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Washington, DC

Lee Fleming
Office of Federal Acknowledgement
Bureau of Indian Affairs
MS-34B-SIB
1951 Constitution Ave., NW
Washington, D.C. 20240

Re: Piro-Manso-Tiwa Indian Tribe's (Petitioner #5) Response to Comments to its Petition for Federal Acknowledgement

Dear Mr. Fleming,

In response to third party comments filed with your Office, please see the following Response of the Piro-Manso-Tiwa Indian tribe ("Petitioner #5) below.

PREFACE

As you know, the Piro-Manso-Tiwa Indian Tribe/Petitioner #5 ("Tribe" or "PMT") has submitted extensive historical, ethnographic, anthropological, and other evidence from Tribal and third party sources demonstrating PMT's existence as a distinct and extant Indian tribe. PMT has long been aware – and some of the public comments submitted in response to PMT's evidence affirms – that there are outsiders with non-factual opinions that are inconsistent with PMT's oral history and historical experience. PMT, like many Indian tribes, has a long and deep experience with others trying to tell it about itself. Unfortunately, some tribes and other groups have latched on to and promoted counterfactual narratives in order to advance their own agenda at PMT's expense. History is full of such attacks against Indian tribes, all too often by other Indian tribes as a result of outsiders' successful implementation of a divide and conquer strategy against Indian Country. To this day, it seems that others are attempting to change the narrative of Indian tribes in general and our Tribe in particular. It remains PMT's hope that Indian Country will one day eschew this mentality in favor of a spirit of inclusion and cultural solidarity.

INTRODUCTION

In a perfect world, PMT would have even more historical and ethnographic documentation chronicling every PMT activity since pre-contact times. But PMT, like other tribes, does not have that luxury. It is for this reason that the "Department [does] not require conclusive proof of the facts relating to a criterion in order to consider the criterion met." § 83.10(a)(1). Instead, the Department considers a criterion satisfied if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. § 83.10(a). Thus, the regulations state that "[f]luctuations in tribal activity during various years will not in themselves be a cause for denial of acknowledgement under these criteria. § 83.10(a)(2). Consequently, OFA's evaluation analysis is not a rigid standard, but one which takes into account the limitations

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inherent with certain criteria and within the context of PMT's historical situations and regional and cultural differences. See § 83.10(b).

The PMT petition is the first time our Tribe's history, culture, and religious traditions have been shared with the public from our own perspective, and in a way which advocates for our rights and legal status under the law. It is the first time our story has been told by us and not defined by non-Indians or non-tribal members.

It is impossible for the Office of Federal Acknowledgement ("OFA"), other Indian tribes, or anyone else to accurately examine post-1900 Indian tribes in a pre-contact, pre-1900 static lens. Indian tribes, like every other cultural and societal group, are not frozen in time. In order to survive and exist to this day, many tribes have had to adapt and change. That does not mean that such tribes no longer exist as distinct Indian tribes, however. The federal government, other Indian tribes, and others rightly acknowledge Indian tribes as such even where a tribe's language, blood quantum membership requirements, and customs and traditions have changed over the past century.

PMT's path wound through the period of 1650-1900 in the Las Cruces and the Mesilla Valley Area, and properly understanding PMT's story requires at least some understanding of that time and place. Please recall that it was a land and time with shifting sovereigns and boundaries (Spain-Mexico-United States); civil wars (United States and Mexico); and new and changing languages, cultures, and political alliances. With each new change, the "rules of the game" also changed. In the order to survive and maintain their distinct Tribal identity in those violent and rapidly changing times, PMT adapted and shifted its alliances. Our ancestors were keenly aware of the violence and retribution of the Spanish, Mexican, and American soldiers, as well as the vigilantes in the area.

Furthermore, circa 1900, Las Cruces and the Mesilla Valley was not an isolated area where the PMT could hide out and continue their traditional life undisturbed. In order to remain in their Tribal homelands, and after watching many of their Native brethren murdered, die, or marginalized, the PMT, at times, coopted different political, national, and religious regimes for survival. Unfortunately, outsiders seeking land and other resources in the area repeatedly took advantage of and preyed upon their trust and hope for an improved socioeconomic position. The likes of Eugene Van Patten (an ex-Confederate soldier) and other Mexican and American charlatans promised the PMT security, land, and a better life, only to leave them even more poor, desperate, and vulnerable.

PMT RESPONSE TO COMMENTS

For the sake of brevity, the Tribe will respond in general terms to the comments in opposition to our petition. Furthermore, and in following the new 25 CFR Part 83 regulations, the Tribe will direct its response to the revised criteria. For example, 25 CFR § 83.11(a), (b), and (c) require that a petitioning tribe demonstrates that it is an Indian entity since 1900. As the applicable regulations require examination of the Tribe's evidence from 1900-present for several criteria, we respectfully request that any comments referring to anything prior to 1900 be disregarded as irrelevant and immaterial with respect to those criteria..

With respect to criteria not limited to the post-1900 time period, PMT's petition and accompanying materials demonstrate (1) for the purposes of § 83.11(d), that the Tribe's current membership descends from historical Indian tribes that combined and function as a single autonomous entity; and (2) under § 83.11(f), that our Tribe is comprised principally of persons who are not members of any federally recognized Indian tribe.

Rather than belaboring these points, PMT will focus the remainder of its response on offering historical corrections and context to many of the erroneous comments made by groups opposing our Petition.

Archeology of Southern New Mexico, Mesilla Valley – Pre European Contact¹

Our oral history tells us that the PMT people come from the Mogollon culture, from the ancestors of the over 35,000 year-old Orogrande Man². In fact, we still hold our Fall Solstice ceremonies at the White Sands area where many of our ancestors are buried.

Paleo-Indian Period

Archaeological research in the Southwest reveals that human occupations of the area span thousands of years. The earliest well documented archaeological remains of the area are assigned to the Paleo-Indian period, dating between 11,000-8,000 years ago (Abbott et al. 1996:45, Mauldin et al. 1998:15). Distinctive Paleo-Indian stone tool assemblages containing finely made lanceolate points are generally thought to be indicative of adaptations specialized for large game hunting. Representative of these assemblages are the Clovis and Folsom "cultures," both of which are known to occur in southern New Mexico and southwest Texas (Abbott et al. 1996:45, Beckes 1977, Eidenbach 1983, Harkey 1981).

Archaic Period

Approximately 8,000 years ago, several factors appear to have caused a change in adaptive strategies among the prehistoric inhabitants of the area (Mauldin et al. 1998:15-16). No longer was big game hunting the only subsistence focus; instead, a more diversified set of exploitative technologies came into use. Prehistoric settlement and subsistence appear to have centered on adaptations to desert grassland and desert scrub resources, as well as increased spatial and seasonal variability in key resources (Abbott et al. 1996:47). This period of more diversified adaptations is generally referred to as the Archaic Period. The Archaic Period lasted from approximately 8,000 to around 2,000 years ago. In fact, two fire-cracked rock/lithic scatter sites dating to the Archaic Period were excavated at the Doña Ana County Fairgrounds, located on Las Cruces' West Mesa (Seaman et al. 1988:55)..

Throughout most of the Archaic period, subsistence was based on hunting and gathering of wild plant and animal resources (Mauldin et al 1998:16). A major development in the late Archaic was the introduction and experimentation with cultigens (i.e., maize, beans, and squash). Upham *et al.* (1987) and MacNeish and Beckett (1987) have reported evidence for early cultigens from several rock shelters including Roller Skate (NMSU 1519), Tornillo (LA17687), and Todsén

¹ PMT will submit a full bibliography of source materials cited or relied upon in this section in the near future.

