



**FORT SILL – CHIRICAHUA – WARM SPRING – APACHE TRIBE**

PHONE: (580) 588-2298 / 2314 · FAX: (580) 588-3133

TOLL FREE: 1-877-826-0726

43187 US Highway 281 · APACHE, OKLAHOMA 73006-8038

**RECEIVED**

**FEB 29 2016**

DOI/AS-IA/OFA  
Washington, DC

Transmitted Via Fax (202-219-3008) and First Class Mail

Office of Federal Acknowledgment  
MS-34B-SIB  
1951 Constitution Avenue, NW  
Washington, D.C. 20240

Re: Petition for Federal Acknowledgment  
Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe

Dear Sirs:

I am writing on behalf of the Fort Sill – Chiricahua Warm Springs- Apache Tribe (FSA Tribe) in my capacity as Tribal Chairperson regarding the Federal Acknowledgement Application of the group called the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe. This group apparently filed an application or a supplemental application for Federal Acknowledgement on or about September 29, 2015. Apparently your office sent out a Notice for Comment on this Petition on or about November 28, 2015.

We have checked our records and we have found that the FSA Tribe has not received any notice from the Office of Federal Acknowledgment or any other entity of the Department of the Interior regarding this proposed Petition. We have reviewed the notification list that your office published on-line and we see that our Tribe was not included on that list.

Under 25 U.S.C. § 83.22(b)(2)(IV) the Office of Federal Acknowledgment must “notify any recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination.” We believe based on this criteria, your office sent notice of this petition to the Ysleta Del Sur Pueblo (Tigua Tribe). Although it is not clear what lands the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe is claiming as their aboriginal territory, they are headquartered in Dona Ana County, New Mexico, while the Tigua Tribe’s lands are located in El Paso, Texas; that city does border Dona Ana County.

The FSA Tribe’s “Reservation” is located in Luna County, New Mexico which is also located adjacent to Dona Ana County. Thus as with the Tigua Tribe, the FSA Tribe should have also received notice. Besides the modern day physical connection and location our Tribe has with the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe’s headquarters in Las Cruces, New Mexico; Las Cruces is also located the aboriginal territory and former reservation lands of the FSA Tribe as set out by the U.S. Indian Claims Commission and U.S. Court of Claims in Fort Sill Apache Tribe et. al v. United States, 19 Ind. Cl. Comm. 212; 25 Ind. Cl. Comm. 382; 26 Ind. Cl. Comm. 198; and United States v. Fort Sill Apache et. al. 480 F.2d 819; and 533 F.2d 531.

**MOUNTAIN SPIRIT DANCER**

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#02-46

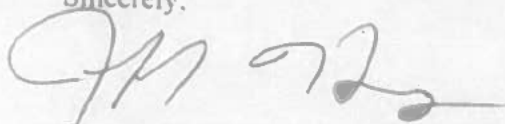
These decisions confirmed the findings of the Indian Claims Commissions and the acquiescence of the United States of America that the area and site upon which the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe's headquarters is located is the FSA Tribe's aboriginal and former Indian title lands. In addition, as will be further outlined in our response to the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe's Petition; the historical record also clearly demonstrates that Las Cruces, New Mexico, Dona Ana County and all of the lands surrounding this area was the land of the Apaches, not Pueblo Indian lands.

Although we were not informed of this petition as required by 25 U.S.C. § 83.22(b)(2)(IV); we do want to respond to this petition. In that regard, we are requesting pursuant to the Freedom of Information Act (FOIA) any other evidence not specifically published pursuant to 25 U.S.C. § 83.22(c) which requires the publication of certain information on the Office of Federal Acknowledgement website, relating to the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe. Any questions on this request and any response to this letter can be directed to our Tribal Attorney:

Phillip E. Thompson  
Thompson Associates  
P.O. Box 467  
Point of Rocks, MD 21777  
301-535-0488  
Fax: 202-905-0057  
[philliptho@verizon.net](mailto:philliptho@verizon.net)

Although we are not sure why the FSA Tribe was overlooked on this Petition, we hope that our submission will be given due weight and consideration in this matter. If you have any questions, please do not hesitate to contact me or our Tribal Attorney, Mr. Thompson.

Sincerely,



Jeff Haozous  
Tribal Chairman

**RECEIVED**

**MAR 11 2016**

**DOI/AS-IA/OFA  
Washington, DC**

**FAX TRANSMISSION**

March 11, 2016

TO: Assistant Secretary - Indian Affairs  
Office of Federal Acknowledgment

Phone:

Fax: (202)-219-3008

From: Jeff Haozous Chairman, Fort Sill Apache Tribe

Phone: (580) 588-2298

Please see attached correspondence.

40307



**FORT SILL - CHIRICAHUA - WARM SPRING - APACHE TRIBE**

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March 11, 2016

Assistant Secretary - Indian Affairs  
Attn: Office of Federal Acknowledgment  
Mailstop MS-34B-SIB  
1951 Constitution Avenue, NW  
Washington, D.C. 20240

Dear Assistant Secretary - Indian Affairs:

This letter formally requests that the Fort Sill Apache Tribe ("Tribe") be granted "interested party" status as you review the acknowledgment petition for Petitioner # 005, Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe ("Petitioner").

Title 25, Code of Federal Regulations, Part 83, Procedures for Establishing That an American Indian Group Exists as an Indian Tribe (25 CFR Part 83), states:

Interested party means any person, organization or other entity who can establish a legal, factual or property interest in an acknowledgment determination and who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner. "Interested party" includes the governor and attorney general of the state in which a petitioner is located, and may include, but is not limited to, local governmental units, and any recognized Indian tribes and unrecognized Indian groups that might be affected by an acknowledgement determination.

25 CFR 83.22 (b)(2)(iv) requires that notice be provided to "[a]ny recognized tribe...that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination." Based on this criteria, it appears your office sent notice of this petition to the Ysleta Del Sur Pueblo (Tigua Tribe), whose lands are located in El Paso, Texas and border Dona Ana County, New Mexico, the county where the Petitioner is headquartered. The Tribe's Reservation is also located in Luna County, New Mexico, and is adjacent to Dona Ana County. Therefore, as was the case with the Tigua Tribe, the Tribe's Reservation has a physical proximity to the lands claimed by the Petitioners and on that basis should have received proper notice under 25 CFR 83.22.

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Please notify me if we do not qualify for interested party status. Otherwise, add the following contact information to your files and send copies of documents describing general actions regarding this petitioner to:

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Thompson Associates  
P.O. Box 467  
Point of Rocks, MD 21777  
301-535-0488  
Fax: 202-905-0057  
philliptho@me.com

Sincerely,



Jeff Haozous, Chairman  
Fort Sill Apache Tribe

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**MAR 11 2016**

**DOI/AS-IA/OFA  
Washington, DC**

**FAX TRANSMISSION**

March 11, 2016

TO: Assistant Secretary - Indian Affairs  
Office of Federal Acknowledgment

Phone:

Fax: (202)-219-3008

From: Jeff Haozous Chairman, Fort Sill Apache Tribe

Phone: (580) 588-2298

Please see attached correspondence.

40302



**FORT SILL - CHIRICAHUA - WARM SPRING - APACHE TRIBE**

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March 11, 2016

Assistant Secretary - Indian Affairs  
Attn: Office of Federal Acknowledgment  
Mailstop MS-34B-SIB  
1951 Constitution Avenue, NW  
Washington, D.C. 20240

Dear Assistant Secretary - Indian Affairs:

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Point of Rocks, MD 21777  
301-535-0488  
Fax: 202-905-0057  
philliptho@me.com

Sincerely,



Jeff Haozous, Chairman  
Fort Sill Apache Tribe





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**MAR 18 2016**

**DOI/AS-IA/OFA  
Washington, DC**

March 11, 2016

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1951 Constitution Avenue, NW  
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#03-30

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Sincerely,



Jeff Haozous, Chairman  
Fort Sill Apache Tribe



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**MAR 17 2016**

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Transmitted via Fax (202-219-3008) and First Class Mail

Assistant Secretary - Indian Affairs  
Attn: Office of Federal Acknowledgment  
Mailstop MS-34B-SIB  
1951 Constitution Avenue, NW  
Washington, D.C. 20240

Dear Assistant Secretary - Indian Affairs:

Pursuant to 25 CFR 83.8, the Fort Sill Apache Tribe ("Tribe") hereby requests an extension of the 120 day period for submitting comments and evidence supporting or opposing the documented petition for federal recognition of the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe ("Petitioner"). See 25 CFR 83.22(b)(1)(v).

