

(4310-02-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Schaghticoke Tribal 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 proposes to decline to acknowledge that the Schaghticoke Tribal Nation (STN), c/o Mr. Richard L. Velky, 33 Elizabeth Street, 4th Floor, Derby, Connecticut 06148, 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 Part 83.7, specifically criteria (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. The time periods and some of the procedures in 25 CFR Part 83 for considering the STN petition are modified by a court-approved negotiated agreement in pending litigation. Parties to the litigation have six months from the service of the proposed finding to provide comments, documents and arguments on the proposed finding to the Department. Interested and informed parties who are not also parties to the litigation have 180 days from the date of publication of this notice of the proposed finding to provide comments to the Department. These

comment periods are virtually identical. The petitioner and all interested and informed parties commenting on the proposed finding must provide copies of their comments to all parties and *amici curiae* to the litigation at the same time. 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, or a list of parties in the litigation, 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 STN petition (petition #79) is being considered under a court-approved negotiated agreement in pending litigation which modifies the time periods in 25 CFR Part 83 and some of the procedures, superceding the regulatory provisions for these time periods and procedures. This order, entered May 8, 2001, and modified by court order on February 14, 2002, established time lines for submission of materials to the Department and deadlines for submission of comments, issuance of a proposed finding and issuance of a final determination. The agreement does not modify the criteria nor the standards required to demonstrate that the criteria are met.

The petitioner's letter of intent to petition, under the name the "Schaghticoke Indian

Tribe," was filed with the Department on December 14, 1981. The petitioning group changed its name to Schaghticoke Tribal Nation of Kent when it amended its governing document at a membership meeting in 1991.

The Schaghticoke have been a state-recognized tribe, with a state reservation, from colonial times until the present. However, the specifics of the State of Connecticut's dealings with state-recognized tribes differed from tribe to tribe in at least one important respect that is relevant to the extent to which state recognition provides additional evidence for the community and political influence criteria in 25 CFR 83.7(b) and 25 CFR 83.7(c). In this instance, there are substantial periods of time, from the early 1800's until 1875 and from 1885 until the late 1960's, when the State did not deal with or identify formal or informal leaders of the Schaghticoke, and did not consult with members concerning issues which concerned the entire group. The State's relationship here thus differs materially from that with the historical Eastern Pequot tribe, where there were recognized leaders with whom the State or state-authorized officials dealt.

While continuous State recognition with a reservation can provide evidence to be weighed in combination with the specific evidence that is present, it is not a substitute for direct evidence concerning community and political processes. In the historical Eastern Pequot case, the continuous state recognition provided evidence which, when added to the specific evidence for community and political processes, provided the basis for criteria 83.7(b) and 83.7(c) to be met for some limited time periods for which the specific evidence itself was insufficient. Because of the narrower quality of the state relationship with the Schaghticoke petitioner, the state relationship provides a more limited amount of additional evidence than it did in the case of the historical Eastern Pequot, especially with regard to demonstrating criterion 83.7(c), consistent with the reasoning in that final determination.

From 1900 onwards, the Schaghticoke petitioner and its antecedents have been regularly

identified as an American Indian entity in Federal and State documents, by local historians, by academic scholars, and in newspaper articles. Federal identifications include the special Indian Population schedules for the 1900 and 1910 Federal censuses, the 1934 Tantaquidgeon Report on New England Indians prepared for the U.S. Indian Service, and the 1947 Gilbert report on surviving Eastern Indian groups prepared for the Smithsonian Institution. The State relationship, which has been uninterrupted from 1900 to the present, generated large quantities of documentation in each decade. These documents include legislative acts, legislative appropriations, appointment of overseers, minutes and correspondence of State agencies, and the assignment of a seat on the Connecticut Indian Affairs Council (CIAC) to the Schaghticoke. Identifications by academic scholars during the 20th century begin with a 1903 visit to the Schaghticoke reservation by ethnographer Frank G. Speck, and exist for each decade from the 1960's through the 1990's. Identifications by local historians also appear consistently in the 20th century, with publications from 1903 through the 1990's. Multiple newspaper articles appeared in every decade from 1900 to the present.

There is no question that the many identifications, which fall under multiple categories of the types of evidence that may be used under criterion 83.7(a), pertain to the petitioner and its antecedents. The petitioner meets criterion 83.7(a).

The evidence indicates that the settlement at Schaghticoke developed primarily as an amalgamation of the Weantinock and Potatuck Indian tribes which existed at the time of first sustained contact with non-Indian settlers. Section 83.6(f) of the regulations provides that the criteria in 83.7(a) through (g) shall be interpreted as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity. The combination of Indians from two or more related settlements into a single group under the pressure of non-Indian settlement does not mean that a petitioner fails to meet criterion 83.7(b) or 83.7(c) during

the colonial period.

The Colony of Connecticut reserved lands for the Schaghticoke in 1736 and confirmed the reservation in 1752, appointing an overseer in 1757. Throughout the period from 1743 through 1771, the Moravian mission records, which are both descriptive and genealogical, provide sufficient evidence of a Schaghticoke community – more than has existed for the colonial period in some prior decisions. From 1771 through 1801, the evidence for community is less ample, consisting primarily of the continued existence of a distinct residential settlement, the presentation of petitions by the group to the Colony and State, and a detailed external enumeration of all members by name and age in 1789. The majority of the residents during this period descended from the already closely-related Indians who resided at Schaghticoke during the Moravian era. On the basis of precedent, the evidence is sufficient. The petitioner meets criterion 83.7(b) during the colonial and early Federal periods.

