therefore does not meet all seven mandatory criteria under Part 83.

This determination is made following a review of the DTO's response to the Proposed Finding (PF), the public comments on the Proposed Finding, and the DTO response to the public comments. This final determination incorporates the evidence considered for the PF, and new documentation and argument received from third parties and the petitioner. The final determination reaches factual conclusions based on a review and reanalysis of the existing record in light of this new evidence. This notice is based on a determination that the group does not satisfy the seven criteria for acknowledgment in 25 CFR 83.7 (a)–(g).

The PF found that the DTO did not meet criterion 83.7(a) because identifications of the treaty ''Duwamish and allied tribes'' for 100 years following the treaty applied to federally recognized tribes of treaty reservations, not to the DTO. Identifications of DTO since 1939 did not portray it as continuously existing from the 1855 treaty tribe or from Duwamish villages which existed as late as 1900. Other evidence established that DTO was founded in 1925. Federal Agent Roblin's creation of a list of unenrolled Indians in 1919 identified individual unenrolled descendants of historical Washington tribes. That list did not recognize a Duwamish Tribe. The DTO claimed that the BIA had ignored evidence in the PF. The BIA cited specific references in the PF which discussed this evidence. The DTO's researcher's published articles, some of which did not discuss DTO, did not change the PF's conclusions. Comments on the PF provide no basis for changing the conclusion that the evidence was not sufficient to show that the petitioner meets criterion (a) at any time before 1939, and did not change the PF for 83.7(a). Therefore, the petitioner does not meet criterion (a).

The PF found that the petitioner did not provide sufficient evidence under criterion (b) to show that DTO represented a continuously existing community from historical times to the present. The DTO submitted new evidence under criterion (b); however, their analysis of this evidence was neither accurate nor complete. They argue that the petitioner's ancestors lived in family enclaves throughout Puget Sound in the 19th century. This evidence does not show the petitioner's ancestors broadly interacting with one another or with other Indians, or maintaining social networks or geographical communities. Other evidence indicates that they did not. Federal censuses showed the petitioner's ancestors scattered throughout Western Washington. A significant portion of DTO's evidence referred to ancestors of people not associated with DTO. The DTO submitted results of a membership survey designed to measure individuals' cultural values, beliefs and activities. The results were general and provided little if any evidence demonstrating DTO members interacting in community activities or cultural events or sharing a belief system that was distinct from surrounding populations. Therefore, the petitioner does not meet (b).

Based on evidence primarily from claims initiatives after 1935, the PF concluded that the DTO evolved from an organization founded in 1925 and was not a continuously existing political organization which had maintained influence over its members throughout history. This evidence demonstrated that the activities of the DTO were not significant to most members, and that participation was limited to a small set of leaders, who were not influenced by the majority of DTO's membership. Much of the evidence submitted in the comments had been addressed and evaluated in the PF or was not relevant to DTO's history because it concerned other groups or people. A report commissioned by the petitioner did not provide new information about the petitioner's specific activities. The petitioner presented claims activities attempting to demonstrate political activities of a tribal organization. This kind of evidence has not been accepted as sufficient evidence under criterion (c) because it concerns individuals rather than group actions. The DTO argued that their leaders displayed traditional characteristics and represented specific regions. These assertions were not supported by the evidence of actual group organization and of the backgrounds and characteristics of DTO's named leaders.

The petitioner submitted considerable analysis of 1915 and 1926 lists of people with the purpose of showing that those listed were part of a continuously existing Duwamish organization. This analysis raised the percentage of individuals appearing on both lists given in the PF; however, it did not alter the conclusion that only a minority of members of the 1915 organization also were members of the 1926 organization. Further analysis by the petitioner of kinship ties of people on these lists also raised the percentage of family lines represented on both lists. This analysis depended in part on assuming that individuals related more distantly than parent, child or sibling interacted and communicated regularly. The Department, however, does not assume that more distantly related kin are in contact and related to each other politically. Thus some of this analysis is not accepted as sufficient evidence under 83.7(c) without evidence of actual political influence and resulting actions to support it.

DTO's discussion of the IRA in 1934 was inaccurate as was its discussion of a 1970's fishing case, which was undertaken by a single person without input from other DTO members. The evidence did not discuss or demonstrate decision-making, conflict resolution, how events and programs are undertaken and run, or the functioning of any other activities which would reveal political processes from 1925 to the present. The evidence and analysis in the response materials were not sufficient to meet 83.7(c).

The DTO met criteria 83.7(d), (e), (f), and (g) for the PF. No significant new evidence was submitted for criteria 83.7(d), (f) or (g). The petitioner submitted as evidence three lists of members not formerly submitted. They did not change the PF that the DTO met criterion (e).

