
(7) Federal Register Notice of Final Determination

- February 10, 1987

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgment of the Wampanoag Tribal Council of Gay Head, Inc.

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.

Pursuant to 25 CFR 83.9(h), notice is hereby given that the Assistant Secretary acknowledges that the

Wampanoag Tribal Council of Gay Head, Inc., c/o Mrs. Gladys Widdiss, State Road, RFD Box 137, Gay Head, Massachusetts 02535

exists 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 tribe 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.

Notice of the proposed finding to decline to acknowledge the tribe was published on page 23604 of the Federal Register on June 30, 1986. 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 tribe's legal counsel, the Native American Rights Fund (NARF), the Assistant Secretary—Indian Affairs, by a letter dated October 15, 1986, extended the comment period an additional 34 days.

During the comment period, a rebuttal containing substantive new evidence and arguments challenging the proposed finding was submitted by the petitioner. Comments were also received from Dr. Gloria Levitas, Assistant Chairman of the Department of Anthropology of Queens College in Flushing, New York; from Dr. Francis Jennings, Director Emeritus of the D'Arcy McNickle Center for the History of the American Indian of the Newberry Library in Chicago; from Dr. William S. Simmons, Chairman of the Department of Anthropology at the University of California, Berkeley; from Mr. Robert T. Morgan, Sr., Chairman of the Dukes County (Massachusetts) Commissioners; from Mr. Doug Cabral, editor of the *Martha's Vineyard Times* in Vineyard Haven, Massachusetts; and from Reverend

Peter R. Sanborn, pastor of the Community Baptist Church in Gay Head, Massachusetts.

The comments of Dr. Levitas, Dr. Jennings, Dr. Simmons, and Rev. Sanborn were critical of the proposed finding, while those of Mr. Morton and Mr. Cabral were neutral in this regard. Observations regarding the political influence of the petitioner were presented by Dr. Levitas, Dr. Jennings, Dr. Simmons, Mr. Morgan and Mr. Cabral. In addition, Dr. Jennings, Dr. Simmons, and Rev. Sanborn commented on the community activities of the petitioner. Dr. Simmons also elaborated on the petitioner's retention of traditional Wampanoag legends. Letters were also received after the expiration of the extended comment period from Mr. William Honey, a bank president from West Tisbury, Massachusetts, and from Mr. James L. Quarles, III, an attorney in the Washington, DC office of Hale and Dorr, a Boston law firm which serves as legal counsel for the Gay Head Taxpayers Association. These latter two letters have not been considered as part of the official comment materials.

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 rebuttal presented substantive new evidence and arguments which served to greatly strengthen its 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 b and c of Part 83.7 of the Acknowledgment regulations.

The proposed finding concluded that the petitioner did not meet criterion 83.7(b) because the absence of extensive social contact within the extended Gay Head Wampanoag community precluded the maintenance of tribal relations. The finding noted that a substantial portion of the Gay Head Wampanoags live in a specific area viewed as American Indian, that they are descendants of an Indian tribe which historically inhabited the area, and that they are distinct from other populations. Yet, at the time the finding was being prepared, evidence to support a positive determination for social interaction and social cohesion—the remaining and significant element of criterion (b)—was insufficient.

The tribe's rebuttal, along with responses received from other interested parties, has provided information

previously lacking and documentation demonstrating social interaction and social cohesion. These data show that the Gay Head Wampanoags have an extensive and interrelated communication network connecting those Wampanoags in Gay Head and elsewhere on Martha's Vineyard with each other and with those members living off-island. Included in this network are the major families in the tribe and the tribal officers. Some of the tribal officers are also Gay Head town officials. The petitioner's rebuttal indicates that the communication network was used for "overtly political purposes by the tribal leaders."

The petitioner also supplied additional information about the tribe's social interaction during important tribal occasions such as birthdays, weddings, retirements, and funerals. The proposed finding concluded that group interaction at these times was minimal, but the new evidence submitted demonstrates that this was not the case. The petitioner's evidence was reinforced by the observations of Rev. Sanborn. Information provided by several other interested parties also demonstrated the existence of specific locations in and around Gay Head which serve as informal gathering places where tribal members congregate.

In addition to providing information about the communication network, the petitioner's rebuttal pointed out that social columns, formerly published in the *Vineyard Gazette*, served as a means of communication and also were used to define the tribe's social boundaries. When Gay Head Wampanoags were the reporters, the social news from Gay Head tended to focus on the activities of the Indian residents, but when non-Indians were the reporters, the news tended to emphasize the activities of the non-Indian residents.

These new data, when taken collectively and conjoined with those originally provided by the petitioner and those obtained by the Acknowledgment staff in the course of their research, are deemed sufficient to conclude that the Gay Head Wampanoags maintain the requisite degree of social interaction or tribal relations 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 throughout history. The original petition focused on the town government of Gay Head as being the only means by which tribal political influence or authority was maintained over the Gay Head

Wampanoags between 1870 and 1872, the year in which the Wampanoag Tribal Council of Gay Head was organized formally. The picture that emerges from the rebuttal evidence and arguments and from a reconsideration of the evidence in the proposed finding is considerably more fluid and diffused than that which was initially described. The available evidence shows that the Gay Head Wampanoags adapted the principal elements of the town governmental system which was imposed upon them by the Commonwealth of Massachusetts and that, within the limits possible, the town government served as the primary structure by which the tribe maintained political influence and/or authority over both its resident and non-resident members. Further evidence presented in the petitioner's rebuttal demonstrated that political influence or other authority was also maintained over members through organizational bodies which functioned outside of and/or parallel to the town government, such as the Howwaswee and Pawkunnawakutt councils and the Wampanoag Tribal Council of Gay Head, and by leaders such as Harrison Vanderhoop, Lorenzo Jeffers, Napoleon Madison, and Donald Malonson, who have functioned both outside and within the municipal structure of the town of Gay Head. Therefore, we conclude that the tribe maintained tribal political influence over its members, independent of the control of any other Indian governing body, throughout history until the present.

Based on these new findings, we conclude that the Gay Head Wampanoags meet criteria b and c of § 83.7 of the Acknowledgment regulations. Consequently, the petitioner satisfies 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.

951 Constitution Avenue NW,
Washington, DC 20245, Attention:
Branch of Acknowledgment and
Research, Mail Stop 32-SIB.

This determination is final and will come effective 60 days from the date of publication of this notice unless the

Secretary of the Interior requests that the determination be reconsidered pursuant to 25 CFR 83.10 (a-c).

Ross Q. Swimmer,

Assistant Secretary—Indian Affairs.

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