
(5) Federal Register Notice of Proposed Finding

- August 3, 2001

USGS Clearance Officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration. Comments and suggestions on the requirement should be made directly to the Desk Officer for the Interior Department, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to the USGS Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the USGS, including whether the information will have practical utility;
2. The accuracy of the USGS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The utility, quality, and clarity of the information to be collected; and,
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Ferrous Metals Surveys.

Current OMB approval number: 1028-0068.

Abstract: Respondents supply the U.S. Geological Survey with domestic production and consumption data on ferrous and related metals. This information will be published as monthly and annual reports for use by Government agencies, industry, and the general public.

Bureau form number: Various (17 forms).

Frequency: Monthly and Annual.

Description of respondents: Producers and Consumers of ferrous and related metals.

Annual Responses: 3,479.

Annual burden hours: 1,970.

Bureau clearance officer: John E. Cordyack, Jr., 703-648-7313.

Dated: May 24, 2001.

K.W. Mlynarski,

Acting Chief Scientist, Minerals Information Team.

[FR Doc. 01-19364 Filed 8-2-01; 8:45 am]

BILLING CODE 4310-Y7-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Ohlone/Costanoan Muwekma Tribe

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 proposes to decline to acknowledge that the Ohlone/Costanoan Muwekma Tribe, 1358 Ridder Park Dr., San Jose, CA 95131, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy all seven of the criteria set forth in 25 CFR 83.7, specifically criteria 83.7(a), (b), and (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 comment on the proposed finding may submit arguments and evidence to support or rebut the proposed finding. Such material must be submitted no later than October 29, 2001, in accordance with an order of the United States District Court for the District of Columbia, dated January 16, 2001, which supersedes and shortens the time periods specified in the acknowledgment regulations. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the Assistant Secretary must also provide copies of their submissions to the petitioner. The names and addresses of commenters on the proposed finding will be available for public review. Commenters wishing to have their name and/or address withheld must state this request prominently at the beginning of their comments. Such a request will be honored to the extent allowable by law.

ADDRESSES: Comments on the proposed finding or requests for a copy of the report which summarizes the evidence, reasoning, and analyses that are the basis for this proposed finding should be addressed to the Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street NW, Mailstop 4660-MIB, Washington, D.C. 20240.

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

SUPPLEMENTARY INFORMATION: This notice is published in accordance with

authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Muwekma petitioner has its headquarters in San Jose, California. It has demonstrated a genealogical connection of many of its 400 members to the residents of two historical Indian settlements, or rancherias, in Alameda County east of San Francisco Bay. The most prominent Indian settlement, which existed until about 1915, was located near a railroad station named Verona in a canyon just southwest of the town of Pleasanton. Another Indian settlement in the vicinity was located near the town of Niles. The petitioner also claims to descend from Indians concentrated by the Spaniards at Mission San Jose, but it has not been necessary to evaluate that historical claim.

The Bureau of Indian Affairs (BIA) received a letter of intent to petition for Federal acknowledgment from a group called the Ohlone/Costanoan Muwekma Tribe on May 9, 1989. The BIA determined that the petitioner had submitted a completed documented petition on March 26, 1998. After that time, the petitioner submitted additional exhibits and analysis. The petitioner obtained an order from the United States District Court for the District of Columbia which directed that its petition be placed on "active consideration" by February 12, 2001, and that the Department issue a proposed finding on its case by July 30, 2001.

The BIA made a preliminary determination in 1996 that the petitioning group had previous Federal acknowledgment from 1914 until 1927 as the Verona band of Alameda County. Therefore, this proposed finding has evaluated the petitioner's continuous existence as a tribe since 1927 under section 83.8 of the regulations, which modifies three of the seven mandatory criteria for groups that have previous Federal acknowledgment.

The petitioner does not meet criterion 83.7(a) as modified by section 83.8(d)(1) which requires that the petitioning group has been identified as an Indian entity on a substantially continuous basis, and that it has been identified as the same tribal entity that was previously acknowledged. Section 83.8(d)(5) provides that the petitioner may demonstrate alternatively that it meets the unmodified requirements of criterion 83.7(a) from the date of last Federal acknowledgment until the present. From 1927, when a "Verona band" of Alameda County was last identified by an official of the Indian Office, until 1985, when a "Muwekma

Ohlone" group in San Jose was first identified by local newspapers, a period of more than half a century, there is no sufficient evidence in the record for this case of the identification of the petitioning group as an Indian entity. The petitioner does not meet the unmodified requirements of criterion 83.7(a) because it was not identified by external observers as an Indian entity "on a substantially continuous basis."