Because all seven criteria are mandatory, a failure to submit sufficient evidence to meet any one criterion requires the Assistant Secretary to decline to acknowledge a petitioning group. The petitioner failed to submit sufficient evidence to meet criteria 83.7 (a), (b) and (c), and therefore does not satisfy the criteria for acknowledgment.

Dated: September 25, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24511 Filed 9–26–01; 3:32 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Nipmuc Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (AS–IA) proposes to determine that The Nipmuc Nation, c/o Mr. Walter Vickers, 156 Worcester-Providence Road, Suite 32, Sutton Square Mall, Sutton, Massachusetts 01590, does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy criteria 83.7(a), 83.7(b),

83.7(c), and 83.7(e) and, therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the AS–IA must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660–MIB. The names and addresses of commenters are generally available to the public.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the AS–IA by 209 DM.

Introduction

The Nipmuc Tribal Council, Hassanamisco Reservation, in Grafton, Massachusetts, submitted a letter of intent to petition for Federal acknowledgment on April 22, 1980, and was designated as petitioner #69. The AS–IA placed the original petitioner #69, the Nipmuc Tribe (or Nipmuc Nation), on active consideration July 11, 1995. A division of the petitioner, after it was already on active consideration, occurred in May 1996, with the submission of a separate letter of intent to petition by the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, now petitioner #69B. The current petitioner, The Nipmuc Nation, #69A, has continued under the original letter of intent.

This finding has been completed under the terms of the AS–IA's directive of February 7, 2000, published in the **Federal Register** on February 11, 2000 (65 FR 7052). Under the terms of the directive, this finding focuses on evaluating the specific conclusions and description of the group which the petitioner presented, attempting to show that it has met the seven mandatory criteria and maintained a tribal community up until the present. Because evaluation of this petition was begun under the previous internal procedures, this finding includes some analyses which go beyond evaluation of the specific positions of the petitioner. Consistent with the directive, a draft technical report, begun under previous internal procedures, was not finalized.

In this case, general arguments under the criteria were presented in the petitioner's 1984 submission. Petitioner #69A has not presented additional specific arguments which pertain to it alone. The evaluation addresses petition materials submitted in 1984, 1987, 1995, and 1997, which contained materials presenting different arguments in favor of the acknowledgment of petitioner #69 and its successor, #69A, as defined in three different ways: as those associated with the Hassanamisco Reservation; as a joint organization encompassing the Hassanamisco and Chaunbunagungamaug Bands (or the Grafton and Dudley/Webster reservations); and as an umbrella organization of the descendants of all historic Nipmuc bands. It has also been necessary to address the 1996 split between #69A and #69B.

On January 19, 2001, the Acting AS–IA made a preliminary factual finding that the Nipmuc Nation met the seven mandatory criteria and therefore was entitled to be acknowledged as an Indian tribe within the meaning of Federal law. Until the required notice of the proposed finding is published in the **Federal Register**, however, there is no completed agency action. Notice of the proposed finding was not sent to the **Federal Register** before the Acting AS–IA left office because of the late time in the day when the decision was made and because there was insufficient time to finally review for legal sufficiency all the documents necessary to effect the Acting AS–IA's preliminary determination prior to his leaving the office. Because the agency action was still pending within the Department when the new Administration was sworn in and took office, this Administration became responsible for issuing a proposed finding which is legally sufficient. As part of that responsibility, it was incumbent upon the new Administration to review the decision making documents. This review was also in accordance with the White House memorandum of January 20, 2001, relating to pending matters.

The Bureau of Indian Affairs' (BIA) recommended proposed finding was that the Nipmuc Nation did not meet all of the mandatory criteria under 25 CFR part 83. The recommendation had the approval of the Office of the Solicitor as to its legal sufficiency. Although it is the policy and practice of the Department to require decisions of the AS–IA to be reviewed by the Office of the Solicitor for their legal sufficiency, the Acting AS–IA's proposed decision had not been reviewed by that office because of its lateness. Moreover, the Acting AS–IA's proposed decision did not provide an explanation for his proposed modifications to the recommended decision. Therefore, having completed a review of the decision making documents which did have Solicitor's Office review as to their legal sufficiency, the AS–IA concurs with the recommendation of the BIA and publishes this notice of the proposed finding that the Nipmuc Nation does not meet all seven mandatory criteria under Part 83.

