

**(7) Federal Register Notice of Final Determination**

**- March 15, 1994**

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**Final Determination That the Mohegan Indian Tribe of Connecticut, Inc., Does Exist as an Indian Tribe**

March 7, 1994.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final determination.

**SUMMARY:** Pursuant to 25 CFR 83.9(h), notice is hereby given that the Assistant Secretary—Indian Affairs has determined that the Mohegan Indian Tribe of Connecticut, Inc., (Mohegan) 27 Church Lane, Uncasville, Connecticut 06382 does exist as an Indian tribe within the meaning of Federal law.

This notice is based on a determination, following a review of public comments on the proposed finding, that the Mohegan satisfies all of the criteria set forth in 25 CFR 83.7, and, therefore, meets the requirements for a government-to-government relationship with the United States.

**DATES:** This notice is final and will become effective 60 days after the date on which this notice appears in the *Federal Register* unless the Secretary of the Interior requests a reconsideration by the Assistant Secretary—Indian Affairs pursuant to 25 CFR 83.10(a)-(c).

**FOR FURTHER INFORMATION CONTACT:** Holly Reckord, (202) 208-3592.

**SUPPLEMENTARY INFORMATION:** This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Notice of the proposed finding to decline to acknowledge the tribe was published in Vol. 54, No. 216, pages 47136-47137, of the *Federal Register* on November 9, 1989. This finding was based on a determination that the tribe met criteria a, d, e, f, and g, but did not meet criteria b and c-of part 83.7 of the Acknowledgment regulations (25 CFR Part 83). In accordance with 25 CFR 83.9(g), interested parties were given 120 days in which to submit factual or legal arguments and evidence to rebut or support the evidence relied upon in the finding. Pursuant to a request by the Mohegan and the Connecticut Attorney General's Office (CTAG), the Department of the Interior (Department) extended the comment period from March 9, 1990, until October 30, 1990.

During the comment period, a rebuttal containing substantive new evidence and arguments challenging the proposed finding was submitted by the Mohegan and another was submitted on behalf of the Mohegan by Mr. Robert B. Cohen.

Comments were also received from June Hatstat, also known as "Princess Chikara," of the Mohegan Tribe and Nation; Laurie Weinstein-Farson, Ph.D., Assistant Professor of Anthropology at Western Connecticut State University, Danbury, Connecticut; and Ann McMullen, Department of Anthropology, Brown University, Providence, Rhode Island. The comments of Weinstein-Farson and McMullen were critical of the proposed finding from an anthropological and historical standpoint.

Short comments were submitted by Kevin A. McBride, Assistant Professor, Department of Anthropology, University of Connecticut, Storrs, Connecticut; Trudie Lamb Richmond, Director of Education, American Indian Archaeological Institute, Washington, Connecticut; James D. Wherry, Socio-Economic Development, Mashantucket Pequot Tribe; and Joan Lester, Chief Curator, Boston Children's Museum, Boston, Massachusetts. The CTAG submitted extensive evidence opposing the Mohegan's response, and the Mohegan submitted a final reply.

All submissions were carefully considered, the new evidence was evaluated, and data and conclusions in both the tribe's original petition and the proposed finding were reconsidered in light of the arguments presented. The tribe's response and the response submitted by Mr. Cohen presented substantive new evidence and arguments which served to greatly strengthen the petition. It has been found that this evidence, when considered along with the arguments and observations presented by the other interested parties and a reconsideration of the evidence presented in the proposed finding, warrants a final determination that the tribe does meet criteria § 83.7 (b) and (c) of the Acknowledgment regulations.

The proposed finding concluded that the Mohegan did not meet criterion 83.7(b) because the presence of extensive social contact within the extended Mohegan community since 1941 had not been documented. The finding noted that a substantial portion of the Mohegan did live within an area that comprised the Mohegan aboriginal territory, that they are descendants of an Indian tribe which historically inhabited the area, and that they had retained a minimal cultural distinction from the surrounding population. Yet, at the time the finding was being prepared, evidence to support a positive determination for social interaction and social cohesion was insufficient.