On November 27, 2015, notice of the Piro/Manso/Tiwa's documented petition was published in the Federal Register. 80 Fed. Reg. 74,123 (Nov. 27, 2015). The November 27, 2015, notice provided that individuals and entities would have 120 days from the date of the notice to submit comments and evidence supporting or opposing the petitioner's request for acknowledgment. Thus comments on the Piro/Manso/Tiwa's documented petition are due on March 27, 2016. However, the Tribe respectfully requests an additional 120 days (until July 25, 2016) to adequately provide informed comments on this petition.

Good cause exists to grant this extension. As an initial matter, the Tribe did not receive proper notification of the documented petition. 25 CFR 83.22 (b)(2)(iv) requires that notice be provided to "[a]ny recognized tribe...that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination." Based on this criteria, it appears your office sent notice of this petition to the Ysleta Del Sur Pueblo (Tigua Tribe), whose lands are located in El Paso, Texas and border Dona Ana County, New Mexico, the county where the Petitioner is headquartered. The Tribe's Reservation is also located in Luna County, New Mexico, and is adjacent to Dona Ana County. Therefore, as was the case with the Tigua Tribe, the Tribe's Reservation has a physical proximity to the lands claimed by the Petitioners and on that basis should have received proper notice under 25 CFR 83.22.

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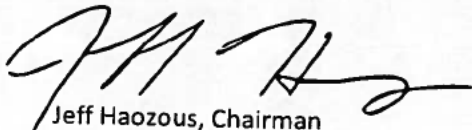
Moreover, the petition and supporting evidence submitted by the Petitioner is extensive and requires more than the allotted time for review. The petitioning documents are comprised of over 1,000 pages and the supporting documents include over 1,000 pages of purported governing documents, archival evidence, historic and anthropological reports and other detailed information. Understandably, the Tribe will have to devote a large amount of time to review the over 2,000 pages of documents to be in a position to provide informed, knowledgeable and responsive comments on the petition. In addition, because of the anthropological claims asserted by the Petitioner, it will be necessary for the Tribe to secure qualified experts to review and assess the accuracy of the Petitioner's claims, which will add to the time necessary to prepare fully informed comments.

Finally, it should be noted that Tribe is currently engaged in litigation against the Department of the Interior, which is demanding of the Tribe's time, personnel and resources. A 120-day extension would enable the Tribe to properly comment on the Piro/Manso/Tiwa petition as well as meet the demands of the litigation.

In order to ensure that the Tribe is kept informed of any future actions regarding the Piro/Manso/Tiwa's petition for federal acknowledgment, the Tribe is also submitting the enclosed letter requesting interested party status.

The substantial impacts potentially resulting from the Petitioner's claims underscores the importance of the Tribe being provided with adequate time to fully address the arguments and evidence submitted in this matter. In light of these considerations, we respectfully request your prompt considerations of this request for an additional 120 days time to file comments.

Sincerely,



Jeff Haozous, Chairman  
Fort Sill Apache Tribe

# THOMPSON ASSOCIATES

P.O. Box 467  
Point of Rocks, MD 21777  
Office: 703-779-8783  
Fax: 202-905-0057  
Cell: 301-535-0488  
philliptho@verizon.net

RECEIVED

APR 04 2016

DOI/AS-IA/OFA  
Washington, DC

## COMMENT LETTER

Transmitted Via First Class Mail

Office of Federal Acknowledgment  
MS-34B-SIB  
1951 Constitution Avenue, NW  
Washington, D.C. 20240

Re: Petition for Federal Acknowledgment  
Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe

Dear Sirs:

I am writing on behalf of the Fort Sill – Chiricahua/Warm Springs - Apache Tribe (FSA Tribe) in my capacity as Tribal Attorney regarding the Federal Acknowledgement Petition of the group called the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe. (Petition # 5) This group apparently filed an application or a supplemental application for Federal Acknowledgement on or about September 29, 2015. Although as will be pointed out in our Comment Letter and as outlined on your website; the Tribe has also filed numerous previous submissions for recognition to the Office of Federal Acknowledgement.

As you are aware from The FSA Tribe's previous communications regarding Petition # 5; the FSA Tribe believes that it was not provided adequate and lawful Notice as required under 25 C.F.R. § 83.22(b)(2)(IV) by the Office of Federal Acknowledgement (OFA).<sup>1</sup> And thus the Tribe believes it should be afforded additional time, past the March 28, 2016 deadline, to provide comments on Petition # 5. The Tribe today, filed a "Request for Reconsideration of Fort Sill Apache Tribe's Request for Extension of Time to Comment on Piro/Manso/Tiwa Federal Acknowledgement Petition" to the Assistant Secretary – Indian Affairs (Enclosure 1) The Tribe wants to be abundantly clear that in filing this "Comment Letter"; the Tribe is not waiving any of its rights with regard to the issues raised in its Request for Reconsideration and that the Tribe still requests additional time as outlined in its Request for Reconsideration to further supplement this submission.

The FSA Tribe's comments with regard to Petition # 5 fall into two main categories. The first being a general estoppel of claims of tribal recognition as a

<sup>1</sup> The Office of Federal Acknowledgement must "notify any recognized tribe and any Petitioner that appears to have a historical or present relationship with the Petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination."

#04-09

result of the findings of the U.S. Indian Claims Commission (ICC) with regard to the Piro/Manso/Tiwa Indian(s) "Petitioner." The second being the deficiencies and contradictions in the Petitioner's filings before the OFA with regard to the requirements of 25 C.F.R. Part 83.

### **LITIGATION BEFORE THE INDIAN CLAIMS COMMISSION**

The area in and around where the Petitioner claims to have what could be loosely referred to as its aboriginal territory in Dona Ana County New Mexico, was determined to by the ICC to be the aboriginal and Indian Title lands of the FSA Tribe and its predecessors. *Fort Sill Apache Tribe of Oklahoma et. al v. United States*, 19 Ind. Cl. Comm. 212 and 248 (June 28, 1968); *Fort Sill Apache Tribe v. United States*, 477 F.2d 1360 (1973), *cert. denied*, 416 U.S. 993 (1974).<sup>2</sup> Thus the Petitioner's claims in tis applications of aboriginal and historical claims to this territory are questionable based on the ICC, the U.S. Court of Claims and finally the U.S. Supreme Court's determinations in the cases cited above.

It should be noted, that no group, formally or informally, related to the Petitioner made any claims of aboriginal or Indian title to any lands located in City of Las Cruces area in Dona Ana County, New Mexico. However, where the Petitioners did attempt to intervene was in the Indian land claims of the Lipan Apaches, Mescalero Apaches and Tigua Indian Community. *Lipan Apache Tribe, et. al. v. United States*, 22 Ind. Cl. Comm. 1 (1969). These claims almost exclusively dealt with claims for lands in the State of Texas.

What is most significant in the litigation of Docket 22-C before the ICC is that even after the ICC dismissed the claims of the Petitioners for those lands located mainly in Texas in *Lipan Apache Tribe, et. al. v. United States*, 35 Ind. Cl. Comm. 302 (1975); the Court still took the time to review the extensive record of testimony and evidence provided on behalf of the Petitioners. After reviewing that information, the ICC made the following finding of fact in *Lipan Apache Tribe, et. al. v. United States*, 36 Ind. Cl. Comm. 23 (1975).

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<sup>2</sup> The Fort Sill Apache Tribe has been found to be the legal successors in interest to the Mogollon Apaches, Mimbres Apaches, Copper Mine Apaches, Warm Springs Apaches and the Chiricahua Apaches Tribes whose aboriginal territory, former reservation and Indian title lands included 14,802,387 acres of lands located in Southeast Arizona and Southwest New Mexico. Findings of Fact (11) and (12) *Fort Sill Apache Tribe of Oklahoma et. al v. United States*, 19 Ind. Cl. Comm. 212 (June 28, 1968).

