

MEMORANDUM

TO: Siletz Tribal Council Chair, Delores Pigsley; Vice-Chair Bud Lane; Treasurer Robert Kentta; Secretary Judy Muschamp; Member Gerald Ben; Member Loraine Butler; Member Bonnie Petersen; Member Selene Rilatos; Tribal Enrollment Committee Chair Tami Richardson; Enrollment Committee Member Lori Seversen; and Enrollment Committee Member Lynette Warren.

FROM: Drew Viles, Siletz General Council Member

DATE: 30 April 2024

RE: A LEGAL DANGER THAT COMES WITH THE USE OF THE MCCHESENEY ROLLS FOR ENROLLMENT

Background of Legal Hazard: In former times, the Confederated Tribes of Siletz Indians did not use the McChesney Rolls to determine qualifying Siletz ancestors of applicants for enrollment. This changed in 2018, with a “test-case” enrollment of a leader of the Clatsop/Nehalem Tribe.¹ Since then, other Clatsop-descended persons have been accepted for Siletz enrollment—most recently in September, 2022. It appears that only one other federally-recognized Tribe has used the McChesney Rolls for enrollment purposes: the Chinook Indian Nation. CIN during the period starting in 2001 and ending 18-months later was a federally-recognized Tribe and during this time, the BIA determined that a small percentage (3%) of the Chinook Indian Nation could not receive federal services because they descended exclusively from the Clatsop Tribe. The BIA reasoned that the Clatsop Tribe was a terminated Tribe whose members were therefore not legally entitled under federal law to receive services. This BIA decision had a relatively minor effect (3% of total CIN population) because most Clatsop-descended members of CIN also descended from Lower-Chinook, Wahkiakum, Kathlamet, or Willapa ancestors. Siletz inherited this legal problem outlined in 2001 by the BIA when it began to use the McChesney Rolls as a means to determine qualifying Siletz ancestors in 2018.

Discussion of Legal Hazard: In 2001, the BIA announced a problem even as it acknowledged Chinook Indian Nation’s legal status as a federally-recognized Tribe. That problem concerned the BIA’s duty as an executive agency to follow laws passed by the US Congress. Because the Congress had terminated the Clatsop Tribe in 1954 and because some of the population of the Chinook Indian Nation Indigenously descended exclusively from Clatsop ancestors, the BIA raised a red flag in section G of the Notice of Acknowledgement of the Chinook Indian Nation (CIN) <https://www.federalregister.gov/documents/2001/01/09/01-609/final-determination-to-acknowledge-the-chinook-indian-tribechinook-nation-formerly-chinook-indian#print> (this section is listed as “Criterion (g)” online and comes near the end of the document—it begins on page 15 of the attached PDF).

This problem affected only 3% of the CIN’s population. It was a minor problem, but the US Congress in 1954 had tied the BIA’s hands. Consequently, the BIA determined that a few dozen CIN tribal members would not be able to receive federal services. As it appears straight from the horse’s mouth,

¹ This test-case enrollment at Siletz was made public information via a Motion to Intervene filed by a Siletz Tribal Attorney in a US District Court in July, 2018.

those members of the petitioning group whose Indian descent is exclusively from the historical Clatsop Tribe cannot receive federal services because of their status as Indians. This prohibition does not apply to the members of the petitioning group who have mixed Chinook and Clatsop ancestry. It affects only about 3 percent of the petitioner's current members ("Final Determination to Acknowledge the Chinook Indian Tribe/Chinook Nation," p. 16).

The solution for this problem, obviously, is federal legislation restoring the Clatsop Tribe. CIN likely had that at the top of its to-do list, but then disaster struck. The BIA revoked CIN's federal recognition. The 18 months between BIA acknowledgement of CIN and the BIA's unexpected revocation of status was not enough time to solve the problem created by Clatsop termination in 1954.

During that short time, therefore, the Chinook Indian Nation faced the following choice: attempt to provide services to all its members in violation of federal law or only offer services to 97% of its population. While it wasn't likely much of a problem because not many federally-funded services had begun to flow to CIN tribal members, I have wondered lately whether this BIA determination was a reason—perhaps the main reason—why a few members of the Chinook Indian Nation (lead by former CIN Tribal Council Member Richard Basch) splintered off from CIN in the early years of the 2000s to form the "Clatsop/Nehalem Tribe."

Some might say that the Grand Ronde Restoration Act of 1983 or the Siletz Restoration Act of 1977 resulted in the restoration of the Clatsop Tribe. But it is obvious that the BIA didn't believe the status of the Clatsop Tribe as a terminated Tribe had changed from 1954 until 2001 or they would not have raised the red flag discussed above in the first place.

Now that Siletz is using the McChesney Rolls for enrollment, the problem outlined in the BIA Notice of Chinook Acknowledgement has become a Siletz problem. Siletz is a federally-recognized Tribe. The present danger is that Siletz will enroll persons who exclusively descend indigenously from a Clatsop ancestor listed on the McChesney Rolls.

That would violate US law.

As a member of the Siletz General Council (not to mention as a former Associate Judge of the Siletz Tribal Court), I find it my duty to alert all Siletz enrollment officials of this hidden legal hazard.

Please feel free to contact me if you have questions about this confidential communication I am exclusively and solely now sending to Siletz Enrollment officials for obvious reasons. My email is vilesa@lanecc.edu and my cell phone number is 541.221.3151.

Enclosure: 18-page "Final Determination to Acknowledge the Chinook Indian Tribe/Chinook Nation."