The Mohegan's response to the proposed finding, along with responses

received from other interested parties, has provided information previously lacking and documentation demonstrating social interaction and social cohesion, as well as political communication, linking the major family lines and the tribal officers.

Extensive new information was supplied about the importance of the Mohegan Congregational Church as a focus of tribal activity and community in the modern period. This evidence demonstrated that the period when the church was closed was much shorter than assumed in the proposed finding, that some activities had continued during the period when the building itself was not usable, and that the restoration and reopening had the support of the wider Mohegan community, including members who belonged to other religious faiths.

The Mohegan also supplied additional information about the tribe's interaction at such significant events as funerals, focusing particularly upon the continued usage, until the present day, of the traditional burial ground at Fort Shantok by all but one of the major family lines. The proposed finding concluded that interaction at such times had not been documented, but the new evidence submitted demonstrates that it was substantial.

These new data, when taken collectively and conjoined with those originally provided by the Mohegan and those obtained by the Acknowledgment staff in the course of their research, are deemed sufficient to conclude that the Mohegan maintain the requisite degree of social interaction to meet criterion (b).

The proposed finding concluded that the tribe did not meet criterion 83.7(c) because it could not demonstrate that it had maintained political influence or other authority over all of its members since 1941. The proposed finding concentrated on the role of those men identified as "chiefs" in the documentation. New evidence submitted in response to the proposed finding indicated that the Mohegan leadership structure was much more complex. The office of chief, while largely representational, was supported by various working officials such as the president of the League of the Descendants and the president of the Mohegan Ladies Sewing Society. The proposed finding also focused upon the formal, male, leadership of the tribe, and ignored the traditional importance of its informal, female, leadership.

Additionally, analysis of the new evidence submitted indicated that the influence of the chief could be exerted without the formality of holding

meetings at which a vote was taken. This was particularly demonstrated by the fact that the tribe undertook no claims activity from 1952 to 1966 because Harold Tantaquidgeon, the chief recognized by most Mohegan, opposed it. Under the leadership of John E. Hamilton, who returned from the west in 1966, the majority of Mohegan adults from all of the major family groups became involved with land claims once again. The lack of claims activities from 1952 to 1966 is a demonstration of the exercise of political authority by Tantaquidgeon from 1952 to 1966, since the other two most influential leaders of the tribe during this period were interested in pursuing claims. The focus of the group on non-land claims activity under Tantaquidgeon was a purposeful action taken by a widely respected leader and supported by the membership.

After the Mohegan's repudiation of Hamilton and election of Courtland Fowler to replace him in 1970, Fowler continued to defer to Tantaquidgeon on the claims issue. No claims work was undertaken by the tribal leadership until a 97% favorable membership vote required it in 1980. Therefore, land claims as a political issue also demonstrates there is a bilateral relationship between the Mohegan tribe and their leaders.

The Mohegan's response to the proposed finding presented convincing new evidence that the Council of the Descendants did not die for lack of interest in 1970. Rather, it was dissolved after a leadership dispute. Until 1970, both John Hamilton and Harold Tantaquidgeon were supported by the Mohegan in their roles as land claims representative and chief, respectively. In 1970, there was a dispute over the leadership of the Council of the Descendants which resulted in the repudiation of John Hamilton as a Mohegan leader and the election of Courtland E. Fowler as council president and chief by the Mohegan majority. The Council of the Descendants was dissolved soon thereafter and Hamilton started a new organization, which only a very small minority of the Mohegan followed. By 1973, Native Mohegans, Inc. began functioning as a tribal council for the majority of the Mohegan. Native Mohegans, Inc. continued in this capacity until the incorporation of the Mohegan Tribe of Connecticut in 1980.

We find the contention of the CTAG, that the Mohegan do not qualify for

Federal recognition under 25 CFR Part 83 on the grounds that the Mohegan were subject to the Pequot for a period prior to the year 1650, is not grounds for rejection within the meaning of the regulations. Therefore, we conclude that the tribe has maintained political influence or other authority over its members, independent of the control of any other Indian governing body, throughout history until the present.