1. That the Piro Indians established a Pueblo at a place called Senecu near Socorro, New Mexico that was destroyed by Apache Indians. *Id.* at 43
2. That the Prior and Tigua Indians moved from the Santa Fe and Socorro New Mexico regions to El Paso, Texas area around 1680 during the Pueblo Revolt. *Id.* at 43
3. The Piro Indians were relocated from Senecu and Socorro, New Mexico were to locations South of El Paso, Texas. *Id.* at 43
4. The Manso and Suma Indians once occupied the Rio Grande Valley in and near El Paso, Texas. *Id.* at 44
5. After 1659, the Manso became intermixed with Piro and Tigua Indians. *Id.* at 44
6. That by 1750, the Mansos "disappeared from the historical scene by 1750 having been assimilated into the greater Mexican population." *Id.* at 44
7. As to the Suma Indians, the ICC found that by 1897, "there was only one known Suma Indian living at Senecu, Mexico, the Tribe having become extinct. *Id.* at 45

The findings of the ICC are significant, first because of the extensive record that was presented before the ICC, which the FSA Tribe intends to place before the OFA so that it can become part of the record in this review.<sup>3</sup> In addition, these findings confirm that the predecessors to the Petitioner could not meet the loosely defined terms under the Indian Claims Commission Act of 1946 of "any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska" to even perfect a claim under the Act<sup>4</sup> These findings were further chronicled by the Museum of New Mexico, Office

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<sup>3</sup> U.S. Indian Claims Commission, "Expert testimony before the Indian Claims Commission: The Tigua, Suma and Manso Indians of Western Texas and New Mexico, from aboriginal times to the 1880's."

<sup>4</sup> **SEC. 24 of the Indian Claims Commission Act of 1946 [Public Law 726] 60 Stat. 1049.** The jurisdiction of the Court of Claims is hereby extended to any claim against the United States accruing after the date of the approval of this Act in favor of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska whenever such claim is one arising under the Constitution, laws, treaties of the United States, or Executive orders of the President, or is one which otherwise would be cognizable in the Court of Claims if the claimant were not an Indian tribe, band, or group. In any suit brought under the jurisdiction conferred by this section the claimant shall be entitled to recover in the same manner, to the same extent, and subject to the same conditions and limitations, and the United States shall be entitled to the same defenses, both at law and in equity, and to the same offsets, counterclaims, and demands, as in cases brought in the Court of Claims under section 145 of the

of Archeological Studies, "Traditional Use Areas In New Mexico" Archeological notes. (Enclosure 2)

Thus in conclusion, if the ICC, after reviewing expert testimony, could not find that Petitioners' predecessors to be an "Indian tribe, band, or other identifiable group of American Indians" it would seem that any present claims of tribal would be precluded. The OFA must take into account the findings of the ICC in its review of the claims made on Petition # 5. As these claims were dismissed by the ICC and never appealed by the Petitioners, thus the claims of tribal status be dismissed here by the Department of the Interior.

### **COMMENTS UNDER 25 C.F.R. PART83**

The following are specific comments relating to the criteria set out under 25 C.F.R. Part 83 reviewed in context with the information provided by the Petitioner.

Criterion under 25 C.F.R. § 83.7 (b)

- In the 1978 petition, the Petitioner describes the current population as "inhabiting the village of Tortugas, New Mexico" (page 25). Stating that "the majority of the members of the Petitioning Tiwa Tribe live in or near the Pueblo de San Juan de Guadalupe." However, many of the Tribe's members now live in Las Cruces..." (page 25). This statement conflicts with later accounts that the PMT had originally settled in Las Cruces in the 19th century and were a distinct population from the Tortugas Pueblo (2010 petition, pages 13-15).
- The Petitioner did not present evidence confirming that they maintained a distinct social or geographical community as intermarriage with local Hispanic members and Mexican national migrant workers has been established and documented since the early 1900s (1978 petition, Oppenheimer 1956, Bandelier).
- The Petitioner's own assertion that they formed a distinct social group through the intermarriage of three historic tribal communities Piro, Manso, and Tiwa, has not been evident in over 60 years as marriages non-native individuals has steadily increased from the early 19th century (2010 petition, page 8).



- The Petitioner does not maintain a significant rate of inter-tribal marriage or marriage with other Native American communities, “since the late 1940s, a majority of marriages of PMT members have been to non-member Indians or non-Indians” (2010 petition, page 77).
- The Petitioner does not provide evidence proving that community life actually exists today. Enrolled PMT community members live in Texas, California, and are scattered throughout New Mexico. Those members living in Las Cruces do not show evidence that their community life is distinct from the general Las Cruces population. This pattern of cultural dispersion has been evident for the past sixty years. Alan Oppenheimer states that the lack of distinct social interaction was in place since the 1950s “Tortugas culture was found to diverge widely from Pueblo culture as a whole, tending in the direction of the Spanish-American” (1957: Section XI).
- The Petitioner did not present evidence showing a majority of its members undertook joint social or cultural activities, married one another, participated in cooperative economic activities, or undertook informal social activities together distinct from the general population in Las Cruces.
- The Petitioner’s lack of evidence of demonstrating social and cultural community interaction has been evident for the past half century. Anthropologist Alan Oppenheimer concludes in his ethnographic study of the Tortugas Pueblo community “generally speaking, all that remains of the original pueblo pattern consists of a number of religious forms with little substance, some religious and political offices, factionalism, and games. Among the religious externals which still are to be found are some dances and dance paraphernalia, remnants of Tiwa chants, a generalized sort of kiva-moiety house, the rabbit hunt, and certain ceremonial patterns” (1957: page 128).
- The Petitioner fails to demonstrate that their group comprises a “distinct identity” as PMT for the following reasons:
  1. The Petitioner states that they incorporated the Tribes administrative function through the Los Indigenas de Nuestra Senora de Guadalupe corporation (2010 petition, page 33), however the corporation was founded by a non-Native Eugene Van Patten and has since its inception been open to non-Natives “Van Patten developed and established Los Indigenas de Nuestra Senora de Guadalupe, a New Mexico non-profit corporation” (1996 petition, page 4).

2. The administration was continually dominated by non-Native individuals "Van Patten [was] President. Another Anglo-American, Harvey Jackson became Secretary who was responsible for maintaining documents and records of the corporation. Essentially, Van Patten became the primary corporation official overseeing the lands of the Pueblo... The Articles of Incorporation and By-laws of the Corporation, which he wrote, mentioned the tribe and alluded to Indian culture and traditions, but did not protect the land specifically as tribal land. He did coopt the traditional leadership of the tribe, but also did not restrict membership in the corporation to Indians of the tribe" (1992 petition, page 5).
3. Newspaper references the Petitioner has submitted to illustrate a distinct and cohesive Native American identity has continuously conflated the PMT with the Tortugas Pueblo and other surrounding groups near Las Cruces. For example, a Las Cruces Sun-News article cited in the 1996 petition, the Petitioner claims that this media article and others presented in their petition prove their distinctiveness. However, the article describes "[the] Tortugas Indian village three miles south of Las Cruces" (1996 petition, page 36).
4. The Petitioner makes claim to their continual inhabitation of Las Cruces, New Mexico, not in a village three-mile south of Las Cruces as referred to in the above article (2010 petition). The media continuously conflates the Petitioner's community with other groups near Las Cruces. This conflation does not prove the Petitioner's independent and distinct coexistence, instead it illustrates the PMT's fluid identity commingling throughout the 20th century with the surrounding population.

Criterion for 25 C.F. R. § 83.7 (c)

- The Petitioner presents conflicting accounts of how it maintains political influence or authority. The Petitioner claims a bifurcate government, with the Corporation representing the secular and the Cacique representing the religious branch.
- Throughout its existence, there is a problematic relationship between the Petitioner and the Corporation.
- The Los Indigenas de Nuestra Senora de Guadalupe Corporation was founded by Eugene Van Patten, a non-Native Confederate veteran. Although the Corporation included indigenous population from the Las

Cruces area, it was never solely an indigenous organization as it also served the Anglo and Hispanic community members living in the area (Oppenheimer 1957).