² 35,000 year old remains and artifacts found approximately 50 miles from Las Cruces and Mesilla Valley.

(LA 5531) shelters. These shelters lie within the Mesilla Valley proper, and are located within a radius of 10 miles of Las Cruces. To date, these shelters are some of the earliest known localities for domesticates in the Southwest and suggest corn may have had its beginnings here as early as 1,225 B.C. (Upham et al. 1987:410-419). Although cultigens do not play a large part in the Archaic subsistence base, they were present and represent the beginning of an agricultural focus which played a major role in the following periods.

Formative Period

The succeeding periods in the occupational history of the region are generally termed "Mogollon." Archaeological research was first intensively done in the Mogollon area of southern New Mexico and west Texas by Donald Lehmer in the late 1940s. This early research has since served as a baseline for later researchers, with the Formative Period defined as extending from A.D. 250-1450 (Abbott et al. 1996:47). In the southern New Mexico area, the Formative Period has been subdivided into three phases including the Mesilla (A.D. 900-1100), Doña Ana (A.D. 1100-1200), and El Paso (A.D. 1200-1400) phases. The following is a summary of current thinking regarding the structure of prehistoric adaptations during these intervals.

Mesilla Phase

The Mesilla Phase, the earliest phase of the Formative, is defined by the presence of undifferentiated brownware ceramics and a subsistence base composed of a mixture of hunting and gathering and agriculture. The Mesilla phase was originally signaled by the presence of pithouse occupations. However, recent research indicates that pithouses and plain brownware ceramics were present in the area from as early as A.D. 200 (Carmichael 1985, O'Laughlin 1980). Thus, in some contexts, the Mesilla Phase can be said to span the A.D. 200—1100 period. In turn, the presence of pithouses and plainware ceramics has been construed to indicate a more sedentary lifestyle and a greater energy investment in dwelling construction and maintenance. However, in most other respects Mesilla phase artifact assemblages and settlement patterns do not appear to have undergone significant modification from that associated with Archaic groups. This may be due, in part, to the possibility of heterochroneity in the adoption and expansion of agriculture among groups across southern New Mexico (LeBlanc and Whalen 1980:451). Toward the end of this phase, large pithouse villages commensurate with increases in population concentration and the presence of purported "trade" wares consistent with more widespread regional interaction begin to characterize the archeological record (Mauldin et al 1998:16).

Doña Ana Phase

As proposed by Lehmer (1948), the Doña Ana phase represents a short-lived occupation and transition from the Mesilla to El Paso phases. Both pithouse and adobe pueblos are known from this phase. Doña Ana ceramic assemblages consist of El Paso Brown, El Paso Red-on-brown, El Paso Polychrome, Mimbres Black-on-white, Three Rivers Red-on-terracotta, Playas Red, and Chupadero Black-on-white types (Carmichael 1985). Although sites dating from this period are usually ephemeral and not well documented, they have been recorded in the Rio Grande valley, the Hueco Bolson, and the Tularosa Basin (Carmichael 1983a, Miller 1989, O'Laughlin 1981). The number of large sites or pueblos recorded in this phase suggests increasing population and a

more structured regional social organization than was previously observed during the Mesilla phase (Whalen 1981). It has been postulated that it was during this phase that the inhabitants of the Mogollon were in direct contact with large social networks in northern Mexico (Abbott et al. 1996:242, Schaafsma 1979). An additional observation is that large adobe pueblos assigned to the Doña Ana phase are found both in riverine and nonriverine areas.

El Paso Phase

The El Paso Phase (A.D. 1200-1400) represents the terminal portion of the Mogollon phase sequence as it is currently defined. Architecture consists of above ground, linear-roomed, adobe pueblos. Site locations are varied, but alluvial terraces and playa margins appear to be preferred (Mauldin et al 1998:17). The ceramic assemblage is also varied and contains El Paso Polychrome, Mimbres Classic Black-on-white, Chupadero Black-on-white, Three Rivers Red-on-terracotta, Gila and Tonto Polychrome, and a variety of Chihuahuan wares (Abbott et al. 1996:48, 236; Mauldin et al 1998:17) and agricultural pursuits may have intensified during this phase, partly in response to increased population growth (Abbott et al. 1996:48). Notable with respect to their occurrence are maize, beans, squash, and bottle gourds from archaeological sites (Ford 1977). Regional interaction during this phase appears to reach a maximum. This is perhaps best indicated by the presence of non-local ceramics, such as Mexican Polychrome and Tucson Polychrome (Abbott et al. 1996:243, Elyea 1987:37-38). Regional interaction is also seen in the presence of marine shell from the Pacific and Gulf Coast and copper bells from Mexico (Abbott et al. 1996:237-238, Duran 1984, LeBlanc and Whalen 1980:382, Lehmer 1948, Stuart and Gauthier 1981:214).

Historic Period – European Contact

Piro Pueblos

The Pueblos of the Piro Indians were referred to as early as 1540 during the Coronado expedition, and at that time Piro Indians inhabited the area from just south of present day Belen, New Mexico to the vicinity of San Antonio, New Mexico along the Rio Grande and from the Rio Grande valley to as far east as Gran Quivira, established by the Jumano Indians. In the early part of the 17th Century, the Piro comprised two divisions, one inhabiting the Rio Grande Valley from the present town of San Marcial, Socorro County, northward to within about 50 miles of Albuquerque, where the Tiwa settlements began; and the other, sometimes called Tompiros and Salineros, occupying an area east of the Rio Grande in the vicinity of the salt lagoons, or salinas, where they adjoined the eastern group of Tiwa settlements on the south. In the Salinas Pueblo region, Piro speaking Indians had at least six villages, three of which were called Abó, Las Humanas, and Tabirá by the Spanish. The remaining three are presently called LA 200, five miles west of Abó; Pueblo Pardo, three miles south of Las Humanas; and Pueblo Colorado, four miles southeast of Tabirá. These three were probably among the Piro speaking pueblos mentioned in the records from early Spanish exploration of the region east of the Manzano Mountains. Between 1670 and 1680, the Piro Indians moved, due to drought, famine, and raids by the Apache Indians. After the Pueblo Revolt of 1680, many Piros were taken by the Spanish to the El Paso del Norte area and settled in the Indian Missions along the Rio Grande River.

Tiwa Pueblos

The Pueblos of the Tiwa Indians were also referred to as early as 1540 during the Coronado expedition. At that time the Tiwa Indians inhabited the area from just south of present day Isleta Pueblo to the vicinity of Bernalillo, New Mexico and the area surrounding Taos and Picuris pueblo contemporaneously with the Piro Indian inhabitation of central New Mexico. In the Salinas Pueblos region, Tiwa speaking Indians established the northern three of the nine pueblos in the area, later known as Chilili, Tajique, and Quarai. Like many of the Piros, some of the Tiwa Indians moved, due to drought, famine, and raids by the Apache Indians. In addition, some were taken by the Spanish during the 1680 Pueblo Revolt to the El Paso del Norte area and settled in Missions along the Rio Grande.

