

July 29, 2022

Tribal Council
Modoc Nation

Dear Tribal Council Members,

I write to today to address what is at stake if non-Indians are enrolled into the Modoc Nation.

Tribal enrollments and tribal leadership play an important role in the benefits our people receive from the United States government. Most of the benefits provided by the federal government are through the tribal government as a federally recognized tribe. Because of this, the Bureau of Indian Affairs (“BIA”) must be able to identify a legitimate governing body for the Modoc Nation to continue receiving federal support and funding.

On June 13, 2022, several individuals wrongfully asked the BIA to recognize them as the leadership of Modoc Nation. Unfortunately, their letter prompted the BIA to decide that there is a dispute over leadership of the Modoc Nation on June 24, 2022. We have appealed this decision by the BIA, but it is possible that the BIA could begin withholding federal funds from Modoc Nation—funds that all Modoc Nation members depend on for necessary services.

Also at stake is the federal recognition as an Indian tribe. Generally, most Indian tribes are free to determine their own membership. However, the Modoc Nation is extraordinarily unique among Indian tribes with regard to membership. Our federal recognition is the result of extensive efforts that I and many others were able to achieve in 1978; when we were finally able to obtain recognition directly from Congress. Public Law 93-281 recognized the Modoc Nation as a federally recognized tribe and prescribe in that law the specific criteria for which persons are eligible for membership. It also required the Modoc Nation to develop its Constitution with help from the Secretary of the Interior, and the qualifications for membership in the Constitution are the same as those prescribed by Congress. Because of this, the Modoc Nation must comply with federal law.

The Modoc Nation **cannot** enroll persons who are not direct lineal descendants of those Modoc Indians removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751). First, the Modoc Constitution does not allow for the enrollment of any other persons as members. Second, even if the Modoc Nation were to request an amendment to its Constitution from the Secretary, it will likely be denied as our tribal enrollment is constrained by federal law.

If the Modoc Nation were to enroll other persons who are non-Indians or Indians that are not direct lineal descendants of those Modoc Indians removed to Indian territory in November 1873, doing so would violate federal law. By forming a membership that violates federal law, Modoc Nation risks losing its federal recognition as an Indian tribe because it would no longer be compliant with Public Law 93-281. As a result, the BIA may suspend funding or services to the Modoc Nation, leaving us without federal support and funding that all Modoc Nation members depend on for necessary services.

At this time, the BIA has not yet determined to disrupt our federal recognition status or suspend funding for the Modoc Nation. The Elected Council has worked to maintain its historic governance over services and benefits for members. The Elected Council acting as the Enrollment Committee has audited enrollments so that the Modoc Nation can show that it complies with federal law, and will not lose its federal recognition as an Indian tribe. On August 6, 2022, all eligible voters of Modoc Nation will be eligible to vote in elections for Elected Council, as provided in the Constitution.

The Secretary, the Assistant Secretary for Indian Affairs, and local BIA officials will be informed of the outcome of the elections on August 6, 2022. The Elected Council expects that the BIA will determine that there is no longer a leadership dispute. To ensure that Modoc Nation continues to receive federal funds and benefits, the Elected Council encourages all eligible voters to participate in upholding our membership decisions and in the elections.

Please contact the Elected Council if you have questions about the elections, your eligibility to vote, or concerns about continued federal funding for the tribal community.

Sincerely,

Chief Bill G. Follis