- In the Corporation's inception in 1914, the founding President and Secretary were Anglo. The Petitioner in their 1992 petition states "The core community and its leaders made the decision to engage in the establishment of a development at Tortugas, along with the Chicano immigrants and other residences who already had residences there" (page 90). This statement illustrates that since the beginning the Corporation was not intended to act as an administrative or governing entity of a Native community. The 1992 petition further states "Los Indigenes was not designated as a religious, or even an Indian organization. It was a community development corporation" (page 90). As such, the Corporation should not be used as an example of the Petitioner's governing or administrative organization.
- The Petitioner claims a split with the Corporation because of a non-Indian take-over in the 1940s (2010 petition, page 25). However, the Petitioner fails to illustrate that the Corporation had ever operated functionally and primarily as an indigenous organization or with the intent of governing an indigenous population.
- The 1978 petition states "[i]n 1963 the Tiwa Indian Corporation, Los Indigenas de Nuestra Senora de Guadalupe, was still in its original corporate duration and thus still governing the secular affairs of the Tribe. The corporation as a part of the Tribal Government, at that time..." (1978 petition page 30). If this statement is valid, then the 1940s non-Native take-over of the Corporation would indicate that by the 1960s, the PMT was governed by non-Native individuals (2010 petition, page 25).
- Given the arguments above, the Petitioner should not claim that the Los Indigenas de Neustra Senora de Guadalupe corporation creates a "documented link to the State of New Mexico" for purposes of Federal recognition (2010 petition, page 33).
- The Petitioner's religious branch of governance is also problematic. The PMT history of disputes among members contesting the cacique is well-documented.
- The Petitioner's numerous splits and factions that have developed throughout the 20th and 21st century indicate a lack of the Petitioner's

political influence and ability to maintain authority over its community members.

- The first well documented split occurred in the 1940s when the Petitioner severed ties with the Tortugas pueblo over leadership (1992, 1996, and 2010 petition).
- In 1951 “two men claimed to be President, but since then one of them has died, and the situation as of this writing is unknown. The claimant who survives was residing in San Diego, California, at the time of my visit. The man was Victor Roybal, the Cacique’s brother, who the Cacique’s faction claimed, was entitled to the office for life” (Haltom page 44).
- The Petitioner and another group also called the PMT tribe split in 1995 due to conflicts regarding the cacique’s position (Campbell 2006; and 2010 petition). For several years, the Petitioner split with two separate factions in 1995, the LeFebre PMT and the Portillo PMT (2010 petition). Although the Petitioner has reconciled with one of the factions, another PMT sect, along with the Tortugas pueblo are contesting the Petitioner’s recognition process. The multiple splits and factions indicate that the Petitioner has not maintain authority over its members for the last seventy years.
- Factionalism and decent among the Petitioner’s community are evident at the secular administrative branch of governance and the religious branch of governance under the Cacique.

Criterion Under 25 C.F.R. § 83.7 (e)

- The Petitioner presents conflicting narratives of their community members’ decent from historical Indian tribes.
- The Petitioner’s initial petition and in earlier ethnographic and historic accounts, members of the PMT claim common ancestry with the Isleta Tiwa and Ysleta del Sur of El Paso. The Petitioner refers to their heritage as Tiwa in their earlier petition (1978 petition, pages 2-5; 1992, pages 30-35), thus corroborating Alan Oppenheimer assertion (1957).
- In an Indian Claims Commission case the Petitioner (then referred as the Tiwa tribe) was involved in a suit as a partial claimant to a claim initiated by the Ysleta del Sur of El Paso. In the claim the Petitioner stated the existing common relationship between their tribe and that of Ysleta del Sur, affirming that they shared common ancestry and history (1978 petition,

pages 27-28; and Attachment Nos 139 & 140). The initial claim was filed by the cacique of the Tiwa tribe.

- The Petitioner makes later claims in that its members had originally inhabited Las Cruces (Mesilla Valley) to join the Manso community inhabiting the area (1992, page 34; and 2010 petition).

These FSA Tribe does intend to supplement this Comment Letter with additional technical, legal and expert witness analysis. We hope to be able to provide that information in the next thirty (30) days as to not significantly delay the OFA's review of Petition # 5. The FSA Tribe believes the information provided in this Comment Letter not only demonstrates clear deficiencies in the Petitioner's application, but, it also provides inconsistencies in the information they have provided to OFA. As this recent article in the Albuquerque Journal points out, there are many questions with regard to the claims made by the Petitioner. (Enclosure 3)

The FSA Tribe looks forward to providing the OFA with additional supplemental information to this Comment Letter. The Tribe hopes that the Assistant Secretary will determine that the FSA Tribe was not extended proper notice as required under the Department's regulations and extends the FSA Tribe's time for commenting on Petition # 5. We will endeavor to get additional comments and expert information to the OFA. If you have any comments, please do not hesitate to contact the FSA Tribe or me.

Sincerely:



Phillip E. Thompson, Esq.  
Attorney  
Fort Sill Apache Tribe.

Enc (3)

Cc: Fort Sill Apache Tribe  
File

ENCLOSURE 1



## FORT SILL - CHIRICAHUA - WARM SPRING - APACHE TRIBE

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Mr. Larry Roberts  
Acting Assistant Secretary—Indian Affairs  
United States Department of the Interior  
Bureau of Indian Affairs  
MS-3642-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

March 28, 2016

RE: Request for Reconsideration of Fort Sill Apache Tribe's Request for Extension of Time to Comment on Piro/Manso/Tiwa Federal Acknowledgement Petition

Dear Acting Assistant Secretary Roberts,

I am writing on behalf of the Fort Sill Apache Tribe (the "Tribe") in my capacity as Chairman to request reconsideration of the Bureau's Decision on the Tribe's March 11, 2016 request for an extension of time in which to comment on the documented petition for federal recognition (the "Petition") of the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe (the "Petitioner"). In a letter dated March 25, 2016 (the "Decision"), the Office of Federal Acknowledgment ("OFA") denied the Tribe's request for an extension of the comment period.<sup>1</sup> Contrary to the OFA's findings, the Tribe has good cause to request a reasonable extension of time to offer comments on the Petition for the reasons set forth below.

First, the OFA misapplied Part 83 to the Tribe by apparently concluding the Tribe had a duty to request that OFA notify it directly of developments relating to the Petition. On the contrary, nothing in the 25 C.F.R. part 83 regulations suggests, much less requires, that a Tribe do so. Instead, the OFA has a duty upon receipt of a documented petition to provide notice to "[a]ny recognized tribe . . . that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination." 25 C.F.R. § 83.22(d)(5); *see also* 25 C.F.R. § 83.22(b)(2)(iv) (requiring the same notice of a documented petition). Indeed, in issuing part 83, the Department of the Interior (the "Department") confirmed that notice under § 83.22 would take the form of "*direct notice* to any tribe that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination."

<sup>1</sup> It should also be noted that the Decision appears to have been made by the Office of Federal Acknowledgment rather than the Assistant Secretary as required under 25 C.F.R. § 83.8.

### MOUNTAIN SPIRIT DANCER

Mountain Spirit Dancer represents the Mountain Spirit Ceremony which is used by the Chiricahua and Warm Springs Apache. It was given to the Apaches by the Mountain Spirits for blessings, protection, curing and warding off disease. Th Ceremony is stillused today.

Federal Acknowledgment of American Indian Tribes, 80 Fed. Reg. 37,861, 37,876 (July 1, 2015) (emphasis added).