Manso Indians

The Manso Indians, direct descendants of the Mogollon/Mimbreno cultures, historically occupied the area of southern New Mexico, including present-day Las Cruces, New Mexico, the Mesilla Valley, and into west Texas and northern Mexico. The first accounts of Spanish contact with Pueblo Indians in the El Paso area were recorded in the period between 1539 and 1541 when Fray Marcos de Niza and Coronado passed through the region (Sando 1979: 194). The Gallegos report on the Chamuscado-Rodriguez identifies Mansos in the El Paso area (Hammond and Rey 1966: 168). Another Spanish authority noted that the Mansos occupied the Mesilla Valley (Bandelier 1892: 348-349). Other references stated that the Mansos lived near present day Las Cruces (Beckett and Corbett 1990: 3). Espejo, Oate and Benavides encountered Mansos in the El Paso area when they traveled through the region in the 16th Century as part of colonial explorations known as *entradas* (Hammond and Rey 1953:661; Benavides 1916: 13-4). In 1630, Benavides recommended that the Catholic Church construct a church to missionize the Mansos (Vierra 1999: 26). Subsequently, Spanish Governor Otermin purchased land from the Mansos upon which the Guadalupe Mission was built. This was the first recorded land transaction in the El Paso area (Houser 1996: 3).

In addition to the Indians living near the Guadalupe church in the El Paso del Norte area, other Mansos were concentrated at San Francisco del los Mansos (probably located in the southern Mesilla Valley (Beckett and Corbett 1992b: 3), San Lorenzo and San Jose (Beckett and Corbett 1992: 9-10; Houser 1966: 24). A small group of unconverted Mansos, commanded by Captain Chiquito, continued to live in their homes in the Mesilla Valley (Forbes 1960: 162). By early 1682 there were at least five Indian Missions in the El Paso area: Nuestra Señora de Guadalupe for the Mansos; San Antonio de Senecú for the Piros; Corpus Christi de la Ysleta del Sur for the Tiguas; Nuestra Señora de Socorro for the Piros; and San Francisco for the Sumas. A few Piros lived by the Guadalupe Mission in El Paso del Norte. Other Piros were associated with the Senecu Mission and the Socorro Mission. More Piros (from Sevilleta, Alamillo, Socorro and Senecu) and Tiwas (from Isleta) moved to the El Paso area in the late 17th century as a result of the 1680 Pueblo Revolt (Sando 1979: 194-197; Brandt 1996:2). All of these settlements still exist in much the same location today. San Lorenzo and Senecu have been absorbed into the modern city of Ciudad Juarez along with the Mission of Guadalupe. As late as 1923, el barrio del pueblo, a suburb of Ciudad Juarez, is reported to have contained 55 Piro descendants with a

tribal organization and ceremonies (Bloom 1933-1938, 13:206-207). Finally, as our petition further documents, we performed a reburial of a Piro ancestor in the Gran Quivira area.

Formation of the Piro/Manso/Tiwa Indian Tribe, Pueblo of San Juan de Guadalupe

Our Petition documents the historical amalgamation by way of tribal intermarriages of the Piro, Manso, and Tiwa tribal families, which resulted in the present Piro-Manso-Tiwa Indian tribe (Petitioner #5) of Las Cruces, New Mexico.

From a period of 1840-1860 22 Indian families moved up the Rio Grande River about 50 miles to the Mesilla Valley and established the Piro/Manso/Tiwa Indian Tribe, Pueblo of San Juan de Guadalupe in the present-day area of Las Cruces, New Mexico. Numerous factors contributed to this development, including but not limited to:

- changing economic conditions;
- land struggles with encroaching Mexican and Anglo settlers;
- the search for viable agricultural land in a safe haven;
- a volatile political climate involving U.S.-Texan-Mexican relations;
- church politics and repression of native religious expression;
- racial and intertribal tensions;
- raids of Apache war parties;
- local feuds and rivalries;
- a series of disastrous floods in 1829 and 1831-32; and
- smallpox and other disease epidemics in the El Paso Indian Missions.

It is critically important to recognize, however, that the Tribe is not comprised of three separate tribes that combined, but rather the tribal families which intermarried over the course of two hundred years and formed a single, cohesive group (Brandt 1996: 15). This pattern of high incidents of intermarriage continued well into the 1950s and in some instances into the present. So much so that today nearly all tribal members are related to one another either directly or through marriage.

PMT Response to the Rump/Splinter Groups

Our response is directed to letters sent in by Natalia Melon (Portillo) and other members of her immediate Portillo family. Unfortunately, these individuals spread strife and discontent within the community. Many of their actions already have been documented in the Tribe's 1996 OD response and do not need to be discussed in any great detail.

As an initial matter, it should be noted that while Natalia Melon is listed as the point of contact for a New Mexico nonprofit corporation called "Piro-Manso-Tiwa of Guadalupe Pueblo" on that entity's website, she and her family were ejected from that organization by Henry Torres and Melon's own brother-in-law, Antonio Jojola. (See attached NM nonprofit corporation report). This occurred within the last 3-5 years, and since that time, the Torres family has seized control of New Mexico non-profit corporation called "Piro-Manso-Tiwa of Guadalupe Pueblo,"

Since their ouster from the corporation, Melon and the Portillo family have been misrepresenting themselves to the public as a "Piro Indian Tribe" from Socorro, New Mexico. They have also made such claims to the State of New Mexico Department of Cultural Affairs and to linguists and historians. It also appears these members of the Portillo family and their new rivals, the Torres family of the New Mexico nonprofit corporation called "Piro-Manso-Tiwa of Guadalupe Pueblo," are known to "perform" their version of our Tribe's sacred religious dances and chants for the general public at museums, building dedications, and public lectures.

This is hardly the first instance of the Portillo family acting against PMT's interests. In the mid-1990s, upon the passing of Guillermo Portillo, Sr., the Portillo family sought to install their oldest brother, Guillermo Portillo, Jr., as the Tribe's traditional First War Captain in spite of the fact that he was not at the time living in Las Cruces, had not lived there for many years, had not participated in any Tribal ceremonies in recent times, and had not approached the Cacique about assuming the traditional Tribal position. Also, in 1995, members of the Portillo family who were elected to the Tribal Council abandoned their positions and responsibilities to the Tribe, failed to be sworn in, and were never again seen at a Tribal gathering.

To summarize, Natalia Melon and the Portillo family no longer lead or control the New Mexico non-profit corporation called "Piro-Manso-Tiwa of Guadalupe Pueblo." They have recently started a new group called "Piro Indian Tribe," claiming to be Piro Indians from Socorro, New Mexico. Henry Torres, who is not listed on any previous PMT records, including any Tribal Roll, and has never attended a PMT meeting or ceremony, is now calling himself the leader of the New Mexico non-profit corporation called "Piro-Manso-Tiwa of Guadalupe Pueblo" in New Mexico State Corporation records.

Please note that all of our federal grants referred to by Natalia Melon were audited by an independent auditor and were found to have complied with all standard practices for federal cost accounting (see 2002 Audit, attached as exhibit). Obviously, federal grant funds could not be used to pay for anyone's college tuition so this claim is false and without merit. Moreover, the Tribe went on to receive five federal grants in support of its Petition research and Tribal development planning from the Administration for Native Americans.

As OFA knows, the Department will not acknowledge a splinter group, political faction, or other entity that separates from the petitioner unless they can meet the same rigorous standards as the petitioner. See 25 CFR § 83.4(b). In our Tribe's case, the past acts of the splinter group demonstrate PMT's political influence/authority under § 83.11(c)(2)(i)(C). Thus, contrary to the splinter group's claims, they are free to file a petition meeting the standards of 25 CFR § 83.11.

