

(5) Federal Register Notice of Proposed Finding

- April 15, 2004

State water law. Once accumulated, credit water would be classified by category with a record kept of its storage, exchange, and release. Credit water generally would be retained in storage or exchanged among the reservoirs until needed to satisfy its beneficial use. The Interim Storage Agreement (negotiated in accordance with Section 205(b)(3) of the Settlement Act) would no longer be necessary and so would be superseded by new storage agreements between the Bureau of Reclamation and TROA signatories.

Dated: April 8, 2004.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 04-8570 Filed 4-14-04; 8:45 am]

BILLING CODE 4310-MN-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Burt Lake Band of Ottawa and Chippewa Indians, Inc.

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 determine that the Burt Lake Band of Ottawa and Chippewa Indians, Inc., 6461 East Brutus Road, P.O. Box 206, Brutus, Michigan, c/o Mr. Carl L. Frazier, is not 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 thus, 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 or support the proposed finding may submit factual or legal arguments and evidence to rebut or support the evidence relied upon, within 180 calendar days from the date of publication of this notice. Interested and informed parties who make submissions to the Assistant Secretary must also provide copies 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, 1951 Constitution Avenue, NW., Washington, DC 20240,

Attention: Office of Federal Acknowledgment, Mail Stop 34B-SIB. The names and addresses of commenters generally are available to the public.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513-7650.

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.

The Burt Lake Band of Ottawa and Chippewa Indians, Inc. (BLB), petitioner #101, submitted a letter of intent to petition for Federal acknowledgment on September 6, 1985. The Assistant Secretary—Indian Affairs (AS-IA) placed the BLB on active consideration on December 16, 2002.

The BLB petitioner claims that it is a successor to a Cheboygan band of Ottawa and Chippewa Indians who signed treaties with the United States in Washington on March 28, 1836, and in Detroit on July 31, 1855. The Cheboygan band had a historical village on Burt Lake near the northern tip of Michigan's Lower Peninsula on land acquired between 1846 and 1849, from the United States land office, patented to the Governor of Michigan in trust for the Cheboygan band. The band lost title to this village through tax sales, and in 1900, the purchaser burned it. The village residents dispersed, but a portion of them settled in an exclusive Indian settlement on "Indian Road," near the historical village. In 1977, Margaret Martell in Lansing, Michigan, began to organize the descendants of residents of Indian Road. In 1984, descendants of John B. Vincent (1816-1903) joined the petitioner. The available evidence does not demonstrate that these descendants interacted with Indians at Burt Lake or any other Indian group prior to 1984. Just 46 percent of the petitioner's 490 members descend from the historical Cheboygan band, and 48 percent descend from John B. Vincent.

The proposed finding concludes that the petitioner is not eligible to be evaluated under section 83.8 of the regulations as a previously acknowledged Indian entity. Although Indians at Burt Lake were acknowledged as a tribe as recently as 1917, most of the petitioner's members do not descend from the previously acknowledged entity. Therefore, the petitioner is not the same tribal entity, or a portion that has evolved from the entity, that was previously acknowledged. This finding may be the result of substantial changes in the petitioner's membership since the

preliminary determination. An evaluation under section 83.7 rather than section 83.8 does not result in a different finding on any criterion. Whether the petitioner is eligible to be evaluated under section 83.8 of the regulations is subject to reconsideration at the time of the final determination.

The BLB petitioner does not meet criterion 83.7(a), which requires that it has been identified as an American Indian entity on a substantially continuous basis since 1900. The BLB petitioner's membership has two main components, descendants of the historical Cheboygan band, all of whom also descend from a resident of the Indian settlement at Burt Lake about 1900, and a larger number of descendants of John B. Vincent, who was not a member of the historical band or a resident of the historical settlement. The case record contains some identifications prior to 1956, of an Indian settlement at Burt Lake or an Indian entity consisting of descendants of the historical band. The record, however, does not contain identifications of any Indian entity consisting of Vincent's descendants prior to 1979. A Burt Lake band organization that has become the current petitioner has been identified since 1978, and since 1984, identifications of that Indian entity have identified a group that consists of both Vincent descendants and Burt Lake band descendants.

This proposed finding does not answer the interpretive question of whether a historical identification of a Burt Lake group or Indian settlement that contained no Vincent descendants constitutes an identification of a petitioning group in which Burt Lake descendants are outnumbered by Vincent descendants, because whichever way this question is resolved the result is that the petitioner fails to meet the requirements of criterion (a). If historical identifications of a historical Burt Lake Indian entity are rejected as identifications of the current petitioner, because that historical entity is significantly different in composition from the petitioning entity, then the petitioner has not been identified on a substantially continuous basis. The available evidence does not demonstrate that both components of the petitioner's membership were identified as constituting a single Indian entity, or separate Indian entities that amalgamated, from 1900 to 1978. Alternatively, if historical identifications of a historical Burt Lake settlement are accepted as identifications of the current petitioner, because a substantial portion of the

petitioning group has connections to that historical settlement, then the petitioner has not been identified on a substantially continuous basis because of the lack of such identifications between 1917 and 1931 and between 1956 and 1978.