The petitioner does not meet criterion 83.7(b) as modified by § 83.8(d)(2) which requires the petitioner to demonstrate that it comprises a distinct community at present, but not to demonstrate its existence as a community historically. The available evidence indicates that prior to the mid-1990's participation in the petitioner's activities was predominantly by members of two extended families with descent from one common ancestor. Significant portions of the evidence submitted for 1984-1992 by the petitioner show the activities of an archaeology monitoring firm, which may be a family-run firm. A relationship between this firm and the petitioning group was not demonstrated. The petitioner's activities do not involve many areas of members' lives and are often symbolic representations of heritage directed at the general public, rather than examples of significant social interaction between members. Members engage in activities with other members at a low level of participation, and the interaction which occurs repeatedly involves the same small group of close kin. The petitioner submitted a survey concerning godparenting, marriage, information sharing, and other social activities. Few families were represented by the survey, to which approximately 10 percent of members responded. The demonstrated activities and interactions of the respondents were limited to their own families. These activities do not incorporate the various extended families and the membership as a whole in a community. The petitioner does not meet the requirements of criterion 83.7(b), as modified, because the evidence in the record is not sufficient to demonstrate that the petitioner's members comprise "a distinct community at present."

The petitioner does not meet criterion 83.7(c) as modified by § 83.8(d)(3) which provides that this criterion can be met, in part, for the period between 1927 and the present by the "identification, by authoritative, knowledgeable" sources, of named leaders or a governing body which exercised political influence or authority within the group. The

evidence available does not include any such identifications between 1900 and 1989. Under the provisions of 83.8(d)(5), the petitioner therefore must demonstrate alternatively that it meets the unmodified requirements of criterion 83.7(c) since last Federal acknowledgment. The evidence available shows that the few sporadic actions that were documented between 1927 and the 1990's were taken by individuals on behalf of close family members, rather than on behalf of a larger entity. During the 1990's the petitioner's organization was run by a small group of individuals, with an absence of evidence of broad participation by members or any indication that members found the organization's activities significant to them. Therefore, the evidence in the record is not sufficient to demonstrate that the petitioner has maintained "political influence or authority over its members" at any time since 1927.

The petitioner meets the requirements of criterion 83.7(e) based upon an assumption, the validity of which should be addressed during the comment period. In the absence of a membership roll of the Verona band between 1914 and 1927, a proxy or substitute for such a roll has been created from residential censuses of Alameda County which appear to have included the Indian rancheria near Pleasanton: The 1905-1906 census of Special Indian Agent C.E. Kelsey and the 1910 Federal census of "Indian town" on the Indian population schedule. All of the petitioner's members descend either from an individual listed on the Kelsey census of Pleasanton and Niles in 1905-1906 or the Federal census of "Indian town" in 1910, or from an unlisted sibling of such an individual.

Specifically, this proposed finding assumes that descent from children of Avelina (Cornates) Marine who were not listed on that 1910 Indian schedule is descent from the historical Verona band because they are siblings of two of her other children who were listed on that Indian schedule. The majority of the petitioner's members claim descent from the Verona band through the unlisted siblings, and thus the petitioner meets this criterion because of this assumption. This Department previously has listed the Marine siblings as Indians on its 1933 census of the Indians of California, so this proposed finding accepts their Indian descent, but assumes their descent from a specific band. It may be assumed that the siblings not listed on the 1910 Indian schedule were part of the historical Verona band on the basis of their close

kinship to a listed resident of the Indian settlement. In addition, the recollections in the 1960's of a son of Avelina (Cornates) Marine say that she was raised in the household of the chief of an Indian rancheria in Alameda County. Her presence in that household or at the rancheria, however, is not confirmed by other evidence in the record. That son in 1910 resided in "Indian town" in the household of the woman he claimed had raised his mother, giving some credence to a continuing association of the Marine family with the rancheria. The recollections in the 1960's of a daughter of Marine suggested that some of the Marine children had visited the Indians at the rancheria during their youth. Another daughter was living within several miles of the rancheria in 1910. It is reasonable to assume that the Marine siblings not on the Indian census of 1910 had a social connection to residents of that Indian settlement. It would not be necessary to make this assumption if additional evidence were presented during the comment period to show the actual participation as members of the band by Avelina (Cornates) Marine and her children. With additional analysis or new evidence, however, the final determination may find that this assumption is not correct.

The petitioner meets the requirements of criterion 83.7(d) because it has submitted a governing document, criterion 83.7(f) because its members are not enrolled with federally recognized tribes, and criterion 83.7(g) because the group or its members have not been terminated by congressional legislation.