The Department is no doubt aware of the Tribe's historical and present-day relationship with lands adjacent to the Petitioner's headquarters, regardless of whether the Tribe notified the OFA of such relationship. *See, e.g.*, Proclaiming Certain Lands as Reservation for the Fort Sill Apache Indian Tribe, 76 Fed. Reg. 72,969 (Nov. 28, 2011). In its March 11, 2016 letter, the Tribe demonstrated in detail precisely why it should have been notified. As was the case with the Tigua Tribe (whom the OFA did notify of Petitioner's documented petition), the Tribe's Reservation has a physical proximity to the lands claimed by the Petitioners and on that basis alone should have received proper notice under 25 C.F.R. § 83.22.

The Tribe also has a well established historical relationship with the Petitioner. The Tribe's aboriginal territory and former reservation lands are located in Las Cruces, New Mexico, which is also the headquarters of the Petitioner. The decisions of the U.S. Indian Claims Commission and U.S. Court of Claims in *Fort Sill Apache Tribe et. al. v. United States*, 19 Ind. Cl. Comm. 212; 25 Ind. Cl. Comm. 382; 26 Ind. Cl. Comm. 98; and *United States v. Fort Sill Apache et. al.*, 480 F.2d 819; and 533 F.2d 531 confirmed that the site of Petitioner's headquarters is in the Tribe's aboriginal and former Indian title lands. Given its well-established claim to the same lands claimed by the Petitioner, the Tribe has an "historical" and "present relationship" with the Petitioner and a "potential interest" in the acknowledgment determination. Thus, the OFA has an obligation, under § 83.22(d)(5) and § 83.22(b)(2)(iv) to provide direct notification to the Tribe of the opening of the comment period on the Petition. The OFA's failure to do so is a misapplication of part 83 and an unauthorized restriction of the Tribe's opportunity to comment as a Tribe with a potential interest in the Department's determination with regard to the Petition.

In addition, the Decision forecloses the Tribe's ability to provide meaningful comment on the Petition. Certainly the Department understands that recognition of an Indian tribe under part 83 involves review and analysis of complex historical and modern day data regarding the petitioning tribe — materials that take substantial time to compile and analyze. An extension of time is critical for the Tribe to assemble the documentary evidence to provide meaningful comments regarding the Petition and the Petitioner that will inform the Department's decision-making process. Based on the time-intensive reality of assembling factually-supported comments, the Tribe respectfully requested an extension of up to 120 days in which to comment on the Petition, and relayed to your staff their willingness to accept an extension of shorter duration should the Department deem an 120-day extension to not be feasible.<sup>2</sup> As the Tribe has already noted in correspondence with your office, it simply is unable to provide complete and meaningful comments in the timeframe running from when it became aware of the comment period on the Petition, through the impending March 28, 2016 deadline.

Finally, the Decision fails to consider the temporal importance of commentary during the Department's review of, and determination on, a documented petition. The OFA notes in its letter that the Tribe will have an "opportunity to comment . . . *after* OFA issues the proposed finding." Decision, at 2; 25 C.F.R. § 83.35 (emphasis added). However, developing the

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<sup>2</sup> Although not fully adequate, the Tribe believes that an extension of 30 days would provide sufficient time for the Tribe to submit meaningful comments.



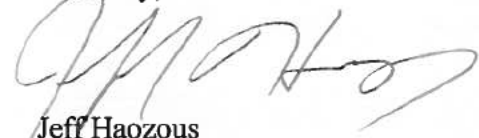
proposed findings requires careful thought, analysis, and consideration of not only the documented petition itself, but also any and all comments received on the documented petition. And while the Tribe understands that the Department will fairly consider all comments received, the Tribe believes that receipt and consideration of complete and factually-supported comments from the Tribe is critical to the Department's preparation of the proposed findings on the Petition.

The OFA's denial of an extension of time forecloses the Tribe's opportunity to participate in a meaningful way in the Department's consideration of the Petition. Accordingly, the Tribe respectfully asks that you reconsider the Decision and that you grant the Tribe a reasonable extension of time in which to comment on the Petition.

Regardless of your decision on this request, the Tribe nevertheless intends to submit the comments it has prepared to date — which are unfortunately do not contain critical documentary evidence — by the comment deadline, and intends to supplement those comments with additional evidence as soon as the evidence is compiled.

Thank you in advance for your time and consideration.

Sincerely,



Jeff Haozous  
Tribal Chairman

cc: Philip Thompson, Tribal Attorney

ENCLOSURE 2

---

# MUSEUM OF NEW MEXICO

---

## OFFICE OF ARCHAEOLOGICAL STUDIES

### TRADITIONAL USE AREAS IN NEW MEXICO

by  
Nancy J. Akins

Submitted by  
Timothy D. Maxwell  
Principal Investigator

### ARCHAEOLOGY NOTES 141

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SANTA FE

1993

NEW MEXICO

TRADITIONAL USE AREAS  
IN NEW MEXICO

Nancy J. Akins

Museum of New Mexico, Office of Archaeological Studies

Archaeology Note 141

Timothy D. Maxwell, Principal Investigator

December 1993

Prepared for

The Office of Cultural Affairs, Historic Preservation Division

35-92-7932.010

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## MANSO

1:100,000 maps: El Paso, Las Cruces

### Traditional Use Area:

**Source:** The TUA line is an estimate based on a map showing the area of Texas exploited by the Mansos, the projection of that line into New Mexico (Intervenors Rebuttal Exhibit, Docket 22C, Exhibit No. 3), and the descriptions in sources below. A similar version of the Texas map was photographed at the National Archives.

**Supporting/Confirming and Alternative Sources:** Forbes (1959:98) has a map that shows the Manso in southwestern New Mexico but it is very general. They have lived in the El Paso region since at least 1598 (1959:105).

Gerald (1974:117) notes that early sightings of the Mansos were in the vicinity of Doña Ana, New Mexico. Most settled near El Paso and intermarried with other groups. Some may have joined the Tigua community of Tortugas near Las Cruces (1974:123).

Intervenor's Proposed Findings of Fact and Brief (1973:18) states that the Mansos and Sumas were the indigenous inhabitants of the Mesilla Valley and the El Paso area. Beckett and Corbett (1992:3) also place some Mansos in the Mesilla Valley.

The ICC (36 Ind. Cl. Comm. 44) found that the Manso traditional lands were north of El Paso on both sides of the Rio Grande and the Mansos had been assimilated into the greater Mexican population by 1750.

Opler (1974:339) mentions a map that shows the Manso range was primarily in New Mexico with only a small part extending into Texas.



Evaluation: Since none of the maps show a New Mexico distribution, this line is an estimate. It is also possible there are no Manso descendants to consult. Their mention in the ICC case suggests the few that remain may be part of the Tortugas or Ysleta del Sur populations.

**Potential Traditional Cultural Properties/Additional Traditional Use Areas:**

No references to general or specific cultural properties were found.

**References Reviewed:**

Beckett, Patrick H., and Terry I. Corbett  
1992 Indian Cultural Diversity in Southern New Mexico 1581-1988. In *Current Research on the Late Prehistory and Early History of New Mexico*, edited by Bradley J. Vierra, pp. 3-9. New Mexico Archaeological Council, Special Publication 1, Albuquerque.

Forbes, Jack D.  
1959 Unknown Athapaskans: The Identification of the Jano, Jocone, Jumano, Mansos, Suma, and Other Indian Tribes of the Southwest. *Ethnohistory* 6(2):97-159.

Gerald, Rex E.  
1974 Aboriginal Use and Occupation by Tigua, Manso, and Suma Indians. In *American Indian Ethnohistory, Indians of the Southwest: Apache Indians III*, pp. 9-212. Garland Publishing Inc., New York.

Hurt, Wesley R., Jr.  
1952 Tortugas, An Indian Village in Southern New Mexico. *El Palacio* 59(3):104-125.

