



Dannel P. Malloy

GOVERNOR
STATE OF CONNECTICUT

February 24, 2014

The Honorable Barack H. Obama
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

I write to bring to your attention an issue of grave concern to the State of Connecticut, and to ask for your help.

Last June, the Department of the Interior's Assistant Secretary for Indian Affairs issued a Discussion Draft proposing revisions to the Bureau of Indian Affairs (BIA) process for federal acknowledgment of Indian tribes (25 CFR Part 83). The draft, as proposed, would have a unique and devastating impact in Connecticut.

Under the Discussion Draft's "expedited favorable finding" process, the existence of a state reservation since 1934 would be irrefutable evidence that a group satisfies the core criteria for federal acknowledgement, such as continuous existence as a social community and the continuous exercise of political influence since 1789. The Discussion Draft would allow groups that have previously been denied federal tribal status the ability to re-apply and to seek an expedited favorable finding.

The problem with this proposal is simple: Connecticut has maintained reservations since 1934 for three groups that have already been denied federal acknowledgment precisely because they did not satisfy the core acknowledgement criteria. In other words, after thorough evidentiary processes, involving thousands of pages of evidence, extensive expert testimony, and intensive participation of petitioners, the State, and other interested parties, the Department of the Interior concluded that the existence of a state reservation in Connecticut could *not* be taken as a proxy for the core acknowledgment criteria. The Department's decisions to deny federal acknowledgment to all three petitioners have been upheld by the courts.

Connecticut maintains reservations simply because there are living descendants of the groups for which the reservations were first established. Using state reservations as a proxy for community and political authority thus collapses the acknowledgment decision into one based entirely on descent, a result that is contrary to the fundamental principles of tribal acknowledgment.

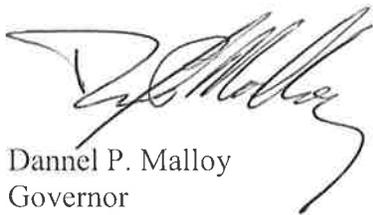
Other than the Connecticut petitioners, there are few if any groups in the United States that could meet the requirements proposed for an expedited favorable finding. And to my knowledge, there is no other state in which a reservation has been maintained since 1934 for a group that has already been denied acknowledgment. Accordingly, *only in Connecticut would the BIA's proposal result in the automatic reversal of past decisions.*

For Connecticut, the consequences would be devastating. The petitioning groups have filed or threatened land claims to vast areas of fully developed land in Connecticut. Such claims can cloud the title to real property in the claimed area, causing significant economic hardship to Connecticut residents. All of the petitioning groups have expressed interest in developing casinos and pursuing land claim lawsuits if they obtain federal acknowledgement. Federal reservations and trust lands would be created, exempt from state and local regulatory control, resulting in the loss of tax base, the need for increased services from local governments, and extraordinary new demands on the infrastructure of the State.

Accompanying this letter is a fuller explanation of the issue. However, let me stress that, while there are problematic aspects of the Discussion Draft affecting many states, only minor changes are needed to eliminate the unique and unfair bias against Connecticut by (a) eliminating the use of state reservations as a proxy for established criteria and (b) eliminating the ability of previously denied groups to re-apply for an expedited favorable finding. The overall proposal and its application to other states and tribal petitioners need not be affected.

Therefore, I ask for your help in incorporating our proposed changes into any notice of proposed rulemaking based on the Discussion Draft. These concerns have already been raised by me, the State's entire Congressional delegation, Connecticut's Attorney General, and numerous other parties through the public comment process on the Discussion Draft. I am available any time to further discuss Connecticut's concerns with you and your staff. I look forward to following up on this letter and to reaching a satisfactory conclusion for my State and the BIA.

Sincerely,



Dannel P. Malloy
Governor