



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO

SEP 8 1998

Memorandum

To: Director, Office of Congressional and Legislative Affairs

From: Director, Office of Tribal Services

Subject: H.R. 4434, Graton Rancheria Restoration Act

The following are our comments on H.R. 4434, "A Bill to restore Federal recognition to the Indians of the Graton Rancheria of California." Our comments do not address the land issues.

Section 3. Definitions.

(2) The term "Tribe" means the Indians of the Graton Rancheria of California. The term "Tribe" as used in this instance does not identify a specific tribe. Is this definition to include those individuals who reside on the Rancheria, individuals who live in the general vicinity, or individuals who have ties to the Rancheria as it existed before termination?

(4) The term "member" means an individual who meets the membership criteria under section 6(b). Comments regarding the membership criteria are found under Section 6.

Section 4. Restoration of Federal Recognition, Rights, and Privileges.

(2) Relation to Other Laws. Clarification is needed for this provision as we are unsure of the intent of this provision. Each Federal program has its own eligibility requirements, which may limit the services received from another program.

Section 6. Membership Rolls.

(a) Compilation of Tribal Membership rolls.

This provision requires the Secretary to compile a roll for the tribe. In keeping with the doctrine of self-determination, determining membership is a responsibility of the tribe. In past recognition bills, tribes were required to submit a membership roll consisting of all individuals currently enrolled in the tribe in accordance with their governing document. The Secretary reviewed the rolls and made corrections in consultation with the tribes, if necessary. The rolls were then approved by the tribes' governing bodies. The Secretary then published notice that the rolls had been received and approved.

(b) Criteria for Membership. This subsection lists the criteria for membership in the Rancheria.

Subsection 6(b)(1) prohibits dual enrollment for any individual to be placed on the Rancheria's roll.

(A) This subsection states that those individuals listed on the Graton Indian Rancheria distribution list shall be placed on the roll if, they are still living and are not enrolled with another tribe. There were four individuals listed on the distribution list, 4 adults and 1 dependent. On September 21, 1978, the Secretary published notice in the FEDERAL REGISTER, that those individuals who were listed as dependents on the distribution rolls were considered un-terminated, that they retained their status as Indians under Federal law, and they were entitled to Federal services in accordance with the decisions in *Eddie F. Knight, et al., v. Thomas S. Kleppe, et al.*, and *Ambrose Duncan, Jr., et al. v. Thomas S. Kleppe, et al.*, Nos. C-74-005 and C-73-0034, U.S. District Court, Northern District of California. This decision restored recognition to one individual.

(B) This subsection states the individuals who met the requirements of being listed on the distribution list but were not listed are to be placed on the roll. The criterion for being included on the distribution list was defined in Public Law No. 85-671. Individuals who felt they were unfairly treated were given the chance to appeal to the Secretary and a revised plan would be made. The Distribution Plan for the Rancheria was final on September 17, 1959, when accepted unanimously by the distributees named therein. Notice of Termination of Federal Supervision Over Property and Individual Members was published on February 18, 1966. Does the tribe plan to review the records at the time of termination to verify that individuals were left off the distribution list?

(C) This subsection states that individuals identified as Indian from the vicinity of Graton, Marshall, Bodega, Tomales, or Sebastopol, California, are to be placed on the roll. This section is very broad as to who can be placed on the roll and what kind of record can be used. As written it does not require possession of the tribal blood which would show descendancy from past members of the Rancheria, or California Indian blood, which would show ties to the area, if not the Rancheria as it existed before termination. Any individual who lives in one of these vicinities, and has documents stating he or she possesses Indian blood would be eligible to be placed on the Rancheria's roll.

(2) This subsection states that membership will be governed by the tribe's constitution. We have not seen the Rancheria's constitution. Are the requirements for membership found in the Rancheria's current constitution consistent with the language of the Act?

(c) This subsection conflicts with Section 6(b)(a)(C) as it restricts evidence establishing "Graton Indian ancestry" to three sources:

1. information contained in the census of Indians from Graton, Marshall, Bodega, Tomales, or Sebastopol, California, vicinities, prepared by or at the direction of Special Indian Agent John J. Terrell;

2. any other roll or census of Graton Indians prepared by or at the direction of the BIA; or
3. the Graton Indian Rancheria distribution list compiled by the BIA.

Throughout the Act, there has been no mention of a specific tribal affiliation. John J. Terrell was a Special Indian Agent (sometimes titled as Inspector) assigned to locate lands for home sites for landless bands of California Indians under a series of acts and arrange for the purchase of these lands. The first appropriation for landless California Indians was in 1906 (33 Stat. 333), with subsequent ones in 1908, 1914, 1915, yearly between 1916 and 1929, and in 1937 (House of Representatives 1953, 42).

Typically, he produced a report and a list of members of the band. Presumably this is what the bill refers to. There may be more than one census made of the group at about this time. Terrell began service in 1915, but was preceded by two other agents who may have also produced records concerning the band.

Records in the possession of the directorate have identified the Graton Rancheria as a band of Pomo Indians, a general classification equivalent to Sioux in breadth. Sebastopol is an alternative name for the band and the Rancheria. The Rancheria was established in 1917.

There appears to have been two other bands in the immediate vicinity of Sebastopol, besides the Graton group that were being considered by the Special Agents (they considered more groups than eventually got land). It is not entirely clear who is being referred to in the reports. Terrell's correspondence refers to Indians at or near Marshall and Tomales Point, distinguishing them from the Indians at Bodega Bay. A 1927 report gives the population at Sebastopol (meaning the Rancheria) as 76, and distinguishes that group from those at Bodega Bay. A 1914 report identified 46 Indians as Sebastopol, and 34 at Bodega. As far as we can tell, a proposed rancheria purchase for Bodega was not completed.

Section 7. Interim Government. The Rancheria will be governed by an interim tribal council pursuant to its constitution adopted on May 3, 1997. No comment.

Section 8. Tribal Constitution.

(a) Election/ Time, Procedure. The Secretary is required to call and conduct an election in accordance with the Indian Reorganization Act (IRA) to ratify the Rancheria's constitution. Is this to imply that the Rancheria will organize under the IRA?

(b) Election of Tribal Officials; Procedures. The Secretary is required to call and conduct the election of tribal officials in accordance with (a) except where the procedures conflict with the Rancheria constitution. The election of officers should be the responsibility of the Rancheria.

We would generally support a tribe requesting restoration of Federal recognition when there is documentation to show that the group is significantly tied to the terminated tribe. We have not seen any such evidence in regards to the Graton Rancheria and therefore cannot recommend support of this bill at this time.