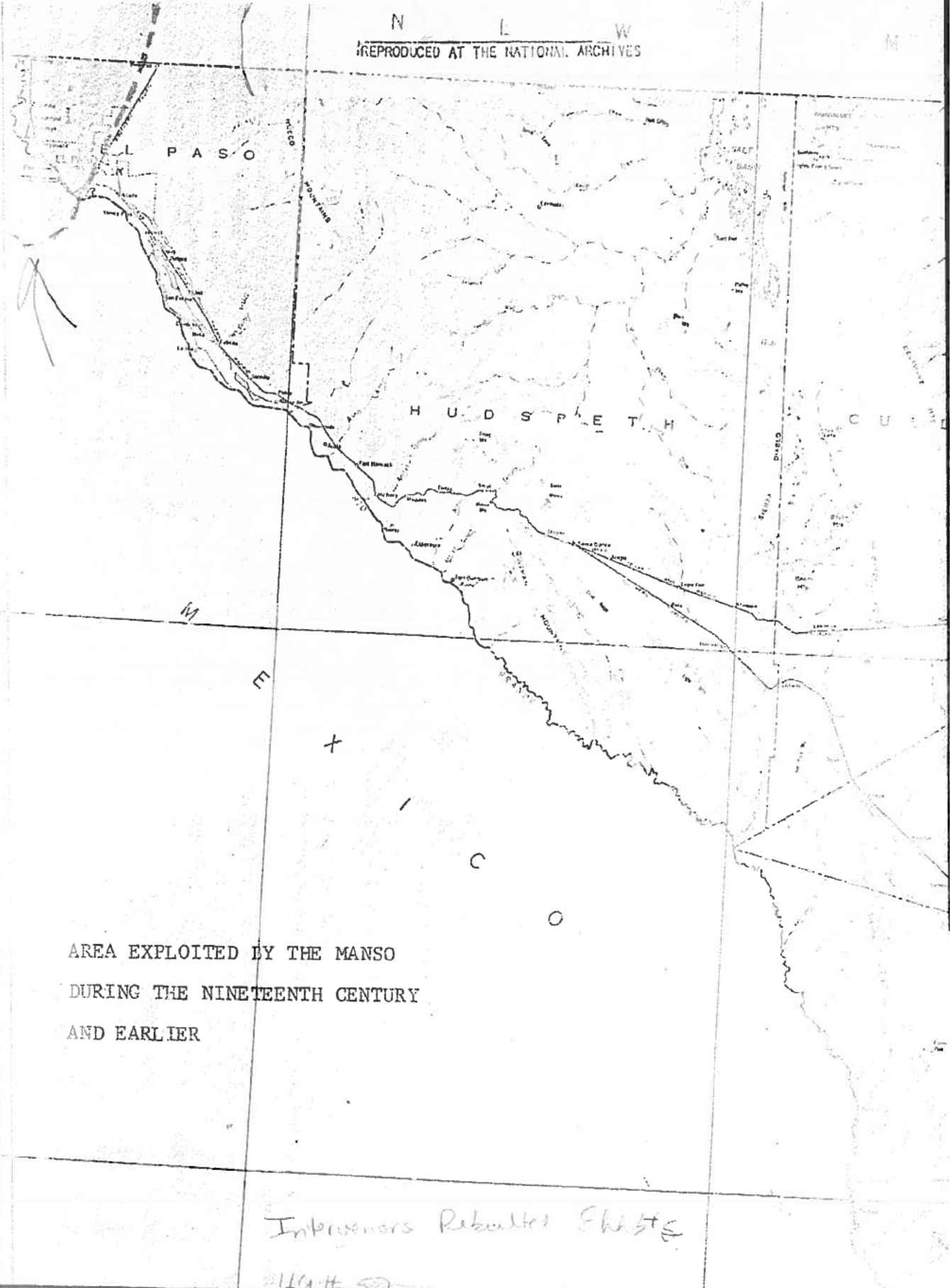
Opler, Morris E.  
1974 The Lipan and Mescalero Apaches in Texas. In *American Indian Ethnohistory, Indians of the Southwest: Apache Indians X*, pp. 199-369. Garland Publishing Inc., New York.

**Court Cases and Materials**

*The Lipan Tribe, The Mescalero Apache Tribe, and The Apache Tribe of the Mescalero Reservation, and The Pueblo de San Antonio de La Ysleta del Sur, Intervenor v. The United States of America.* 36 Ind. Cl. Comm. 7 (1975).

*The Lipan Tribe, The Mescalero Apache Tribe, and The Apache Tribe of the Mescalero Reservation, and The Pueblo de San Antonio de La Ysleta del Sur, Intervenor v. The United States of America.* Intervenor's Findings of Fact and Brief. Docket 22c, Filed February 22, 1971. National Archives Docket 22c.

Materials at the National Archives, Docket 22C.



AREA EXPLOITED BY THE MANSO  
DURING THE NINETEENTH CENTURY  
AND EARLIER

Intervenor's Rebuttle Exhibit 3

ICC, Intervenor's Rebuttle Exhibit 3 (National Archives, Docket 22C)

SUMA

1:100,000 maps: none

**Traditional Use Area:**

Sources: Forbes (1959:98) map shows the Sumas south of the New Mexico border.

Gerald indicates that the Suma occupied both sides of the Rio Grande valley up to Paso del Norte. They raided outside their territory but there is no mention of raids into New Mexico (1974:70-71). Gerald's map (1974:86) of the area utilized by the Suma Indians shows their range as well within Texas.

Intervenor's Proposed Findings of Fact and Brief (1973:18) states that the Mansos and Sumas were the indigenous inhabitants of the Mesilla Valley and the El Paso area.

The ICC (36 Ind. Cl. Comm. 44) found that the Sumas were originally located south of El Paso and the tribe is now extinct.

A map photographed at the National Archives, Indian Claims Commission Docket 22C Intervenor's Exhibit, shows the Suma range as below and east of that of Ysleta.

**Evaluation:** Only one source indicates the Sumas may have extended into New Mexico. It seems more likely they were south of the border.

**Potential Traditional Cultural Properties/ Additional Traditional Use Areas:**

No references to traditional cultural properties were found.

**References Reviewed:**

Forbes, Jack D.  
1959 Unknown Athapaskans: The Identification of the Jano, Jocone, Jumano, Mansos, Suma, and Other Indian Tribes of the Southwest. *Ethnohistory* 6(2):97-159.

Gerald, Rex E.

1974 Aboriginal Use and Occupation by Tigua, Manso, and Suma Indians. In *American Indian Ethnohistory, Indians of the Southwest: Apache Indians III*, pp. 9-212. Garland Publishing Inc., New York.

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The Lipan Tribe, The Mescalero Apache Tribe, and The Apache Tribe of the Mescalero Reservation, and The Pueblo de San Antonio de La Ysleta del Sur, Intervenors v. The United States of America. Intervenor's Findings of Fact and Brief. Docket 22C. Clearwater Publishing Co., Inc., New York. Microfiche (1973).

Materials at the National Archives, Docket 22C.

## TORTUGAS

1:100,000 maps: Las Cruces

### Traditional Use Area:

**Source:** No maps indicate an area of occupation or concern. Since any line would be entirely arbitrary, no TUA line was drawn.

**Supporting/Confirming and Alternative Sources:** Dutton (1983:19) identifies the Tortugas as Tiwas.

Houser indicates that Tortugas may be a daughter colony of Ysleta del Sur and was founded by a composite of Tigua, Piro, and Manso Indians from the El Paso region (1970:30, 1979:337). Beckett and Corbett (1992:7) agree.

Hurt says that Tortugas consider themselves Tiwa but they also include Mansos, Piros, and Tanos (1952:104).

According to Oppenheimer, the village of Tortugas consists of an amalgam of Tiwa-Piro, Spanish American, Anglo-American, and Mexican Indian cultural elements. The village was originally settled primarily by Tiwas (1974:219). Some informants say the original inhabitants of Tortugas came from Ysleta del Sur, some were Piros from Senecu, and there were a few Mansos (1974:240).

Schroeder states that the Piros who lived at Tortugas were from the southern pueblos (1979:237). The Tompiros joined their Piro relatives living along the Rio Grande (1979:241).

**Evaluation:** This community may be so assimilated that there is no interest in the surrounding area or the traditional use area of their ancestors.

### Potential Traditional Cultural Properties/ Additional Traditional Use Areas:

No information was found on traditional cultural properties. It is possible that the Tortugas residents will be interested in the traditional use

areas of their ancestors. This would include the traditional use areas of the southern Tiwa pueblos and Ysleta del Sur, and the area inhabited by the Piro and Tompiros.

