



The Minnesota Chippewa Tribe

May 26, 2016

Diane K. Rosen, Regional Director
Bureau of Indian Affairs
Midwest Regional Office
Norman Pointe II, Suite 500
5600 West American Blvd.
Bloomington, MN 55437

Administration
248-345-8000
Toll Free: 1-800-327-7689
Fax: 248-345-8000
Human Resources
248-345-8000
Fax: 248-345-8000
Economic Development
248-345-8000
Fax: 248-345-8000
Education
248-345-8000
Fax: 248-345-8000
Human Services
248-345-8000
Fax: 248-345-8000

RE: Minnesota Chippewa Tribe Request for Waiver of Portions of 25 CFR Part 81

Dear Ms. Rosen:

As you are aware, the Tribal Executive Committee (TEC) adopted two resolutions which propose amendments to Article II of the Revised Constitution and Bylaws of the Tribe. We received the technical review letter from you last week and expect to reply to it following another meeting of the TEC. In the meantime, however, I am writing to request the waiver of certain provisions of 25 CFR Part 81, as expressed in TEC Resolution 95-15, a copy of which is attached.

The upshot of the waiver request is to be able to conduct the Secretarial election on the same terms as those authorized by the waiver approved by the Principal Deputy Assistant Secretary-Indian Affairs by letter of September 20, 2005. (Copy attached) Although the Secretarial election regulations were amended in a Final Rule published on October 19, 2015, at 80 Fed. Reg. 63094, the TEC believes that the revisions are to a great extent consistent with the manner in which it wants the Secretarial election to be conducted.

To explain, the revised regulations seek to maximize participation by off-reservation members in Secretarial elections through the use of mailout ballots. Similarly, the MCT has always allowed all eligible voters – on and off reservation – to vote through mailout ballots in its elections. In addition, the MCT uses polling places both on and off the six reservations for its biennial elections and for the Secretarial elections in 1972 and 2005. The TEC believes that using both forms of voting - mail and in-person - generates interest and participation in such an important election.


Because the availability of polling places makes it possible for voters to decide to vote at the last moment, the TEC also requests a waiver of the pre-registration requirement. Voters will still be required to “register” in that there will be a process by which an eligible voter signs up to vote, but the registration will take place either in the process of requesting a mailout ballot or signing a log of eligible voters at a polling place on election day. As opposed to a “Registered Voters List” then, the MCT will prepare an Eligible Voters List compiled and certified by the MCT in keeping with the definition of Eligible Voters List at 25 CFR § 81.4. That list will be used for disseminating Secretarial Election Notice Packets pursuant to § 81.22, but for purposes of posting under § 81.31 it will show only names and the Band of enrollment.

The TEC requests waivers of those provisions of 25 CFR Part 81 pertaining to the compilation and posting of a registered voters list and those provisions which restrict voting at polling places. Specific sections include:

- § 81.4 "Mailout ballot" definition contemplating an election conducted "entirely by mail."
- § 81.4 "Polling site ballot" definition provision permitting use of polling sites when "required by the amendment and adoption article of the tribe's governing document."
- § 81.13 Again, waive "required by" the tribal governing document.
- § 81.22 Waive the provisions that relate to pre-registration forms and deadlines.
- § 81.23(b) Waive "if required."
- § 81.24(e) Waive the provision relating to challenges to a "Registered Voters List" and authorize use of an Eligible Voters List.
- §§ 81.30, 81.31, 81.32, 81.33 Refer to Eligible Voters List instead of a Registered Voters List.
- § 81.35(b) Waive the provision that allows use of polling sites only when required by the governing document and authorize both polling sites and mailout ballots.
- § 81.35(c) Waive the requirement that mailout ballots be returned before election day and authorize "by the close of polls on the date of the Secretarial election."
- § 81.39 For purposes of determining the percentage of participation authorize "Registered Voters" to be those eligible voters who requested mailout ballots plus those who voted at a polling site.

Please expedite this waiver request. The Tribe intends to contact you about the election date and authorization as soon as the waiver request is completed. If you have any questions, please contact Gary Frazer, Executive Director at 218-335-8581, extension 101.

Sincerely,


Norman W. Deschampe
President