Evaluation Under the Criteria in 25 CFR 83.7

Criterion 83.7(a) requires that the petitioner have been identified as an American Indian entity on a substantially continuous basis since 1900. There have been regular external identifications of persons associated with the Hassanamisco Reservation as an entity since 1900. Between 1900 and the late 1970's, there were no external identifications of any continuing Chaubunagungamaug or Dudley/Webster Band. Between the late 1970's and 1996, there were frequent identifications of an entity that comprised both the Hassanamisco and Chaubunagungamaug or Dudley/Webster Bands. Only since 1992 have there been identifications of a Nipmuc entity that comprised more than one or both of the preceding groups. Therefore, the petitioner as self-defined in the three different ways does not meet criterion 83.7(a).

The evidence for 83.7(b) and 83.7(c) has been evaluated in the light of the essential requirement of the Federal acknowledgment regulations under 83.7 to show tribal continuity. Particular documents have been evaluated by examination in the context of evidence of continuity of existence of community and political processes over time. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that the petitioner meets a specific criterion at a certain date. Between first sustained contact and 1891 much of the specific evidence cited was evidence for both community and political influence. Under the regulations, evidence about

historical political influence can be used as evidence to establish historical community (83.7(b)(1)(ix)) and vice versa (83.7(c)(1)(iv)). The evaluation is done in accord with the provision of the regulations that, ''Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available * * * Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time * * * '' (83.6(e)).

For the historical Hassanamisco Band centered on the reservation in Grafton, Massachusetts, there is weak but sufficient evidence that it retained community from colonial times until the end of the American Revolution. From the 1780's through 1869, the evidence is insufficient to demonstrate community. From 1869 until the 1960's, most of the evidence in the record pertains only to activities of the Cisco extended family. The evidence does not demonstrate significant social interaction between the Ciscos and the descendants of the other Hassanamisco proprietary families, or between the Ciscos and the families on the Hassanamisco ''Supplementary List'' contained in Massachusetts Superintendent of Indian Affairs John Milton Earle's 1861 Report. From the mid-19th century to the present, the level of social interaction among the descendants of the historical Hassanamisco Band does not meet 83.7(b). There was, for example, no evidence of contact between the Cisco descendants and the Gigger descendants between the late 1930's and 1997, a period of nearly 60 years. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b).

For the joint entity that was petitioner #69 as it existed from 1980 through 1996, the combined Hassanamisco Band and Chaubunagungamaug Band, the record shows no direct social interaction between the Hassanamisco Nipmuc and the Chaubunagungamaug Nipmuc settlements (reservations) between the 1730's and the 1920's—a period of nearly two centuries. From the 1920's through the 1970's, the evidence in the record showed occasional social interaction between Hassanamisco descendants and Chaubunagungamaug descendants, most frequently in the context of pan-Indian or intertribal activities. From 1978 through 1996, the evidence in the record showed interaction between some Hassanamisco descendants and some Chaubunagungamaug descendants primarily in the context of the formally established Nipmuc organization, and comprising primarily the leaders of the subgroups. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b).

For petitioner #69A as currently defined, including all persons descended from the historical Nipmuc bands of the early contact period, *i.e.* those persons whom the petitioner considers to be of Nipmuc heritage, there is limited evidence in the 18th century that there continued to be social interaction among off-reservation Nipmuc families in south central Massachusetts, northeastern Connecticut, and northwestern Rhode Island. There is some evidence that the off-reservation Nipmuc upon occasion intermarried with both Hassanamisco descendants and Chaubunagungamaug descendants, although there is no evidence that those two settlements interacted directly with one another. There is insufficient evidence that these contacts continued to be maintained in the first half of the 19th century. Beginning with the 1850 census, there is more evidence that there were limited social ties in the forms of intermarriages and shared households between off-reservation Nipmuc families and Hassanamisco descendants, and off-reservation Nipmuc families and Chaubunagungamaug descendants, though still no clear evidence of direct interaction between the descendants of the two reservations. That is, the documents indicate that both the Hassanamisco descendants and the Chaubunagungamaug descendants maintained more social interaction with various off-reservation Indian families than they did with one another. In the first half of the 20th century, evidence for interaction is limited to pan-Indian and intertribal events, and the contacts shown involved only a few individuals. This evidence is insufficient to meet criterion 83.7(b). From 1950 through 1978, there is insufficient evidence of significant social ties among the families antecedent to the current membership; from 1978 through 1989, the petitioning group was defined with a much smaller membership circle than the current organization. The evidence indicates that the current membership of petitioner #69A is to a considerable extent the result of a deliberate recruitment effort undertaken from 1989 through 1994, and has brought many families that had no significant social ties prior to that time into the organization called the Nipmuc Nation. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b). Therefore, the petitioner under its self-defined three distinct entities does not meet criterion 83.7(b).