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ENCLOSURE 3



Remember Me

## [Albuquerque Journal](#)

# Tortugas factions continue to shape debate about community's future

By [Diana Alba Soular / Las Cruces Sun-News, N.M. \(TNS\)](#)

Monday, March 28th, 2016 at 8:37am

LAS CRUCES – Local officials last week expressed their support — and lack thereof — for the Piro-Manso-Tiwa Tribe's effort to gain formal federal recognition.

Two votes — one by the Las Cruces City Council and another by the Doña Ana County Board of Commissioners — were characterized by contentious debate from two major factions, both of which have roots in the Tortugas Pueblo south of Las Cruces. The discussion exposed a painful divide that has simmered for the better part of a century.

The schism — fed by several major events and changes in local demographics — began in the early 20th century and revolved around control of tribe's identity, its direction, its religious practices and its property.

### Changing tides

The late 19th century to mid-20th century brought big changes to tribal members' way of life, according to historians who've researched the Tortugas Pueblo. In 1881, the first railroad finished its line to Las Cruces, increasing settlement by Anglo Americans. By 1916, Elephant Butte Dam was finished, opening up farm land that drove further settlement of the Mesilla Valley by U.S. residents from outside New Mexico. This new population, in addition to the Hispanics who were settling in the region from Mexico, gobbled up land that at one time had been relied upon by Native Americans for sustenance. It also created a labor market, and tribal people shifted to relying upon jobs for income, according to experts.

Meanwhile, an influx of Mexicans who were of Native American heritage — or who were of mixed Native American-Spanish heritage — began to occur. These immigrants were filling the growing demand for agricultural labor in the region. Some of this population settled near or in Tortugas, a situation that eventually stirred tensions among tribal members who lived there.

There was an element of prestige among pueblo members in having a purer Native American heritage in contrast to having a lineage that was mixed with Spanish or Mexican heritage, writes Alan J. Oppenheimer, who documented the tribe's way of life in a 1957 thesis for the University of New Mexico. This was a reversal of a common prejudice that was found in Mexico, in which Hispanic or mixed heritage was more prestigious than a pure Native American bloodline, he noted.

The non-Native American community of Las Cruces tended to romanticize the Native American culture and viewed Tortugas residents favorably.

"Many of the neighbors of Tortugas would refer to an individual and say, 'He's a real Indian,' not without a certain fondness coming into their voices," Oppenheimer writes.

Nonprofit formed

In the late 1800s, both Native American and non-Native Americans were petitioning officials for land around Tortugas, which was part of the Doña Ana Bend Colony Grant, according to the tribe's application for federal recognition. In 1910, tribal members built a chapel in the community, shifting their yearly festival dances from Las Cruces to Tortugas. Eugene Van Patten, a prominent historical figure in the Mesilla Valley, was married to a woman who was of Piro heritage and became a benefactor to the Tortugas Pueblo. Van Patten was instrumental in seeking a portion of property from the Doña Ana land grant to be deeded in 1908 to Tortugas "commissioners," according to the tribe's application.

In 1914, the Tortugas community formed the Los Indigenes de Nuestra Señora de Guadalupe nonprofit corporation, meant to handle the group's secular affairs, while the traditional role of cacique — the top leader of a pueblo — and tribal hierarchy oversaw the tribe's social and religious affairs, according to research included in the tribe's application.

Two factions took shape in Tortugas in the 1940s, according to historians. One group revolved around tribal Cacique Vicente Roybal and his brother, Victor Roybal, who was president of the corporation. Oppenheimer generally described this faction as a "conservative" group. The second group that emerged, described as "progressive" by Oppenheimer, was led by Miguel Fiero, a Mexican-born resident. Fiero claimed the presidency of the corporation at the same time it was held by Victor Roybal, who lived in California, according to Oppenheimer.

The progressive group had argued the the presidency was a lifetime position, while the conservative group contended one of its members should hold the office "to correct abuses," Oppenheimer writes.

"In 1948, Fiero, acting as President, sent deputy sheriff's to the house of Vicente Roybal to gather certain objects which, it was claimed, were the property of the pueblo, and which evolved to Fiero as custodian," he wrote.

There were disputes about whether to allow a carnival to take place on church property during the yearly Our Lady of Guadalupe Fiesta, a key celebration of the Tortugas Pueblo each December. The distribution of donations collected during the festival also was a point of friction, prompting a lawsuit. Ownership of a key parcel of land in Tortugas was disputed. The factions weren't clearly delineated along family lines, and people in either group claimed the opposing faction was comprised of "fake Indians," according to Oppenheimer.

The group affiliated with the Roybals parted ways with the corporation, retaining its line of caciques through the Roybal family and appointing its own tribal-based officers. It's known today as the Piro-Manso-Tiwa of the Pueblo of San Juan de Guadalupe — the group that's seeking to become formally recognized by the U.S. government as a tribe.

Supporters of what was initially the Fiero faction have continued as the Los Indigenes de Nuestra Señora de Guadalupe corporation, also informally called Tortugas Pueblo. After the corporation's initial term ended in 1964, the corporation renewed itself. It has continued to organize and host the yearly Our Lady of Guadalupe Fiesta at Tortugas and pilgrimage up Tortugas "A" Mountain. It takes place each winter in conjunction with a Catholic-designated feast to mark the appearance of a spiritual figure — the Virgin of Guadalupe — to Juan Diego, a Native American peasant in Mexico in the 1500s. Members who stayed with that organization also appointed their own spiritual leadership, complete with caciques and captains.

Ed Roybal, cacique of the Piro-Manso-Tiwa Tribe, said the group has its own celebrations.

"We're doing our own honorings in our own ways; we celebrate in our own times," he said. "Whatever anybody wants to do, that's up to them. We're not stopping anybody from doing it. That seems to be the issue with this federal recognition — anybody can put a petition in."

Dispute ongoing

The Piro-Manso-Tiwa Tribe contends there was never a tribal split because the people remaining in the corporation weren't actual Native Americans. Rather, they claim the corporation consisted of people of Mexican and Hispanic descent who'd lived in the pueblo or who joined the corporation in the years since.

The Piro-Manso-Tiwa group says it wanted to renew the focus upon actual Native American heritage and can trace its members' genealogies in that regard. Tribal members claim the corporation wasn't created to exclusively benefit the Piro-Manso-Tiwas, the tribe states in its application.

"It is important to note at the outset that the said Los Indigenes (corporation) was not solely an instrumentality or creation of the tribe, nor was it the embodiment of tribal government," states an application of the tribe to the U.S. government. "Tortugas has been viewed a(s) the site of a colony of Piro/Manso/Tiwas, ... but Tortugas was never entirely a colony of the Las Cruces Piro/Manso/Tiwa Tribe. The tribe never emigrated there as a body, though it had close relations with members who did move there, and with the social and religious activities that transpired there."

Ed Roybal said last week: "Everybody on our tribal rolls — they have to have Indian blood from our tribe."

Members of the corporation also claim they have Native American heritage.

"I'm native, as well," said David Ferrales, third captain for Los Indigenes de Nuestra Señora de Guadalupe. "Being Native is not what I'm trying to be — being Native is what I am."

Arianna Fierro, president of the corporation, said that organization has "been the governing body of our pueblo since its inception and continues to do so, up until this day."

Ferrales said, depending on who is asked, the Piro-Manso-Tiwa group either was shunned from the corporation or left on its own in the mid-20th century, separating from the corporation in the midst of a controversy.

"They broke off and had a group, and in recent history, they even broke up," he said.

Two other smaller branch groups have splintered off and also claim Native American heritage. One Piro family has taken issue with leadership by the Roybals. A fourth group recently expressed support for reunification among different factions.

Corporation members say they doesn't dispute the Piro-Manso-Tiwa group's efforts to be a tribe — as long as there's a guarantee the attempt won't result in a takeover of the corporation property or members' property. They said they haven't received such a guarantee.

Ferrales said the corporation believes the Piro-Manso-Tiwa Tribe has its sights set on land within the community of Tortugas, land that has traditionally been passed from one generation to the next within members of the corporation. There's a concern that federal recognition could result in those lands being taken away, even though they're private property, he said. For the corporation and its members, the yearly fiesta and the land in Tortugas — including a cemetery — are immensely valued.

