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Letter from E. J. Utz to Martin Cross Regarding Membership Rolls, August 6, 1956

E. J. Utz

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FT. BERTHOLD TRIBAL
ELECTION IN REPLY REFER TO:

Tribal Government
10551-56



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

J

Through: Area Director, Aberdeen

Chairman

Fort Berthold Tribal Business Council

AUG - 6 1956

My dear Mr. Chairman:

There has been presented for approval two copies of a membership roll of the Three Affiliated Tribes of the Fort Berthold Reservation, to be used as a basis for segregating certain funds of the Tribes as authorized by the act of June 4, 1956 (P. L. 553). While we appreciate the desire of the tribal authorities to expedite the payment, nevertheless the importance of such action as it affects the rights of a considerable number of people, and the Department's responsibility in giving its approval requires that careful consideration be given the matter before action is taken.

A resolution was adopted by the tribal authorities closing the roll as of June 4, 1956, which is the date of the act. We do not question the use of that date for the purpose indicated in the resolution. However, there are other phases of the proposed action which present serious questions. Apparently no written notice was given to the membership or to prospective applicants for enrollment of this action; neither was a time established within which those persons would have an opportunity to file applications. We can only conclude on the basis of the record before us that the Council, in order to avoid increasing tribal membership, acted without giving the matter its fullest consideration.

An examination of the list of rejections gives us considerable concern. In many instances the reason given for the adverse action is based on a strict adherence to some particular requirement of the membership ordinance, such as failure to file a birth or marriage certificate, payment of the required fee, the child listed as white when parent was an enrolled member, etc. There is no indication to show that the applicant was given an opportunity to furnish the missing document, pay the fee, or overcome the defect, or that upon request he failed to do so.

The approved census roll shows the membership of the Tribes as of June 30, 1954. The roll just submitted shows a number of instances of children enrolled since that time whose parents are

shown as non-residents of the reservation and the rejected list contains instances of the rejection of children where the reason given is that of being "non-resident." For each child enrolled after June 30, 1954, and it is shown that the parents did not reside on the Fort Berthold Reservation, there should be furnished a statement showing, in the light of the requirements of the approved membership ordinance, what the factors were that caused such child to be accepted for enrollment.

In checking dates shown on the rejected list, we note in many instances that there was a considerable lapse of time - as much as five years in some cases - between the date of filing the application and the date of rejection without any indication as to what, if any, action was taken by the tribal authorities, and during which interim the applicant may have been able to correct the deficiency and meet the requirements of the ordinance, if given the opportunity. Again we note that as many as four different dates are given with no indication or explanation as to whether this has reference to one or more applications being filed, or in what category they come.

The Bureau feels that we should also be furnished by you the following information as applied to each applicant shown on the rejected list:

- (1) the original or a copy of any letter or formal notice sent to the applicant prior to the rejection notice in which the applicant was informed and given an opportunity to present a certificate, document, fee, or information necessary to meet the requirements of the membership ordinance;
- (2) the original or a copy of the correspondence on file between the applicant and tribal authorities during this period;
- (3) if no such letter or notice as referred to in (1) above was sent, an explanation as to the reason for the failure to do so;
- (4) if more than three months intervened between the date of filing the application and the mailing of the rejection notice, an explanation as to the reason for such delay in acting on the case;
- (5) a copy of the report of the Enrollment Committee;

- (6) a copy of the minutes of the Business Council showing any discussion of the applicant's case, and the vote as taken by the Council;
- (7) a copy of the rejection notice.

We are informed that the membership committee still has some applications and that it is anticipated others may be filed, and that these would be rejected on the theory that they were filed late. It is extremely questionable whether the Bureau will accept such action for the reason that there is nothing to indicate that the tribal authorities gave the membership and others any advance notice of the effective date of closing the rolls with an opportunity to file applications within a prescribed period of time. Reference to legislation by the Congress, and Department regulations in analagous cases shows clearly that the policy and practice has been to extend this opportunity to interested parties. Our determination as to what will be done in this respect and any other phase of the matter will be made when the information requested herein has been received and considered.

The tribal authorities should also furnish a list of those persons whose names appear on the roll approved March 31, 1955, but are not shown or included on the roll as submitted and a statement opposite the name of each such person showing the reason for its omission.

This material may be submitted as compiled in each case without waiting until it has been prepared for the entire list. It should be furnished through your Superintendent.

Sincerely yours,

(Sgd) E. L. UIZ

Commissioner

ACTING

Copy to: Area Dir., Aberdeen
Supt., Fort Berthold
→ Hon. William Langer,
United States Senate
Hon. Milton R. Young
United States Senate
Hon. Usher L. Burdick
House of Representatives
Hon. Otto Krueger
House of Representatives