PMT Response to the Tortugas Corporation

The original land grant for Guadalupe Pueblo, which includes the land known as Tortugas, was requested prior to the establishment of the corporation. It was a request for lands made by the Cacique Felipe Roybal on behalf of the Tribe and PMT Indian families of the area. The initial request was made for the "Indians of the area" for lands near St. Genevieve's Church in Las Cruces (the area also known as the Old Indian Neighborhood), but was later changed to Tortugas after Felipe Roybal was murdered. Newspaper records from the 1870s indicate the "local tribe

of Indians" climbing the Tortugas ("A") Mountain and lighting fires on top of the mountain. All of this pre-dates the establishment of the Tortugas Corporation.

The land grant was a Pueblo Indian land grant and was supposed to be for the Pueblo Indians of the area. The land should have been protected and put in trust by the US government so that it could not be bought and sold by a private entity such as the Tortugas Corporation. Miguel Fierro and Ernesto Dominguez were not Pueblo or Piro, Manso, or Tiwa. They had no title, right or interest to PMT's sacred drum or other native Tribal items, and they should never have been allowed to obtain any rights or title to PMT's land.

Moreover, many of the other original 22 family heads of PMT households received land in the original Tortugas land grant because they were PMT Indians. In fact, many PMT descendants still have land interests in the present day Tortugas area. It was only later, after the corporation was formed, then taken over by non-Indians, that the PMT Indians, especially PMT leadership, were marginalized and ostracized by the non-Indian power hierarchy.

Furthermore, none of the current so-called officers or members of the Tortugas Corporation members of PMT. Accordingly, the corporation no longer represents the intent, interests, or rights of the Tribe, and since the 1950s and 60s it has become an instrument of the Catholic Church and the local Hispanic families who moved to Tortugas and seized control of the corporation. In fact, most members of the corporation by the 1970s did not even claim to be of Indian ancestry. *See* journal article from the Education Resources Information Center, "Tortugas from Indian village to Chicano neighborhood," attached as exhibit.

One example of the change in the Tortugas community was that during most of the 1970s and 80s, the corporation and the people climbing the Tortugas Mountain during the Catholic Fiesta of Our Lady of Guadalupe would burn rubber car tires on the mountain instead of natural wood, desecrating the sacred site and disgracing the ceremony. Also, most of the tires used were "radial" tires, which polluted the sacred Tortugas Mountain with large amounts of metal wire. This practice of burning car tires for what was once a sacred Pueblo Indian ceremony was rejected by the Tribe's traditional leaders and was one of the reasons why PMT leaders and members began climbing, staying overnight, and praying on top of the Tortugas Mountain separately from the Tortugas Corporation. The building of a Catholic shrine and conducting a mass were seen as a further intrusion and encroachment upon the traditional Native American Pueblo Indian practices – the PMT religious customs, traditions, and practices.

We also note While PMT and the Tortugas Corporation have many differences, it is important to bear in mind that there is no conflict between two "tribes" because the Tortugas Corporation is not an Indian Tribe. The corporation is a non-profit religious organization comprised of non-Indians. Its members' ancestors are immigrants from Mexico who came to the United States in the 1920s - 30s and who moved to Tortugas and eventually took control of PMT's land and existing corporation. Please be aware that the Corporation's "matachine", and Azteca dances, and dance group do not constitute, nor originate from traditional Piro, Manso, or Tiwa Pueblo Indians. This is why PMT no longer associates itself with Tortugas or the Corporation.

Furthermore, there was never a "split" in the Tribe. The PMT families simply severed ties with the non-Indian leadership and most individuals in the Tortugas Corporation because they no longer represented the interests of the PMT Indian families. The Corporation cannot and does not provide any evidence that its members have any Native American, much less Piro, Manso, or Tiwa, ancestry. The Corporation and its members have already misappropriated enough of PMT's history and property; OFA should give no credence to their efforts to detract from or distort the documented narrative and evidence presented in PMT's petition.

PMT Response to Ysleta del Sur

PMT will respond to some of the Ysleta del Sur ("YDS") letter's more significant claims and comments. First, PMT is not a "satellite" of YDS. It is a distinct Indian tribe, and has been since well prior to 1900. Like many other Indian tribes, PMT shares common ancestry with another present-day tribe, but that does not render PMT and YDS inseparable. In addition, the YDS letter misrepresents PMT's history from 1900 through the present. Our Petition clearly shows the political authority of the caciqueship under Felipe Roybal, Victor Roybal, Sr., and Vincente Roybal.

With respect to YDS's claims about PMT membership, it should be noted that YDS's federal bill to abolish their 1/8 blood quantum requirement for tribal membership was approved recently as P.L. 112-157 (2012). Consequently, YDS is in the process of redefining its own tribal membership.³

Moreover, PMT's petition contains a resolution from the Ysleta Del Sur tribe regarding PMT membership as evidence of Indian entity identification with respect to PMT under § 83.11(a)(6). That resolution is attached as an exhibit to this submission as well. See attached Resolution. This is consistent with the Las Cruces based Las Esperanzas historical society's letter supporting the Indians of the Old Indian Neighborhood of Las Cruces – the PMT tribe. Finally, we appreciate YDS's submission of the Beckett and Corbett article about Tortugas, which we agree delineates the early settlement of PMT from Paso del Norte as evidence of PMT's distinct Indian identity.

PMT Response to Reynolds, et al.

PMT, like most everyone engaged in historical research, would love for every historical ancestor and/or significant Tribal event to be thoroughly documented. Like many Indian tribes, however, we rely on oral history more than written scholarship. Using oral history and other available sources, we have documented that from 1900 to the present, the Tribal caciqueship has been passed along from Felipe Roybal (nephew of the last cacique at Paso del Norte) and Vincente Roybal, and to the present cacique, Edward Roybal, Sr. This constitutes valuable evidence under § 83.11(a)(5), (7) and (c)(1)(viii).

³ See www.ysletadelsurpueblo.org/files/spaw/Project_Tiwahu_Survey-Informational_Guide-125-13.pdf.

In addition, as Reynolds states, “Los Inditos de Las Cruces” – the Indigenous families and individuals – reestablished themselves in the Mesilla Valley. As we note in our Petition, 22 PMT families left the Spanish and Church oppression of the El Paso Mission life and remained a distinct and separate Indian political entity in the Las Cruces/Mesilla Valley. See Beckett and Corbett, “Tortugas,” (1990) p. 7. Subsequently, the PMT families petitioned and obtained the Tortugas land grant because of their Indian status as Manos, Piro, and Tiwa Indians.

Admittedly, because of the Spanish/Mexican/Catholic Church presence in the Rio Grande Valley, many Pueblos, including PMT, intermingled their traditions as a way to adapt and survive. At the same time, many of those tribes, including PMT, maintained their traditional religious activities away or “underground” from the Spanish and/or Church inspection. This adaptation and survival mechanism certainly did not mean that those tribes were no longer Indians.

To clarify another point raised by the Reynolds group, PMT never claimed there was “a Piro Pueblo” in the Old Indian Neighborhood of Las Cruces. We merely made the historically verifiable claim that there were Piro Indians (part of the PMT) living in the Old Indian Neighborhood. In addition, we never claimed in our Petition that the Old Indian Neighborhood was walled-off from the rest of Las Cruces and the Mesilla Valley. Like most neighborhoods, there were other people mixed in, but the reason the area was called the Old Indian Neighborhood was because there was a separate community of “Indians” – PMT Indians – predominating the area with the cacique and many other Tribal families living in the Neighborhood. To further clarify, while the corporation includes non-Indians, our tribal membership and petition for federal acknowledgement do not. Thus, the petition does not list the membership of the corporation unless such individuals are PMT members.