"I want my kids to be able to have a place (to bury me) when it's my time to go," he said.

Because of its concerns, the corporation — which until now hasn't pursued federal recognition as a tribe — will have to consider whether to seek the status on its own as a defense mechanism, Ferrales said.

The Las Cruces City Council held off on approving a statement of support for the Piro-Manso-Tiwa Tribe's efforts to gain federal recognition. County commissioners, however, passed a statement of support in a split vote.

A public comment period is set to close Sunday on the tribe's application for federal recognition. However, the U.S. Bureau of Indian Affairs website says that written comments post-marked as of Monday will be accepted.

Ed Roybal said the ultimate decision on the Piro-Manso-Tiwa Tribe's request — a process that's been ongoing since the 1970s — will be made at a higher level.

"It will be made by the federal government," he said.

The U.S. Bureau of Indian Affairs didn't respond to a request for an interview.

Diana Alba Soular may be reached at 575-541-5443, [dalba@lcsun-news.com](mailto:dalba@lcsun-news.com) or [@AlbaSoular](https://twitter.com/AlbaSoular) on Twitter.

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Mr. Larry Roberts  
Acting Assistant Secretary—Indian Affairs  
United States Department of the Interior  
Bureau of Indian Affairs  
MS-3642-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

March 28, 2016

RE: Request for Reconsideration of Fort Sill Apache Tribe's Request for Extension of Time to Comment on Piro/Manso/Tiwa Federal Acknowledgement Petition

Dear Acting Assistant Secretary Roberts,

I am writing on behalf of the Fort Sill Apache Tribe (the "Tribe") in my capacity as Chairman to request reconsideration of the Bureau's Decision on the Tribe's March 11, 2016 request for an extension of time in which to comment on the documented petition for federal recognition (the "Petition") of the Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan Guadalupe (the "Petitioner"). In a letter dated March 25, 2016 (the "Decision"), the Office of Federal Acknowledgment ("OFA") denied the Tribe's request for an extension of the comment period.<sup>1</sup> Contrary to the OFA's findings, the Tribe has good cause to request a reasonable extension of time to offer comments on the Petition for the reasons set forth below.

First, the OFA misapplied Part 83 to the Tribe by apparently concluding the Tribe had a duty to request that OFA notify it directly of developments relating to the Petition. On the contrary, nothing in the 25 C.F.R. part 83 regulations suggests, much less requires, that a Tribe do so. Instead, the OFA has a duty upon receipt of a documented petition to provide notice to "[a]ny recognized tribe . . . that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination." 25 C.F.R. § 83.22(d)(5); *see also* 25 C.F.R. § 83.22(b)(2)(iv) (requiring the same notice of a documented petition). Indeed, in issuing part 83, the Department of the Interior (the "Department") confirmed that notice under § 83.22 would take the form of "*direct notice* to any tribe that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination."

<sup>1</sup> It should also be noted that the Decision appears to have been made by the Office of Federal Acknowledgment rather than the Assistant Secretary as required under 25 C.F.R. § 83.8.

### MOUNTAIN SPIRIT DANCER

Mountain Spirit Dancer represents the Mountain Spirit Ceremony which is used by the Chiricahua and Warm Springs Apache. It was given to the Apaches by the Mountain Spirits for blessings, protection, curing and warding off disease. The Ceremony is still used today.

Federal Acknowledgment of American Indian Tribes, 80 Fed. Reg. 37,861, 37,876 (July 1, 2015) (emphasis added).

The Department is no doubt aware of the Tribe's historical and present-day relationship with lands adjacent to the Petitioner's headquarters, regardless of whether the Tribe notified the OFA of such relationship. *See, e.g.,* Proclaiming Certain Lands as Reservation for the Fort Sill Apache Indian Tribe, 76 Fed. Reg. 72,969 (Nov. 28, 2011). In its March 11, 2016 letter, the Tribe demonstrated in detail precisely why it should have been notified. As was the case with the Tigua Tribe (whom the OFA did notify of Petitioner's documented petition), the Tribe's Reservation has a physical proximity to the lands claimed by the Petitioners and on that basis alone should have received proper notice under 25 C.F.R. § 83.22.

The Tribe also has a well established historical relationship with the Petitioner. The Tribe's aboriginal territory and former reservation lands are located in Las Cruces, New Mexico, which is also the headquarters of the Petitioner. The decisions of the U.S. Indian Claims Commission and U.S. Court of Claims in *Fort Sill Apache Tribe et. al. v. United States*, 19 Ind. Cl. Comm. 212; 25 Ind. Cl. Comm. 382; 26 Ind. Cl. Comm. 98; and *United States v. Fort Sill Apache et. al.*, 480 F.2d 819; and 533 F.2d 531 confirmed that the site of Petitioner's headquarters is in the Tribe's aboriginal and former Indian title lands. Given its well-established claim to the same lands claimed by the Petitioner, the Tribe has an "historical" and "present relationship" with the Petitioner and a "potential interest" in the acknowledgment determination. Thus, the OFA has an obligation, under § 83.22(d)(5) and § 83.22(b)(2)(iv) to provide direct notification to the Tribe of the opening of the comment period on the Petition. The OFA's failure to do so is a misapplication of part 83 and an unauthorized restriction of the Tribe's opportunity to comment as a Tribe with a potential interest in the Department's determination with regard to the Petition.

In addition, the Decision forecloses the Tribe's ability to provide meaningful comment on the Petition. Certainly the Department understands that recognition of an Indian tribe under part 83 involves review and analysis of complex historical and modern day data regarding the petitioning tribe — materials that take substantial time to compile and analyze. An extension of time is critical for the Tribe to assemble the documentary evidence to provide meaningful comments regarding the Petition and the Petitioner that will inform the Department's decision-making process. Based on the time-intensive reality of assembling factually-supported comments, the Tribe respectfully requested an extension of up to 120 days in which to comment on the Petition, and relayed to your staff their willingness to accept an extension of shorter duration should the Department deem an 120-day extension to not be feasible.<sup>2</sup> As the Tribe has already noted in correspondence with your office, it simply is unable to provide complete and meaningful comments in the timeframe running from when it became aware of the comment period on the Petition, through the impending March 28, 2016 deadline.

Finally, the Decision fails to consider the temporal importance of commentary during the Department's review of, and determination on, a documented petition. The OFA notes in its letter that the Tribe will have an "opportunity to comment . . . after OFA issues the proposed finding." Decision, at 2; 25 C.F.R. § 83.35 (emphasis added). However, developing the

<sup>2</sup> Although not fully adequate, the Tribe believes that an extension of 30 days would provide sufficient time for the Tribe to submit meaningful comments.

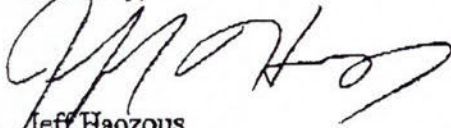
proposed findings requires careful thought, analysis, and consideration of not only the documented petition itself, but also any and all comments received on the documented petition. And while the Tribe understands that the Department will fairly consider all comments received, the Tribe believes that receipt and consideration of complete and factually-supported comments from the Tribe is critical to the Department's preparation of the proposed findings on the Petition.

The OFA's denial of an extension of time forecloses the Tribe's opportunity to participate in a meaningful way in the Department's consideration of the Petition. Accordingly, the Tribe respectfully asks that you reconsider the Decision and that you grant the Tribe a reasonable extension of time in which to comment on the Petition.

Regardless of your decision on this request, the Tribe nevertheless intends to submit the comments it has prepared to date — which are unfortunately do not contain critical documentary evidence — by the comment deadline, and intends to supplement those comments with additional evidence as soon as the evidence is compiled.

Thank you in advance for your time and consideration.

Sincerely,



Jeff Haozous  
Tribal Chairman

cc: Philip Thompson, Tribal Attorney



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**To:** Mr. Larry Roberts **From:** Jeff Haozous, Tribal Chairman

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