The historical Hassanamisco Band centered on the reservation in Grafton, Massachusetts, provided sufficient evidence of internal political authority or influence from the colonial period to the end of the Revolutionary War through the carryover provisions of § 83.7(b)(2). From 1790 to 1869, there was not sufficient direct evidence of political authority, while the evidence for community was not strong enough to provide for carryover under § 83.7(b)(2). Since 1869, the evidence indicates that the Cisco family, owners of the remaining ''Hassanamisco reservation'' property in Grafton, Massachusetts, existed primarily as a single extended family, with only occasional contact with descendants of other Hassanamisco proprietary families and without the exercise of significant political influence or authority among the descendants of the proprietary families, or between the descendants of the proprietary families and the descendants of the families on Earle's 1861 ''Hassanamisco Supplementary'' list.

As to the joint entity, the Hassanamisco and Chaubunagungamaug Bands, the evidence in the record indicates that from about 1978 through 1996, for the entity that was petitioner #69, there may have been some form of political influence and authority that extended to at least a limited portion of the group's membership, primarily those persons active under the leadership of Walter A. Vickers, on the one hand, and Edwin W. Morse Sr., on the other hand. However, it has presented no evidence that this limited political influence or authority extended to the greatly increased membership that resulted from the activities of NTAP between 1989 and 1994. The evidence in the record does not show that there was any political influence or authority exercised among the group antecedent to Mr. Morse's organization from 1891 to the late 1970's (see proposed finding for petitioner #69B), or that there was significant political influence or authority that comprehended both the Hassanamisco and the Chaubunagungamaug descendants from the late 19th century to the late 1970's.

For the petitioner as now defined, the record does not indicate that from colonial times to the present, any significant political influence or authority has been exercised among the entirety of the wider body of descendants of the colonial Nipmuc

bands as a whole, which is the historical tribe from which it claims continuity.

Therefore, petitioner #69A, however defined, does not meet criterion 83.7(c).

Criterion 83.7(d) requires that the petitioner provide copies of the group's current constitution and by-laws. The Nipmuc Nation submitted such copies certified by the group's governing body. Therefore, the petitioner meets criterion 83.7(d).

Criterion 83.7(e) states that the petitioner's membership must consist of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The petitioner's governing body certified and submitted a current membership list reflecting, after corrections, a total of 1,602 members.

Under 83.7(e), descent from a historical tribe, petitioner #69A shows 8 percent of its membership descending from Hassanamisco (including both the proprietary families and Earle's 1861 supplementary list), 30 percent of its membership descending from Dudley/Webster (Chaubunagungamaug), and 16 percent of the membership descending from non-reservation Nipmuc. On the other hand, 31 percent of the membership are without currently documented Nipmuc ancestry, but are descended from in-laws or collateral relatives of identified Nipmuc. An additional 11 percent of its membership falls in a family line which asserts, but has not documented, descent from the former Indian ''praying town'' of Natick. One percent of the membership is unascribed to any family line; three percent are not fully documented. As of the issuance of the proposed finding, only 54 per cent of the petitioner's members have documented descent from the historical Nipmuc tribe. On the basis of precedent, this does not meet 83.7(e). Therefore, the petitioner does not meet 83.7(e).

Criterion 83.7(f) states that the petitioner's membership must be composed principally of persons who are not members of any acknowledged North American Indian tribe. No members of the petitioner are known to be enrolled in any federally recognized tribe. Therefore the petitioner meets criterion 83.7(f).

Criterion 83.7(g) states that neither the petitioner nor its members can have been the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. There is no evidence that this petitioner has been subject to congressional legislation terminating a Federal relationship. Therefore the petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, the Nipmuc Nation should not be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660–MIB. Comments on the proposed finding should be submitted within 180 calendar days from the date of publication of this notice. The period for comment on a proposed finding may be extended for up to an additional 180 days at the AS-IA's discretion upon a finding of good cause (83.10(i)). Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, and any extensions, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)). This period may be extended at the AS-IA's discretion if warranted by the extent and nature of the comments.

After the expiration of the comment and response periods described above, the BIA will consult with the petitioner concerning establishment of a time frame for preparation of the final determination. After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after beginning preparation of the final determination, the AS-IA will publish the final determination of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1).

Dated: September 25, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24513 Filed 9–26–01; 3:30 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (AS–IA) proposes to determine that the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, 265 West Main Street, c/o Mr. Edwin W. Morse Sr., P.O. Box 275, Dudley, Massachusetts 01501, does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy criteria 83.7(a), 83.7(b), and 83.7(c) and, therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the AS–IA must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, MailStop 4660–MIB. The names and addresses of commenters generally are available to the public.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the AS–IA by 209 DM.

Introduction

The Nipmuc Tribal Council, Hassanamisco Reservation, in Grafton, Massachusetts, submitted a letter of intent to petition for Federal acknowledgment on April 22, 1980, and