

U.S. Customs and Border Protection
Office of International Trade
Office of Regulations and Rulings
Border Security Regulations Branch
1300 Pennsylvania Ave., NW (Mint Annex)
Washington, D.C. 20229

Ref: Kumeyaay Border Task Force Comments for Proposed Rule 72 FR 35088

Introduction & Background:

Kumeyaay Border Task Force (KBTF) is comprised of federally recognized Bands located in San Diego County. The Kumeyaay/Diegueno Nation has cultural affiliation with Baja Kumeyaay communities located in Baja California, Mexico and are linguistically related to Pai Pai Bands also located in the Baja California, Mexico. The Pai Pai Bands located in Mexico and Pai Pai has direct cultural affiliation with federally recognized Bands located in Southern Arizona, Havasupai, and Yavapai-Apache as well as others.

The cultural affiliation is a continuous relationship whose aboriginal territories traverse the international border separating the United States and Mexico along the California Border.

KBTF is the lead agency for pass and re-pass for Baja Kumeyaay/Pai Pai. KBTF negotiated a process with DHS (1998) during a consultation conducted by DHS for the pass and re-pass for Baja Kumeyaay/Pai Pai KBTF serves as the sponsor for Baja Kumeyaay/Pai Pai with the DHS and the US Consulate (Tijuana).

KBTF notes for the record that the pass and re-pass has been in affect since 2002 with the approval of DHS, DOJ , BIA, and the US Consulate.

Aboriginal territory for Kumeyaay/Diegueno is defined by recorded information and occupies an area as defined by attached map. The aboriginal territory for Kumeyaay/Diegueno Bands is recognized by tribal government resolutions, National Congress of American Indians, California Advisory Board to the Bureau of Indian Affairs, and the State of California Assembly (AJR 60, See attached).

A key point for DHS to understand regarding the Kumeyaay (US) and Baja Kumeyaay (Mexico) and the tribal affiliation for negotiating the pass and re-pass were providing the historical and culturally affiliation for Baja Kumeyaay with United State based Kumeyaay/Diegueno and the aboriginal tribal use area for the Kumeyaay Nation and family relationships. This was done during the government to government consultation between KBTF and Immigration and Naturalization Service (INS) INS eventually transformed into the Department of Homeland Security (DHS) 1998-2002.

KBTF also notes that DHS, US Consulate received and currently uses the enrollment developed by KBTF for identifying Baja Kumeyaay/Pai Pai for processing laser visas B1, B2.

Comment for Proposed Rule 72 FR 350088:

- a) **Specifically Identifying the federal recognized Tribe;** Kumeyaay/Diegueno Bands are recorded in the federal register. The registered name will read for example the Mesa Grande Band, Manzanita Band, Campo Band, Santa Ysabel Band, Jamul Indian Village, Sycuan Band, Viejas Band, San Pasqual Band, Inja-Cosmit, La Posta Band, Barona Band, Ewiiapaayp Band of Mission Diegueno Indians. The Baja Kumeyaay Bands are as follows; San Jose De La Zorra, Juntas De Neji, La Huerta, San Antonio Necua, Pena Blanca all locate in northern Baja California México within the aboriginal footprint of the Kumeyaay aboriginal territory a noted in map.
- b) **Indicating the traditional destination or destinations across the border that are visited by members of the tribe:** The reservations listed above will be the primary reason for Baja Kumeyaay to visit and conduct ceremonies, social gatherings, cultural gatherings.
- c) **Explaining in detail the purpose or purposes of all such travel:** The cultural lifestyle of the Kumeyaay people has since time immemorial for the clans to gather and socialize, trade, conduct ceremonies the movement of the clans covered an area a depicted in the attached map. Kumeyaay have always maintained communications, social, and cultural exchange even after the International border separating the United State and Mexico was created.
- d) **Relating all such travel to traditional ethnic, religious, cultural or other activities of the tribe:** The above testimonials provide in brief the Kumeyaay Nation tribal use area and purpose for pass and re-pass for Baja Kumeyaay to maintain family, cultural ties to United States Kumeyaay. It should be noted that the issue for Kumeyaay to traverse the region that spans the International border is an oversight by the United States federal government. Because Kumeyaay/Diegueno were displaced to reservations in the United States located in San Diego County and Baja Kumeyaay were displaced to isolated lands located in Baja California, Mexico.

The history and cultural relationships between Kumeyaay Bands was not addressed by the federal government therefore only until recent times starting with “Operation Gatekeeper” (1994) Kumeyaay people began to have problems crossing the International Border north into the United States from Baja California, Mexico. Pre-Operation Gatekeeper Kumeyaay frequently by way of mountain passes and official Ports of Entry located at Jacumba, Tecate, and Tijuana use these entry points to go south as well as to go north from Mexico.

Kumeyaay tribal us area is documented since the first explores (1549)to California and how the aboriginal territory was literally cut in half by the International Border separating the United States and Mexico at the end of the Mexican- American war (1848). And this is where the oversight began because the INS did not take the time to consult with Kumeyaay tribal governments to learn if any adverse effect may impact the Kumeyaay from maintaining family and cultural ties with Baja Kumeyaay located in Baja California, Mexico regardless of the border Kumeyaay are the same people on both side of the border.

- e) **Indicating the frequency of the travel:** Kumeyaay make annual and non-annual visit to maintain family ties and cultural relationships. During the summer season is when the pas and re-pass will peak because of the various cultural events occurring on reservations in the United States and also occurring in Baja California, Mexico. Special trips will be made for ceremonies and fro attending funerals.
- f) **Specifying the border crossing point or point which are generally utilized to travel to each destination:** KBTF through consultation with DHS agreed to designate the “Tecate Port of Entry” located in eastern San Diego County along the International Border as the “Point of Entry” for Baja Kumeyaay/Pai Pai crossing north into the United States to Kumeyaay reservations in San Diego, County, California this agreement is in effect today and Custom Border Patrol Services (CBPS) works closely with KBTF to maintain the integrity of the pass and re-pass agreement. In fact, CBPS uses the KBTF census for Baja Kumeyaay the official identification for Baja Kumeyaay in order for Baja Kumeyaay to exercise the agreement to pass and re-pass the international border.

Comments Related to the Real ID Card:

KBTF notes that an agreement with tribal governments exists and was established (1998-2002) through a consultation between INS and KBTF the outcome of the agreement is attached. Further, it is also noted that INS now known as the DHS accepted and uses KBTF official census for identifying Baja Kumeyaay. KBTF also offers that tribal enrollment records are equal to or superior to Sate Identification cards either a State drivers license or ID.

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KBTF encourages DHS to continue the open dialogue with tribal governments along the International Borders and to view Tribal governments as an asset for protecting and providing security for the International Borders.

In Closing, KBTF is supported by the nineteen (19) member Southern California Tribal Chairmen's Association and the Kumeyaay/Diegueno Unity Council to provide the comments regarding the proposed rule 72 FR 35088.

KBTF supports the comments by other tribal governments to develop a national tribal ID card for identification purposes for crossing International borders.

If you desire to query further on the above comments KBTF can be contacted at 619-952-8430.

Submitted Respectfully,

A handwritten signature in black ink, appearing to read "Louis Guassac", written in a cursive style.

Louis Guassac, Exe. Dir.
Kumeyaay Border Task Force