The evidence available for this proposed finding demonstrates that the Ohlone/Costanoan Muwekma Tribe petitioner does not meet all seven criteria required for Federal acknowledgment. In accordance with the regulations (83.6(c)), failure to meet any one of the seven criteria requires a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

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 (83.10(h)).

During the comment period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (83.10(j)(1)). In addition, the Assistant Secretary shall, if requested by

the petitioner or any interested party, hold a formal meeting during the comment period for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and will become part of the record considered by the Assistant Secretary in reaching a final determination (83.10(j)(2)).

According to the order of the United States District Court, the petitioner shall have until December 27, 2001, to respond to any comments received from a third party during the comment period.

After consideration of the written arguments and evidence submitted during the comment period and the petitioner's response to the comments, the Assistant Secretary shall make a final determination regarding the petitioner's status. The United States District Court has ordered that this final determination be issued by March 11, 2002. A summary of the final determination will be published in the *Federal Register* (83.10(l)(2)).

Dated: July 30, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01-19529 Filed 8-2-01; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tuolumne Rancheria Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Tuolumne Rancheria Alcoholic Beverage Control Ordinance. The Ordinance regulates the control, possession, and sale of liquor on the Tuolumne Rancheria trust lands, in conformity with the laws of the State of California, where applicable and necessary. Although the Ordinance was adopted on November 2, 2000, it does not become effective until published in the *Federal Register* because the failure to comply with the ordinance may result in criminal charges.

DATES: This Ordinance is effective on August 3, 2001.

FOR FURTHER INFORMATION CONTACT:

Kaye Armstrong, Office of Tribal Services, 1849 C Street, NW., MS 4631-MIB, Washington, DC 20240-4001; telephone (202) 208-4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the *Federal Register* notice of adopted liquor ordinances for the purpose of regulating liquor transaction in Indian country. The Tuolumne Rancheria Alcoholic Beverage Control Ordinance, No. 00-02, was duly adopted by the Tuolumne Rancheria Tribal Council on November 2, 2000. The Tuolumne Rancheria, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the Tuolumne Rancheria.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that Ordinance No. 00-02, the Tuolumne Rancheria Alcoholic Beverage Control Ordinance, was duly adopted by the Tuolumne Rancheria Tribal Council on November 2, 2000.

Dated: July 10, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

The Tuolumne Rancheria Alcoholic Beverage Control Ordinance, No. 00-02, reads as follows:

Alcoholic Beverage Control Ordinance

Article I—Findings and Policy.

The Tribe finds that:

1. Under the inherent sovereignty of the Tribe, this Ordinance shall be deemed an exercise of the Tribe's power for the protection of the welfare, health, peace, morals and safety of the members of the Tribe.

2. The introduction, possession, and sale of alcoholic beverages on the Tribe's lands are matters of special concern to the Tribe.

3. The Tribe's policy is to assure that any possession, importation, sale, or consumption of an alcoholic beverage within the Tribe's jurisdiction, shall occur under the regulation and control of the Tribe as set forth in this Ordinance.

4. This Ordinance shall be construed to comply with federal and tribal laws and with applicable state laws.

Article II—Definitions.

The stated terms are defined as follows unless a different meaning is expressly provided or the context clearly indicates otherwise:

1. *Alcoholic Beverage.* Alcoholic Beverage shall include alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. *mean* any intoxicating liquor, beer or any wine, as defined under the provisions of this Ordinance or other applicable law. It shall be interchangeable in this Ordinance with the term liquor.

2. *Applicable Law.* Applicable Law or laws include federal law, tribal law, and laws of the State of California regarding the possession, sale, use, distribution and control of alcoholic beverages.

3. *Community Council.* Community Council shall mean the Community Council of the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California, which includes all eligible voters and is its governing body.

4. *Legal Age.* Legal Age shall mean the same as the age requirements of the State of California, which is currently 21 years. If the drinking age for the State of California is repealed or amended to raise or lower the legal age for drinking within California, the Community Council is authorized to amend this Article to match the age limit imposed by applicable state law.

5. *Person.* Person shall mean any individual, firm, partnership, joint venture, association, corporation, trust, or any other group of combination acting as a unit.

6. *Sale.* Sale shall mean the exchange of property and/or any transfer of ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. Sale includes optional sales contracts, leases with options to purchase and other contracts under which possession of property is given to purchaser, buyer, or consumer but title is retained as security for the payment of the purchase price, and includes any transaction whereby, or any consideration, title to alcoholic beverages is transferred from one person to another.

Article III—General Prohibition.

It shall be a violation of tribal law for any person on those lands under the jurisdiction and control of the Tribe to manufacture for sale, to sell, offer or keep for sale, possess, transport, or conduct any transaction involving any alcoholic beverage except in compliance with the terms, conditions, limitations,