The BLB petitioner does not meet criterion 83.7(b), which requires that a predominant portion of the petitioning group comprises a distinct community from historical times until the present. The current membership divides into two main groups of descendants, that have never formed a single social community nor did they form two separate communities that amalgamated. Evidence shows that the descendants of the Cheboygan band lived in an exclusive Indian Village on Burt Lake until the burnout of 1900, when they established a settlement on Indian Road, which remained exclusively Indian until as recently as 1938. Its residents primarily married Indians within a regional marriage system, attended a Roman Catholic Indian mission, buried their dead in its cemetery, and socialized with one another. Since WWII, most of the descendants of Indian Road have lived elsewhere, in regional centers and downstate cities. Descendants of Indian Road continued to identify with the historical Indian Village and Indian Road settlement, and maintained a Burt Lake identity. The evidence does not demonstrate that younger generations, born away from Indian Road, maintained social ties to each other and to the residents of the tiny settlement remaining on Indian Road.

The second main group of descendants consists of John B. Vincent's descendants through two of his children. The available evidence shows that their family's history is different from and unrelated to the history of the Indians living at Burt Lake. No evidence demonstrates that these two groups of descendants ever socialized at any time before 1984, as a distinct social community, or that the Vincents participated in an Indian community at any time before 1984. Since 1984, the evidence shows that only a tiny portion of the petitioner's membership descending from John B. Vincent has ever attended a BLB event. The evidence does not demonstrate that the petitioner formed a distinct community at present.

The petitioner does not meet criterion 83.7(c), which requires that it has maintained political influence or authority over its members as an autonomous entity from historical times until the present. Acknowledgment precedent accepts that group political

influence and authority were maintained within historical Indian villages, such as the Indian Village on Burt Lake before it was burned in 1900. From 1900 to 1977, individuals associated with the Indian Road settlement made political representations for various groups, but the political connection of those named individual(s) to any Burt Lake political entity, and the composition of any group they represented, was almost always ambiguous. The existing record contains only a few examples of a bilateral political relationship, such as in letters from 1911 and 1914. It was not demonstrated that in the 1930's, groups which possibly took opposing views on the Indian Reorganization Act, represented a Burt Lake entity or faction of a Burt Lake entity. Oral history recounts that "gatherings" of men met at Indian Road to discuss political issues, but this information is too general to be useful in showing the internal political processes of a Burt Lake entity. In 1977, when former Indian Road resident Margaret Martell began to formally organize the petitioner, she recruited family and close friends tied to Indian Road. The group sought retribution for the destruction of the historical village, an issue of personal significance to older members. A small core group, raised in the Indian Road settlement, served on the board of directors, until 1984, when Donald Moore, a descendant of John B. Vincent, joined the group and immediately became its chairman.

There is no evidence in the record that the ancestors of John B. Vincent ever participated in political activity with Indians at Burt Lake until Moore became chairman in 1984. Nor is there any evidence that they were part of another Indian entity that exercised political influence and amalgamated with a Burt Lake entity to form a single political entity before 1984. In 1991, Carl L. Frazier, another descendant of John B. Vincent, became chairman. Immediately, a group of Burt Lake descendants initiated an unsuccessful recall of the Vincents from the group's board, after which participation by Burt Lake descendants diminished. Since Congress recognized Little Traverse Bay Band (LTBB) in 1994, 174 Burt Lake descendants, 1/4 of its members, including past leaders and long-term members descending from Burt Lake joined LTBB, which recognizes its ancestors on the Durant Roll as qualifying ancestors for membership. With the exception of about five members of the Vincent families, including the chairman and two board

members, the part of the petitioner descending from John Vincent otherwise has extremely low participation rates. No other evidence shows them influencing or being influenced by other Burt Lake members or leaders. The two groups of descendants together do not participate in a common political process, and thus, the petitioner does not exercise political influence or authority over its members at present. Therefore, the petitioner does not meet criterion 83.7(c).

The BLB petitioner meets criterion 83.7(d), which requires the petitioner to submit its governing document including its membership criteria. The petitioner's current membership by-laws require members to document their descent from an Indian appearing (1) in Special Agent Horace B. Durant's 1908 field notes for the "Burt Lake" band, identifying descendants of the 33 family heads of the Joseph Way-bway-dum band as listed on page 31 of the 1870 annuity list for Ottawa and Chippewa Indians of Michigan; or (2) as recipients of the Cheboiganing/Burt Lake Band's land allotments or homesteads pursuant to the 1855 Treaty of Detroit; or, (3) as residents enumerated on the 1910 Indian population schedule of the Federal Census of Burt Township, Cheboygan County, Michigan.