Reynolds also misconstrues the timeline and events of PMT leaving the corporation. Although Victor Roybal, Sr. left the area for work, he remained with the corporation until outsiders seized control and began to supplant PMT leadership and practices, at which time PMT collectively distanced itself from the corporation. In fact, his brother Vincente Roybal continued on as the traditional of the Tribal cacique, while Victor Roybal, Jr. assumed a primary administrative leadership within the Tribe. Hence, a new group did not form.

While a new name (San Juan de Guadalupe) was utilized to demonstrate the distinct tribal entity of the area as the Tribe commenced its initial federal recognition efforts in the 1970s, this too did not constitute formation of a new group. The Tribe ultimately adopted the PMT name to acknowledge the history of intertribal marriages between the Piro, Manso, and Tiwa Indians who were the ancestors of the Tribe’s current members. Finally, the group activities of the PMT Indians predated the Corporation by hundreds of years, and during the early Corporation period the Tribe was led and maintained by traditional PMT leaders such as Felipe Roybal, Victor Roybal, Sr. and Vincente Roybal.

PMT Response to Fort Sill Apache Tribe of Oklahoma

The Fort Sill Apache Tribe of Oklahoma (“FSA”) cites certain Indian Court of Claims decisions in its comments. Since PMT never received opportunity to be heard in those proceedings, we are

at a disadvantage in discussing them. Regardless, the current OFA regulations control the federal recognition process – not the Indian Claims Commission or the Museum of New Mexico. PMT has submitted historical research that satisfies the new regulations' standards. See § 83.10(a). Finally, we agree with OFA that FSA and others have had ample opportunity to provide comments, and no new comments are warranted.

Below, in bold, are our responses to FSA's comments, which we have reproduced in italics for clarity.

FSA Comments Regarding Litigation before the Indian Claims Commission ("ICC")

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, 477 F.2d 1360 (1973), cert. denied, 416 U.S. 993 (1974). Thus the Petitioner's claims in its 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 determination in the cases cited above.

The PMT petition is not Indian land claim adjudication, and it is not controlled by an ICC decision. In any event, *Fort Sill Apache Tribe v. United States*, 477 F.2d 1360 (1973), cert. denied, 416 U.S. 993 (1974), does not mention "aboriginal territory" or FSA's predecessors. In that case, the Court of Claims rejected a lawsuit brought by the FSA regarding Chiricahua members' imprisonment under the 1946 Claims Commission Act.

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 the City of Las Cruces area in Dona Ana County, New Mexico. However, where the Petitioner's 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. Comm. 23 (1975).

The ICC did not permit PMT to intervene, thus, there was no adjudication on the merits of PMT's claim. 35 Ind. Cl. Comm. 320. Moreover, it is significant to note that the ICC findings were based upon a preponderance of the evidence standard. See 19 Ind. Cl. Comm. at 213.

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*

PMT agrees.

2. *That the Prior and Tigua Indians moved from the Santa Fe and Socorro New Mexico regions to El Paso, Texas around 1680 during the Pueblo Revolt. Id. at 43*

PMT agrees.

3. *The Piro Indians were relocated from Senecu and Socorro, New Mexico to locations South of El Paso, Texas. Id. at 43*

PMT agrees.

4. *The Manso and Suma Indians once occupied the Rio Grande Valley in and near El Paso, Texas. Id. at 44*

PMT agrees.

5. *After 1659, the Manso became intermixed with Piro and Tigua Indians. Id. at 44*

To clarify, tribal intermixing did not begin until after the Pueblo Revolt of 1680, when the aforementioned tribes were moved to the El Paso area Indian Missions.

6. *That by 1750, the Mansos "disappeared from the historical scene by 1750 having been assimilated into the greater Mexican population." Id. at 44*

More recent scholarship regarding Tortugas by Houser and Beckett and Corbett discredits this finding. See FSA Enclosure 2, Museum of New Mexico, Office of Archeological Studies at p. 166. See also 36 Ind. Cl. Comm. 7, 42-44 ("The Tigua and Piro Indians were the original people who inhabited the pueblos in the upper Rio Grande valley during the early 17th century. ... The Mansos and Suma Indian tribes were among a number of Indian groups that had occupied the Rio Grande valley before the arrival of the Spaniards. ... The traditional lands of the Manso lay north of El Paso on both sides of the Rio Grande, but they were also found in the El Paso region where a Spanish missionary had established a settlement for them in 1659.") The Mansos did not disappear; many intermarried with the surviving Piro, Sumas, and Tiwas in the El Paso Indian Missions. Intertribal amalgamation did not mean the disappearance of a tribe. Surviving tribes adapted to non-Indian depredations, disease, and other decimating forces by marrying with other nearby Natives and sharing cultural, social, and other Native unifying factors. See 19 Ind. Cl. Comm. at 254-55.

7. *As known 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*

PMT disagrees. As above, many Sumas survived by intermarrying with other local tribal people.

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. 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 Indian residing within the territorial limits of the United States or Alaska" to even perfect a claim under the Act. These findings were further chronicled by the Museum of New Mexico, Office of Archeological Studies, "Traditional Use Areas in New Mexico" Archeological notes (Enclosure 2).

Once again, the ICC Findings do not bind PMT or OFA's decision making with respect to PMT's Petition. PMT is proceeding under the OFA regulations of 2015 – not the Indian Claims Act of 1946. As Indian tribes who went through the ICC process are keenly aware, many ICC Findings were designed to divest Indian tribes of their lands, rights, and self-determination. See, e.g., FSA appeal of *Fort Sill Apache Tribe of Oklahoma et. al v. United States*, 477 F.2d 1360 (1973), cert. denied, 416 U.S. 993 (1974). Particularly to the extent that they are inconsistent with historical evidence submitted by PMT in support of its Petition, ICC findings from a proceeding in which PMT was not a participant should be given little if any weight.

Thus in conclusion, if the ICC, after reviewing expert testimony, could not find 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 that findings in 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 must be dismissed here by the Department of the Interior.

Even if the ICC had addressed PMT's existence as an Indian tribe, *vel non*, any adverse determination of this question would be contrary to the evidence in PMT's petition and the ICC's own precedent. In 19 Ind. Cl. Comm. 212, the ICC cites to *Indians of California v. United States*, 122 C. Cls. 348, 357, and states that:

Section 10 of the Indian Claims Commission Act permits a representative action on behalf of one or more tribes, bands or communities, which may have ceased to exist as such tribe or bands, if the individual members of the members of the group can be identified as members or descendants of members of a tribe or band previously existing.

19 Ind. Cl. Comm. 212, 220 Finding 2(k). Moreover, the ICC offered lengthy discussion of using cultural unity, social unity, use and occupation of an area, social contacts, including feasts and ceremonies, and political organization (as a "loose-knit type of federation") as factors for identifying an Indian tribe. See *id.* at 221-25. PMT's petition relies on these same factors to establish PMT's identity as an Indian tribe.

Finally, the ICC also cites *Hualapai Tribe v. United States*, 11 Ind. Cl. Comm. 447, 474, which states that to identify an Indian tribe one looks at "same language, common culture,

intermarried, made common use of the lands away from their settlements, shared their own territories, engaged in common economic activities and considered themselves one people.” 19 Ind. Cl. Comm. at 245. As demonstrated throughout our petition, PMT has provided evidence on all the above and satisfies all of the OFA regulatory standards to be acknowledged as an Indian tribe.

