



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS

Miami Agency  
P.O. Box 391  
Miami, Oklahoma 74355

June 24, 2022

Bill Follis  
22 North Eight Tribes Trail  
Miami, OK 74354

Mr. Follis:

This is in response to your June 14, 2022, letter in which you allege that a group we will refer to as the "Miller Council" has attempted to take over the previously elected Council, led by you, which we will refer to as the "Follis Council" of the Modoc Nation ("Nation"). You requested the Bureau of Indian Affairs' ("BIA") "continued and uninterrupted recognition of the sitting [Follis] Council while [the Nation] navigate[s] this internal matter toward the next election of August 6, 2022."

The Interior Board of Indian Appeals has repeatedly held that the BIA may not issue a stand-alone tribal leadership recognition decision because doing so would impermissibly interfere in the tribal resolution of internal political issues. See Cayuga Indian Nation of New York v. Eastern Regional Director, 58 IBIA 171 (2014). Courts have also made clear that it "is a bedrock principle of federal Indian law that every tribe is capable of managing its own affairs and governing itself." Cayuga Nation v. Howard Tanner, 824 F.3d 321, 327 (2<sup>nd</sup> Cir. 2016) (citing California Valley Miwok Tribe v. United States, 515 F.3d 1262, 1263 (D.C. Cir. 2008)). The mere existence of an internal dispute and alleged resulting paralysis within a tribe does not permit the BIA to decide who constitutes that tribe's legitimate leadership. See *id.* at 328; (see also Cf. Goodface v. Grassrope, 708 F.2d 335, 338-39 (8<sup>th</sup> Cir. 1983); Alturas Indian Rancheria v. Acting Pacific Regional Director, 54 IBIA 138, 143-44 (2011)).

Accordingly, the BIA must refrain from generally recognizing any particular individual or group of individuals as the duly elected leadership of the Nation and allow it to resolve the dispute *without BIA intervention*. The BIA only has the authority to make recognition decisions regarding tribal leadership "when it is truly necessary as an incident to satisfying some separate *Federal obligation*." Cayuga Indian Nation of New York v. Eastern Regional Director, BIA, 58 IBIA 171, (2014) (*emphasis added*). There currently exists no separate *Federal* obligation for which the BIA must make any interim recognition decision, and therefore, cannot do so at this juncture with respect to the Nation.

You indicate that the "Tribal Judge appointed attorney Marsha Harlan to serve as Special Judge to preside over internal tribal disputes" and that "the Tribal Court is the only body capable of addressing internal membership issues." You further indicate that the said "Tribal Court" has issued an emergency restraining order, dated June 14, 2022, purporting to enjoin the Miller Council from entering and occupying the Nation's headquarters for their "unlawful purposes" and from holding themselves out as the lawful elected Council of the Nation. We note the simultaneous existence of what we will call the "Miller Faction Modoc Nation Tribal Court" and litigation pending therein.

We make no comment, finding, or decision regarding the legitimacy of these apparently competing "tribal courts." Instead, we would remind the Follis Council that in accordance with federal

regulations found at 25 C.F.R. § 11.100, the Miami Agency, BIA, currently operates a Court of Indian Offenses with jurisdiction over certain matters arising within the Nation. We would further respectfully direct the attention of the said Council to the regulations at 25 C.F.R. §§ 11.104 and 11.118, which regulations speak for themselves and are the best evidence of the principles of federal law and policy set forth therein.

This decision may be appealed to the Eastern Oklahoma Regional Director in accordance with the regulations in 25 C.F.R. Part 2. The regulations are available online free of charge at <http://www.law.cornell.edu/cfr/text/25/part-62>. Your notice of appeal must be filed in the Superintendent's office at P.O. Box 391, Miami, Oklahoma 74355 within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to the Superintendent's office. Your notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director at: Regional Director, Bureau of Indian Affairs, Eastern Oklahoma Region, Eastern Oklahoma Regional Office, P.O. Box 8002, Muskogee, Oklahoma 74402-8002.

You may include a statement of reasons with your notice of appeal, explaining why you believe the decision being appealed is in error. If you do not include your statement of reasons with your notice of appeal, you must mail or deliver it to the Superintendent's office within 30 days after you file your notice of appeal. The statement of reasons and the envelope in which it is mailed should be clearly labeled "Statement of Reasons." It must be accompanied by or otherwise incorporate all supporting documents. You must send copies of your statement of reasons to all interested parties and the Regional Director.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,

**RHONDA L. LOFTIN** Digitally signed by RHONDA L. LOFTIN  
Date: 2022.06.24 11:54:47 -05'00'

Rhonda L. Loftin  
Superintendent

cc: Wm. Blake Follis, Senior Associate Attorney, Peebles Kidder  
Joe Keene, Esq., Pipestem Law  
Diane Jobe, Tribal Government Officer, Eastern Oklahoma Region  
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