There was a fluctuation in social and political activity among the Mohegan from 1941 to 1966, compared to the eras before 1941 and after 1966. The Mohegan response to the proposed finding provided more data on the exercise of political authority from the late 1930's to the present. The level of data submitted on social community, political process, the exercise of leadership, and the bilateral political relationship during the late 1930's and from 1966 to the present was high. The evidence for the period from 1941 to 1966 remains thin and uneven. We find that two factors caused the fluctuation from 1941 to 1966: A temporary migration from Mohegan Hill to perform military service, and the dying out of three family lines that had been central to Mohegan social and political life through the 1940's and 1950's. Even during the fluctuation period there is evidence for some social and political activities and exercise of authority by individual leaders. With a better understanding of the causes of the fluctuation, and the strengthening of evidence for the period before 1941 and after 1966, we conclude that the Mohegan Tribe of Connecticut meets criteria b and c of 83.7 of the Acknowledgment regulations. Consequently, the petitioner satisfied all of the mandatory criteria for Federal acknowledgment and, therefore, meets all of the requirements for a government-to-government relationship with the United States.

A report summarizing the Department's response to the evidence and arguments submitted to refute the proposed finding is available to interested parties upon request. Requests for copies of this supplement report or the proposed finding published earlier should be addressed to the Assistant Secretary—Indian Affairs.

Requests to the Secretary for reconsideration may be made by any party and must be received within 60 days of the publication of this notice. Requests should be accompanied by a detailed statement of the grounds for the

request and should include any new evidence to be considered. If necessary, the 60-day time limit in 83.10(a) may be extended to allow the Secretary a period of 90 days from the receipt of a request in which to review and act, on any requests.

Under the regulations, the Secretary may request reconsideration of any decision but shall request reconsideration of any decision which in his opinion meets the requirements of 25 CFR 83.10(c)(1-3). If the Secretary receives a request for reconsideration, the Assistant Secretary—Indian Affairs will recommend that such a request be referred to the Interior Board of Indian Appeals (IBIA) and that the IBIA be authorized (pursuant to 43 CFR part 4) to determine whether reconsideration is merited on the grounds stated in 83.10(c)(1-3) of the Acknowledgment regulations (25 CFR 83). The IBIA will be further authorized to either affirm this determination or, if the reconsideration request is merited, vacate the decision and return it to the Assistant Secretary for reconsideration. The IBIA will be authorized to request comments or technical assistance from the Assistant Secretary concerning the final determination and may, at its discretion, require a hearing conducted by an administrative law judge of the Office of Hearings and Appeals if the IBIA determines that further inquiry is necessary to resolve a genuine issue of material fact concerning the final determination.

This determination will become final and effective upon receipt by the Assistant Secretary—Indian Affairs of a decision by the IBIA to affirm the determination unless the Secretary in his discretion has otherwise requested reconsideration. If the determination is vacated by IBIA and returned to the Assistant Secretary for reconsideration and/or if the Secretary has requested reconsideration, the Assistant Secretary shall, in accord with 83.10(a), issue a reconsidered determination within 60 days of receipt of the IBIA's decision or the Secretary's request, whichever is later. The reconsidered determination shall be final and effective upon publication in the Federal Register.

Ada E. Deer,

Assistant Secretary—Indian Affairs

[FR Doc. 94-5901 Filed 3-14-94. 8:45 am]

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**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Final Determination That the Mohegan  
Tribe of Indians of Connecticut, Does  
Exist as an Indian Tribe****AGENCY:** Bureau of Indian Affairs,  
Interior.**ACTION:** Correction to notice.

**SUMMARY:** In the above mentioned notice published in the *Federal Register* issue of March 15, 1994, pages 12140-12141, the title of the notice reads incorrectly. "Inc." should not be a part of the title, or included in any part of the notice. The title should be corrected to read as follows: Final Determination That The Mohegan Tribe of Indians of Connecticut, Does Exist as an Indian Tribe.

**FOR FURTHER INFORMATION CONTACT:**Jonni Dreamer, Program Coordinator  
(202) 208-3592.

Dated: July 1, 1994.

**Ada E. Deer,***Assistant Secretary—Indian Affairs*

IFR Doc. 94-17687 Filed 7-20-94, p. 41

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