was not considered properly constituted because the Council had taken actions to preclude the election of band representatives to the Council, a disability beyond the Band's control. Now, what is keeping the Band from having representatives on the General Council is the Band's own inability to resolve its internal conflict. We will not let the Band's inability to resolve its own internal dispute prevent indefinitely the reconstitution of the General Council. If the Band does not provide clear documentation of a fair open election of General Council representatives by December 20, we will consider the General Council duly reconstituted without any representatives from the Dosar-Barkus Band.

If you have any questions, please don't hesitate to call on me.

Sincerely,



Assistant Secretary-Indian Affairs

cc:

Susan M. Williams, Esq.
Williams & Works, P.A.
4417 Corrales Road
Corrales, N.M. 87048

Letter to Honorable Jerry Haney
Re: Certification of elections

3

Mark Goldey, Esq.
Franklin Velie, Esq.
Salans, Hertzfeld, Heilbronn, Christy & Viener
620 Fifth Avenue
New York, New York 10020

Marcella Burgess Giles, Esq.
Troy Woodward, Esq.
Giles & Woodward
926 Ridge Drive
McLean, VA 22101

Jon T. Velie, Esquire
210 East Main Street
Suite 222
Norman, OK 73069