FSA Comments Regarding the 25 C.F.R Part 83 Criteria

PMT offers the following responses, in bold type, to specific FSA comments relating to the criteria set out under 25 C.F.R. Part 83. Again, FSA’s comments are reproduced in italics for convenience.

Criterion under 25 C.F.R. 83.7(b)

- *In the 1978 petition, the Petitioner describes the current population as “inhabiting a 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 originally settled in Las Cruces in the 19th century and were a distinct population from the Tortugas Pueblo (2010 petition, pages 13-15).*

It is first important to realize that Tortugas and the Old Indian Neighborhood of Las Cruces are just a few miles apart – less than an hour’s stroll. As stated in our petition, the Mansos were indigenous to the Mesilla Valley, including present-day Las Cruces and Tortugas. In addition, as stated in the petition, the original PMT land grant was supposed to be for a small parcel of land in the Old Indian Neighborhood of Las Cruces, near St. Genevieve’s Church, but after the murder of Cacique Felipe Roybal in 1906 the land grant was moved to present day Tortugas just down the road.

Furthermore, and as presented in our petition, PMT utilized a loose affiliation with the Catholic Church (just like many of the New Mexico pueblos and other Rio Grande Valley tribes) as a way to survive and remain a distinct Indian entity in the Mesilla Valley from the 1870s – 1950s, especially around the turn of the 20th century. Over time, non-Indian and Catholic repression aimed at PMT’s traditional religious practices and government structure (caciqueship) grew stronger. As a survival mechanism, therefore, PMT went back and forth between the two locales in order to escape the repression of one and find space, refuge, and the ability to continue their traditional way of life at the other. Then, in the 1950s, as the dominance of the non-Indians at Tortugas strengthened and the marginalization of the traditional PMT members at St. Genevieve’s grew worse, many of the PMT traditional practices went “underground,” *i.e.*, at the Cacique’s house and/or other Tribal members’ homes, and out of public view in order to survive. That strategy succeeded, as the present-day PMT thrive under the caciqueship of Edward Roybal, Sr., the grandson of Felipe Roybal and nephew of Vincente Roybal.

- *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).

PMT presented evidence that around 50% of its members are married to other PMT members.

- *The Petitioners' own assertion that they formed a distinct social group through the intermarriage of three historical tribal communities Piro, Manso, and Tiwa, has not been evident in over 60 years as marriages among non-native individuals has steadily increased from the early 19th century (2010 petition), page 8).*

Like many other tribes, particularly of its relatively small size, PMT has had some marriages with non-Indians, especially as non-Indians flooded into the Mesilla Valley area after the turn of the 20th century. Even in the face of non-Indian Mexican and Anglo immigration into the area, however, PMT intertribal marriages stayed steady at nearly 50% of all PMT marriages. Many tribes (including FSA) have reduced their blood quantum requirements for membership or lineal descendance largely due to non-member intermarriage, yet those tribes still view themselves and are acknowledged by others, including BIA, as distinct tribal entities.

- *The Petitioner does not maintain a significant rate of inter-tribal marriage or marriage with other Native American communities, "since the late 1940's, a majority of marriages of PMT members have been to non-member Indians or non-Indians" (2010 petition, page 77).*

See above PMT response.

- *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. The pattern of cultural dispersion has been evident for the past sixty years. Alan Oppenheimer states the lack of distinct social interaction was in place since the 1950's "Tortugas culture was found to diverge widely from Pueblo culture as a whole, tending in the direction of the Spanish-American" (1957: Section XI).*

First, FSA is not from the Las Cruces/Mesilla Valley area. Ft. Sill Oklahoma is located hundreds of miles away from Las Cruces, NM. FSA has only recently (and through an Oklahoma land claims settlement) attempted to establish a southern New Mexico presence with their Akela Flats truck stop over 50 miles away from Las Cruces. Furthermore, FSA has not had any tribal trust presence in the area during the 20th century. FSA lacks any direct knowledge regarding PMT's tribal life and activities post-1900.

While some members of PMT live outside the Las Cruces area for work, school, military, or other reasons, most reside in the Las Cruces area. We have no doubt that many FSA and other Indian tribes' members live outside their Reservation areas, and that does not affect their tribes' status. In addition, many tribes have maintained their tribal identity and community despite the influx of a significant non-Indian population. For example, tribal

members in Oklahoma are dispersed throughout the local area and surrounding states, but they are still Indians and their tribes are still tribes. Towns such as Palm Springs, CA and Parker, AZ have many non-Indians living within Indian Reservations, but no one would claim that this delegitimizes the Indian tribes for whom those reservations were set aside.

As mentioned above, PMT has been in middle of the historical dynamics of Spanish, Mexican, American, and Catholic hegemony; industrialization, World War demographic shifts, latter 20th century Hispanic immigration waves, and other powerful socioeconomic and cultural influences. PMT has not had the benefit of a separate Indian reservation to insulate itself from the dynamic physical and cultural influences of its non-Indian neighbors like other tribes. Accordingly, there were times when many PMT traditional and religious practices and Tribal activities went “underground” away from public inspection in order for PMT tribal life to continue and survive. This in no way discredits PMT or prevents its recognition as an Indian tribe.

- *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.*

Our petition is full of such evidence. Moreover, we note that PMT recently led the Las Cruces Centennial Parade, at the request of the City of Las Cruces to honor the area’s first citizens and recognize its present distinct Tribal community. In addition, Dona Ana County submitted its official support of our petition as a distinct Indian tribe.

- *The Petitioners 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 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 are still 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).*

As Oppenheimer finds, PMT traditional life and activities were being displaced at Tortugas by non-Indian corporate officers and their cultural appropriation of PMT traditions and religious practices heavily diluted by Mexican (e.g., Matachines) and Catholic practices. Again, the major reason for PMT’s return to the Old Indian Neighborhood – just a few miles away – was to maintain their traditional songs, dances, religious and other Tribal activities.

- *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 Los Indigenes 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 Indigenes De Nuestra Senora de Guadalupe, a New Mexico non-profit corporation" (1996 petition, page 4).

As stated elsewhere, around the turn of the 20th century PMT leadership mistakenly trusted Van Patten, who had promised to protect and improve the lives of PMT members by way of the new American corporate model. Since the area and its political hegemon had just changed to the American regime, PMT leadership thought it was a worthwhile risk. Unfortunately for PMT, the non-Indian "partnership" did not work to the Tribe's benefit. As noted in the petition, shortly after the establishment of the corporation, the PMT cacique was murdered and the corporation's leadership became dominated by non-Indians. This ultimately led to PMT's decision to distance itself from the increasingly non-Indian corporation.

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).*

At the time of the inception of the corporation, PMT had no knowledge of American corporate concepts. In fact, the predominant language of the time was Spanish. Van Patten, Jackson, and other Anglos who recently came into the area post-Mexican-American War and Gadsden Purchase portrayed themselves "great white fathers" who would protect and help PMT with the forthcoming American corporate society and convinced Tribal leaders that the way for PMT to join the American society was to place its "administrative" political functions under the rubric of the American corporate model. Soon after the murder of cacique Felipe Roybal, Van Patten married a Tribal member and transformed the corporation into a vehicle for commercial exploitation of PMT as a tourist attraction in the new American southwest.

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).*

There is no media conflation about PMT, just reporting on the distinct existence of the PMT. Please remember that PMT members had and still have lands in Tortugas as the land grants were to be for the benefit of the Indians – the PMT tribe. In addition, and after continual repression and marginalization by the corporation and Church, PMT members increasingly went back to the Old Indian Neighborhood of Las Cruces to maintain their traditional PMT religious activities and Tribal life.