The BLB petitioner does not meet criterion 83.7(e), which requires that the petitioner's members descend from a historical Indian tribe or from tribes that combined and functioned as a single autonomous political entity. This criterion further requires that the petitioner submit an official membership list of all known current members, and that the governing body provide a separate certification of that membership list. The official membership list of December 23, 2002, contained 861 entries, but only 490 individuals on that list were alive, had submitted signed application forms, and had not submitted written relinquishment forms.

About 46 percent of those 490 current members descend from historical individuals identified as members of the band under chief Joseph Way-bway-dum in the 1870 annuity list of the Ottawa and Chippewa Indians of Michigan that was termed the "Burt Lake Band" by Special Agent Horace B. Durant in 1908. By acknowledgment precedent, this level of descent from the historical tribe is not sufficient to meet the requirements of the criterion.

About 48 percent of the 490 current members descend from one historical individual, John B. Vincent (1816-1903), who in 1873 sold his interest in an allotment patented to him in 1875

located in the reserve set aside for the Cheboygan band by the 1855 Treaty of Detroit. However, John B. Vincent did not participate in the band's allotment selections of 1857 and 1864, and the petitioner did not provide any documentation demonstrating that John B. Vincent descended from the Cheboygan band. John B. Vincent did not appear on any Ottawa and Chippewa annuity list furnished by the petitioner. Since individuals from Ottawa and Chippewa bands other than Cheboygan obtained allotments in 1875 in the Cheboygan reserve, the 1875 list of allottees in that reserve is not a list of members of the Cheboygan band. Earlier allotment selection records of 1857 and 1864 contain band affiliation information, are deemed reliable evidence of Cheboygan members, and do not include John B. Vincent.

The BLB petitioner meets criterion 83.7(f), which requires that a petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. Enrollment of some of the petitioner's members in federally recognized tribes has occurred since at least 1994, the first year in which written relinquishments gave the reason as "enrollment at Little Traverse Bay Bands."

Fifty of the 490 current members of the BLB petitioner are also members of the federally acknowledged LTBB or the Sault Ste. Marie Band of Chippewa Indians without having formally relinquished their membership in the petitioner. As 90 percent of the group is not enrolled elsewhere, the petitioner meets this criterion.

The BLB petitioner meets criterion 83.7(g), because there is no evidence in the record that the petitioner or its members have been explicitly terminated or forbidden a Federal relationship by an act of Congress.

Based on this preliminary factual determination, the Department proposes not to extend Federal Acknowledgment under 25 CFR part 83 to the petitioner known as the Burt Lake Band of Ottawa and Chippewa Indians, Inc.

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, 1951 Constitution Avenue, NW., Washington, DC 20240,

Attention: Office of Federal Acknowledgment, Mail Stop 34B-SIB.

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 Department will consult with the petitioner concerning establishment of a schedule 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: April 5, 2004.

Aurene M. Martin,
Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 04–8599 Filed 4–14–04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-069-1310-DB-034E]

Notice of Intent To Conduct Scoping and Prepare an Environmental Impact Statement (EIS) for the Blackleaf Project, Teton County, MT

AGENCIES: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Startech Energy, Inc. (Operator of the Blackleaf Unit, a Federal Oil and Gas Unit), hereinafter referred to as "Startech" has submitted to the Bureau of Land Management (BLM) Applications for Permit to Drill for natural gas on lease, MTM 24615. This lease is located on BLM managed land, in Teton County along the Rocky Mountain Front. The proposed drilling location is within the Montana Thrust

Belt, approximately 75 miles northwest of Great Falls, Montana.

Under provisions of section 102(2)(C) of the National Environmental Policy Act (NEPA) and pertinent Federal regulations, the BLM announces its intention to prepare an EIS, and to solicit public comments regarding issues, concerns and resource information pertaining to this proposed project.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Lewistown Field Office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. Anonymous comments will not be accepted. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

DATES: This Notice initiates the public scoping process. The BLM can best determine the scope of this EIS if issues/concerns are submitted within 45 days of the publication of this Notice. Scoping meeting dates and locations will be announced in local newspapers, on local radio stations, by mail and on the BLM Lewistown Field Office Web page (<http://www.mt.blm.gov/ldo/index.html>). Public scoping meeting announcements will be made at least 15 days prior to the meetings. All comments received at the public meetings or submitted in writing by mail or electronically via the internet will aid the BLM in identifying issues, developing a range of alternatives, and analyzing environmental impacts. The BLM will provide additional opportunities for public participation throughout the preparation of the EIS.

ADDRESSES: Comments should be submitted in writing to: Field Manager, Bureau of Land Management, Lewistown Field Office, P.O. Box 1160, Lewistown, Montana 59457, Attn: Blackleaf Project EIS Team Lead; via electronic submittal, the e-mail address is mt_blackleaf_eis@blm.gov.

FOR FURTHER INFORMATION CONTACT: Lynn Ricci, Blackleaf Project EIS Team Lead, BLM, Lewistown Field Office,