

(7) Federal Register Notice of Final Determination

- October 1, 2001

whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Procedure for obtaining certificates of insurance for capital program projects.

OMB Approval Number: 2577-0046.
Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies must obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income public housing projects or the modernization of an existing project. The certificates of insurance provide

evidence that worker's compensation and general liability, automobile liability insurance are in force before and construction work is started.

Respondents: Business or other for profit, State, Local or Tribal Government.

Frequency of Submission: On Occasion.

	Number of respondents	x	Frequency of response	x	Hours per responses	=	Burden hours
Reporting Burden:	3,000		4		1		12,000

Total Estimated burden Hours 12,000.
Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 25, 2001.

Wayne Eddins,
*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 01-24526 Filed 6-28-01; 8:45 am]
BILLING CODE 4210-72-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Duwamish Tribal Organization

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8. Pursuant to 25 CFR 83.9(h)(1978), notice is hereby given that the Assistant Secretary declines to acknowledge that the Duwamish Tribal Organization (DTO), c/o Cecile Maxwell-Hansen, 14235 Ambaum Blvd., S.W., Burien, Washington 98166, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not satisfy the criteria set forth in 25 CFR 83.7.

DATES: In order to reconcile the conflict between the 1978 and 1994 regulations concerning the deadlines for requesting reconsideration and the effective date of this decision, this determination is final and will become effective 90 days from publication of this notice, unless reconsideration is requested. A

petitioner or interested party may request reconsideration under the 1978 regulations 25 CFR 83.10 (a)–(d). Such a request must be filed with the Secretary of the Interior within 30 days to allow her to request, within 60 days of the publication of this notice, that the Assistant Secretary reconsider the decision. Alternatively, the petitioner and interested parties have the option under 25 CFR 83.11 (a)(1994) of requesting reconsideration before the Interior Board of Indian Appeals (IBIA). If a petitioner or interested party requests reconsideration under the 1978 regulations in time for the Secretary to act within 60 days of the date of publication of the decision, the Secretary may decide to refer the matter to the IBIA under 25 CFR 83.10(1994).

A notice of the Proposed Finding not to acknowledge the Duwamish Tribal Organization (DTO) was published in the **Federal Register** on June 28, 1996. The original 120-day comment period provided under the regulations was extended on November 4, 1996, for 120 days; on January 16, 1997, for 150 days; on July 23, 1997, for another 150 days; and on December 16, 1997, for 30 days. The petitioner requested all of these extensions. A 60-day response period commenced after the last extension as provided in the regulations and closed March 23, 1998.

On January 19, 2001, the Acting Assistant Secretary made a preliminary finding that the DTO met the seven mandatory criteria and therefore was entitled to be acknowledged as an Indian tribe within the meaning of Federal law. However, the Acting Assistant Secretary neither signed his recommended final determination nor the required three copies of the **Federal Register** notice before the change in the Administration. Notice of the final determination was not sent to the **Federal Register** before the change in the Administration because of the late

time in the day when the decision was made and because there was insufficient time to prepare and finally review for legal sufficiency all the documents necessary to make effective the Acting Assistant Secretary's proposed final determination prior to his leaving office. Until the required notice of the final determination is published in the **Federal Register**, there is no completed agency action.

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 final determination 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 final determination was that the DTO did not meet all of the mandatory criteria under 25 CFR part 83. Although it is the policy and practice of the Department to require decisions of the Assistant Secretary—Indian Affairs to be reviewed by the Office of the Solicitor for their legal sufficiency, the Acting Assistant Secretary's proposed decision had not been reviewed by that office because of its lateness. Moreover, the Acting Assistant Secretary'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 Assistant Secretary concurs with the recommendation of the BIA and publishes this notice of the final determination that the DTO has not submitted sufficient evidence to meet criteria 83.7 (a), (b), and (c), and

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),