Some PMT members also moved to the Old Indian Neighborhood after being denied infrastructure access and services from the corporation. Hence, there were PMT members and families in both places. There is nothing peculiar about maintaining family, tribal, and cultural relationships in two geographic locations merely three miles apart.

4. *The Petitioner makes claims to their continual inhabitation of Las Cruces, New Mexico, not in a village three miles south of Las Cruces as referred 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.*

The newspaper articles note PMT's distinct and historical Tribal existence in the area. In fact, it is a testament to PMT's resilience, strategic adaptation, and strength (albeit after learning painful lessons from their experience with the increasing dominance of the non-Indians at the corporation) to be able maintain independent and distinct existence without a separate Indian reservation and in the face of the ever-increasing waves of non-Indian immigration and predominance into the area.

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.*

At the time of the corporation's inception, PMT had no knowledge of American corporate concepts. The corporation represented an attempt by PMT to adapt to changing circumstances. It was extremely unfortunate that the effort failed and that outsiders coopted the corporation in an attempt to benefit themselves at PMT's expense, but it does not detract from PMT's status as an Indian tribe.

Since its break with the corporation, PMT maintains its political authority through its elected administrative Tribal officials while also maintaining its centuries-long caciqueship to influence and guide Tribal members through traditional religious activities and Tribal life. As it always has been, since at least the late 1880s, the cacique is the predominant Tribal authority.

- *Throughout its existence, there is a problematic relationship between the Petitioner and the Corporation.*

PMT readily acknowledges that the corporation ultimately was coopted by non-Indians and proved to be not in the Tribe's interests. That is why PMT largely dissociated itself from the corporation. PMT does not control or represent the corporation at this juncture, nor does the corporation control or represent PMT. They are distinct entities; one an Indian tribe, the other a non-Indian 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 and indigenous organization as it also serves the Anglo and Hispanic community members living in the area (Oppenheimer 1957).*

See responses above regarding PMT's and Corporation's relationship. Please remember that at the time of the corporation's inception, PMT had a predominant presence and political organization (under Cacique Felipe Roybal) in the area, so it was natural that others, including Van Patten, would attempt to ingratiate themselves into the established structure of PMT. Unfortunately, PMT's trust was betrayed by the very people they helped – the Anglos, Mexican immigrants, and other non-Indians – who appropriated PMT lands, leadership, and culture.

- *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 as 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.*

As mentioned above, Van Patten persuaded PMT to form a corporation to better deal with the new Americans asserting themselves in the newest part of the United States. As such, and believing that their best chance to survive under the American political and economic regime was to adapt and coopt an American corporate administrative model, PMT utilized the administrative roles of president, vice-president, treasurer, and secretary as their administrative governing model. In fact, several years later, across the United States, many other Indian tribes adopted similar political/administrative models for their tribal administrative organization. See, e.g., FSA's Business Committee, comprised of its chairman, vice-chairman, and secretary-treasurer. See <http://fortsillapache-nsn.gov/about-the-fort-sill-apache-tribal-government/>.

- *The Petitioner claims a split with the Corporation because of non-Indian take-over in the 1940's (2010 petition, page 25). However, the Petitioner fails to illustrate that the Corporation have ever operated functionally and primarily as an indigenous organization or with the intent of governing an indigenous population.*

See above. PMT initially believed that the corporation would afford PMT a way to better position itself vis-à-vis the new American regime. For a while, the corporation also provided PMT greater religious freedom and flexibility after a new Catholic priest was assigned to St. Genevieve's in the Old Indian Neighborhood of Las Cruces and tried to stamp out traditional PMT religious activities and Tribal life in the Old Indian Neighborhood. After the non-Indians displaced PMT leadership within the corporate

structure for their own economic self-interests, PMT parted ways the corporation to maintain its traditional culture and governance through the cacique.

- *The 1978 petition states “(in) 1963 the Tiwa Indian Corporation, Los Indigenas de Nuestra Senora de Guadalupe, was still in its original corporate duration and this 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 1940’s non-Native take-over of the Corporation would indicate that by the 1960’s, the PMT was governed by non-Native individuals (2010 petition, page 25).*

PMT was never governed by non-Natives. Even when PMT utilized the corporate administrative model of the corporation (president, vice-president, etc.), PMT’s governance was always under the leadership of the Tribal cacique. It was that friction and lack of control by the increasing non-corporate officers which lead to the corporation’s aggressive legal rush and continued cultural appropriation. As noted above and in the latest petition, the 1950s-70s was a time of upheaval between the Tribe and the corporation culminating in the non-Indian corporate leadership initiating state legal proceedings against traditional PMT leadership (Victor Roybal, Sr. and Louis Roybal) to forcibly take away the PMT’s traditional drum and other religious objects. Because of the takeover of the corporation’s leadership by non-Indians, the PMT focused its Tribal life and traditional activities at the home of cacique Vicente Roybal in the Old Indian Neighborhood of Las Cruces – just a few miles from Tortugas.

- *Given the arguments above, the Petitioner should not claim that the Los Indigenas de Nuestra Senora de Guadalupe Corporation creates a “documented link to the State of New Mexico” for purposes of Federal recognition (2010 petition, page 33).*

As stated above, the PMT utilized the state corporate structure with the hope to protect and improve the PMT community with the new United States sovereign. Although PMT ultimately became the victim of non-Indian takeovers, repression, and marginalization even in its own corporation, PMT still maintained a link to New Mexico.

- *The Petitioner’s religious branch of governance is also problematic. The PMT history of disputes among members contesting the cacique is well documented.*

While there have been disputes among some members, the traditional branch of Tribal government has remained steady from 1900 through the present. The PMT’s traditional religious governance has been strong and continuous since 1900 from Felipe Roybal through the present day cacique, Edward Roybal, Sr. In fact, it precisely because of the preeminence of the cacique’s leadership, political authority, and community governance within the PMT community that others, usually non-traditional members and/or nonmembers, have attempted to attack the caciqueship. Such attacks have often been hostile, as evidenced by the murder of Felipe Roybal, the takeover and cultural appropriation by the corporation during Vincente Roybal’s time as cacique, and the attempted takeover by the Rump Group and a convicted felon during Edward Roybal Sr.’s tenure. Unfortunately, internecine strife is not uncommon in Indian tribes, and PMT is no

exception. For over one hundred years, attacks and takeover attempts have been aimed at Tribal leadership – the cacique. Such attacks, however, have only strengthened the resolve and ties of the traditional PMT community, who still today respect and adhere to the traditional governance and leadership of the cacique.

- *The Petitioner's numerous splits and factions that have been 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.*

To the contrary, even in the face of disputes, attempted takeovers, and other nefarious actions the PMT has continued to exert political influence and maintain authority over its members. Traditional Tribal life is never easy, especially for the PMT who preserved their Tribal identity through the serial Spanish, Mexican, Catholic, and American repression and acculturation. Throughout our history, however, our Tribal cacique, dances, chants, ceremonies, and meetings have always strengthened PMT's governance and community life – even to the present. Indian tribes are like families; they have disputes, and, at times, some members leave to go off on their own. This does not discredit a tribe's identity or status.

- *The first well documented split occurred in the 1940's when the Petitioner severed ties with the Tortugas pueblo over leadership (1992, 1996, and 2010 petition).*

See PMT responses above. To be clear, PMT did not split. The traditional PMT, under the guidance of its historical cacique governance, parted company with the corporation. Many tribes are aware of disputes and political animosity created by non-Indian religious institutions attempt to displace or convert traditional Indian leadership and members. Please remember that during the 1940s and 50s the United States was fighting through World War II abroad (where a significant proportion of PMT members served in the U.S. Armed Forces) and McCarthyism at home. During that time, cultural and societal conformity was being pushed even more forcefully upon the traditional PMT leadership and members. For PMT, the pivot from the corporation is powerful evidence of political authority exerted in an effort to remain as a distinct Tribal entity apart from the corporation, the Catholic Church, and increasing acculturation efforts of the Hispanic community in the area.

- *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 clamant 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).*

This is evidence of political authority and governance continuity. Victor Roybal, Sr. was the son of the former cacique Felipe Roybal. After Felipe Roybal's murder in Las Cruces under suspicious circumstances and the rapid ascendance of non-Indian influences from outside the traditional PMT community, Felipe's sons Victor and Vincente assumed leadership of the Tribe and fought against the growing Mexican and Catholic influence of the corporation upon the PMT. See also above responses.

- *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 maintained authority over its members for the last seventy years.*

Again, there was no "split" of the PMT. The defeat of the attempted takeover of PMT leadership and other traditional positions within the Tribe by a convicted felon and his cronies (the Rump Group) in 1995 is well-documented as evidence of PMT leadership's political authority and the Tribe's action to maintain itself as a distinct tribal entity. In any tribe or government there are disagreements and disputes, but in our case, such disputes have only strengthened the tribe. The traditional PMT community under the leadership of the cacique is not a "faction" – it is the tribe. And that is why the PMT tribe continues to survive and thrive, with a significant amount of Tribal members attending and participating in traditional PMT ceremonies and Tribal community life.

- *Factionalism and decent [sic] among the Petitioner's community are evident at the secular community administrative branch of governance and the religious branch of governance under the Cacique.*

Again, tribes and governments have disputes. The United states itself harbors considerable dissent, partisanship, and factions of different beliefs, but there still remains one United States. FSA membership likely has more than one opinion on many matters, but dissent does not equal disintegration. The same is true for PMT. As noted throughout our petition, PMT administrative officials are elected by popular vote. Such elections bring a change of officials over time. On the traditional leadership side, the cacique is a lifetime leader (as it has been for hundreds of years). The governance of the cacique and the Tribal community's adherence to his leadership is a testament to the reciprocal political authority of the Tribe and its traditional leadership.

Criterion under 25 C.F.R. 83.7 (e)

- *The Petitioner presents conflicting narratives of their community members decent [sic] from historical Indian tribes.*

This comment is opinion without any supporting evidence. Our petition demonstrates that over time the intermarriages of Manso, Piro, and Tiwa people resulted in the amalgamation of one distinct Tribal entity under the continual leadership of the cacique. Even today, many Indian tribes are comprised of different Indian bands, and it is universally understood that a single, cohesive tribe may result from the amalgamation of different historic groups.

- *The Petitioner's initial petition and in earlier ethnographic and historic accounts, members of the PMT claim common ancestry with the Isleta Tiwa and the 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).

PMT affirms its common ancestry with Isleta Tiwa and Ysleta Del Sur.

- *In an Indian Claims Commission case the Petitioner (then referred as the Tiwa tribe) was involved in a suit as a partial claimant 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 the 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.*

PMT shares some common ancestry and history with Ysleta del Sur, like many Apache tribes share common ancestry with each other. That does not make them identical or indistinguishable.

- *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).*

PMT affirms its common Manso ancestors who were in the Mesilla Valley at the time of Spanish contact. Many Mansos were later moved to the Indian Missions surrounding El Paso after the Pueblo Revolt of 1680, but many returned the 40 or so miles north to the Mesilla Valley after a small pox epidemic and diseases ravaged the El Paso Indian Missions. Starting in the 1820s, and over time, the original 22 PMT families, who had intermarried, left the El Paso area after Mexican Independence from Spain and returned to the Mesilla Valley under the direction and political authority of the cacique.

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 Petition is not deficient or inconsistent. While documentation of all PMT activity over the last three centuries is not as extensive as we might wish, that is doubtless true for many Indian tribes. That is probably why the federal acknowledgement regulations utilize a "preponderance of the evidence" standard instead of "beyond a reasonable doubt." Finally, while the Albuquerque Journal article captures some of the historical dynamics that PMT has encountered over the years, including disputes with non-Indians and non-members, we refer to our petition for a more detailed understanding of the PMT history and the challenges the Tribe has faced over time.

As referenced above and in the petition, at various times PMT was forced "underground" in order to maintain its traditional activities and customs. Sometimes PMT coopted and

cooperated with aspects the dominant hegemon's culture in order to survive. As many Indian tribes know, traditional tribal people, and especially their leaders, were harshly dealt with by some local non-Indians during the 19th and early 20th centuries. But the PMT tribe persevered and formed an adapted political governance system in an effort to maintain its distinct tribal identity. Subsequent to Cacique Roybal's murder, the PMT survived both the corporation's attempted cultural appropriation and the attempted takeover by the splinter group. Over time, the PMT has adapted, but never lost its traditional soul. Today, PMT maintains a separate and unique identity that exists and thrives under the leadership of Edward Roybal, Sr. and in the vibrant PMT community.

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 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.

The comment period has closed after considerable notice and time to submit comments. FSA had ample time to submit its comments, and it did so. Any extension of time would be *per se* unreasonable.


Third Party Support for PMT's Petition


Of the public comments submitted as of March 28, 2016, seven commenters support of the tribe's petition and seven oppose it. PMT is thankful for and wishes to acknowledge the letters of support from the Dona Ana County Board of Commissioners, Las Cruces City Councilman Greg Smith, Las Cruces Mayor Ken Miyagishima, the Las Cruces, Las Esperanzas Historical Society, and all other supportive commenters. This broad local support offers a better illustration of the Tribe's historical existence and present standing in the local area under § 83.11(a)(3) than the comments of distant tribes or small clumps of dissatisfied individuals with personal axes to grind.

CONCLUSION

The Tribe respectfully requests that OFA promptly proceed with its Phase I technical assistance review of the Tribe's petition. Since the Tribe has not submitted any new materials to its petition and OFA has been reviewing the materials since the early 1990s, we are hopeful that the review will be completed in short order.

Sincerely,

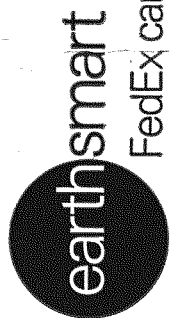

s/ Edward Roybal II
Edward Roybal II
Governor


s/ Andy Roybal
Andy Roybal
Project Director

CC: Catherine F. Munson; Mark H. Reeves

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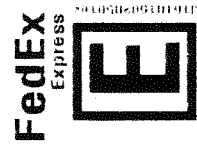
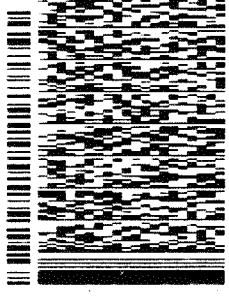
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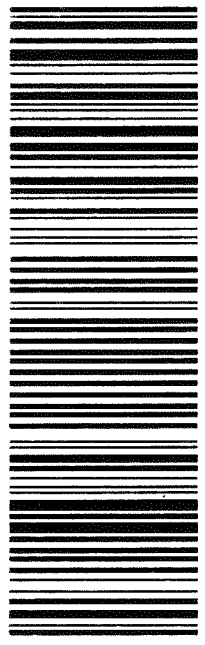


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