For the period from 1800 through 1860, in addition to the data provided by the overseers who were appointed by the State of Connecticut through the Litchfield County Superior Court and the applicable data from the Federal census records, there continued to be a settlement identified and described by outside observers. The existence of a distinct geographical settlement to which off-reservation residents frequently returned and the close kinship relations between the resident and the non-resident members, in combination with the other evidence, provide sufficient evidence of community to meet criterion 83.7(b) from 1801 through 1860.

Throughout the period from 1861 through 1899, the existence of a residential settlement on the Schaghticoke reservation continued to be described by outside observers and identified by the State's overseers, appointed through the Litchfield County Superior Court or after 1883, the Litchfield County Court of Common Pleas. The Schaghticoke who resided off the reservation during this period, as documented through genealogical and census records, had close kin ties to

those families that remained on the reservation. The combination of these forms of evidence is sufficient for the petitioner to meet criterion 83.7(b) for the period 1861-1899.

The Schaghticoke group meets criterion 83.7(b) in 1900, based on the existence of the small geographically distinct community (on the reservation), whose members maintained social relations with each other, and evidence that at that point in time the kinsmen of the residents living nearby in the region were maintaining contact with the reservation residents. The existence of a geographically distinct community is evidence to demonstrate community, when used in combination with other evidence, even where it does not reach the 50 percent of the membership necessary to be sufficient in itself under section 83.7(b)(2)(i).

Supportive evidence for community after 1900, up until 1996, is that the "membership," in the sense of who was involved, came to meetings, was mentioned in interviews and the like, was only a limited portion of the total number of Schaghticoke descendants. At least from the mid-1800's onwards, only certain descendants maintained contact with each other and the reservation. In each generation, only some of a given set of siblings had descendants who appeared on subsequent lists and in descriptions of the Schaghticoke. This selectivity provides evidence of social cohesion among this portion of the descendants of earlier Schaghticoke, and evidence that the Schaghticoke were not a group based on descent alone.

Three family lines had emerged as distinct lines by the beginning of the 20th century, Cogswell, Kilson and Harris. With one important exception, there were no marriages between these lines after the mid 19th century although there were kinship links to each other from intermarriages earlier in the 19th century or in the 18th century.

There is sufficient evidence from 1900 to 1940 to demonstrate that criterion 83.7(b) is met. The primary bases are the reservation community, which encompassed the three main family lines, and the extant kinship ties with others living nearby. Many of these off reservation

individuals were former reservation residents whose residence nearby continued the 19th century Schaghticoke pattern where the community was centered on but not limited to the reservation. Additional evidence for community is that the Schaghticoke have not been a descent group up until 1996, but have only included individuals who were maintaining social relations. Although the direct evidence concerning community after 1920 is limited, the continuous state recognition with a reservation provides additional evidence for community, which, when added to the specific evidence in the record, is sufficient to demonstrate that criterion 83.7(b) is met between 1900 and 1940.

The available interview data provides conflicting evidence concerning social community, especially visiting across family lines, from the late 1930's into the 1960's. Some of the data from interviews does not show social relations extending beyond immediate family groups or includes statements which specifically deny contacts across family lines. Evidence from other interview accounts suggests broader contacts, including some social gatherings and visiting of reservation residents across family lines. There was conflicting evidence from interviews concerning the maintenance of broad social contacts after 1940 to 1967. Descriptions of the initial meetings of the Schaghticoke organization created in 1967 indicated that the participants were not well acquainted with each other at that time.

There is not sufficient evidence to demonstrate that criterion 83.7(b) is met between 1940 and 1967. The conflicting data from the 1930's into the 1960's cannot be resolved with the presently available sources and the analysis conducted by the petitioner or by the Department. The present analysis of this data was sufficient to conclude that the petitioner's claims to have demonstrated community in from 1940 to 1967 were not established. The evidence also did not demonstrate that the third party comments that community did not exist in this time period were valid. State recognition does not provide sufficient additional evidence for the period between

1940 and 1967 because of the conflicting nature of the specific evidence for that period.

As evidence to demonstrate community from 1967 to the present-day, the petitioner's reports describe the holding of political meetings, the practice of traditional crafts, the current geographic settlement pattern, work parties on the reservation, and the continued existence of social networks. The formal political meetings do not in themselves show significant social contact or a political relationship because any kind of organization can hold meetings. The petitioner presented only limited evidence to substantiate the present existence of social networks outside of family sublines. The evidence in the record does not show that work parties have been frequent or that they drew broadly from the membership. There was no showing that the practice of crafts represented a distinct cultural tradition or that it involved more than a few individuals. The geographic distribution of the membership is not so broad as to provide evidence against the existence of community, but neither does it provide significant evidence for community.

The Schaghticoke Tribal Nation meets the requirements of criterion 83.7(b) from 1967 to 1996. The primary body of evidence for community is in the data which describe the intense patterns of political conflict in these years, described under criterion 83.7(c). This information demonstrates frequent mobilization of most of the membership, most often along the lines of the major families or their subdivisions. Evidence for criterion 83.7(c) can be used as well for criterion 83.7(b), where that evidence describes circumstances that indicate that social communication is occurring and that social ties exist which influence the patterns of political conflict.

The evidence from political events, membership definition and other sources provides sufficient direct evidence to demonstrate that criterion 83.7(c) is met between 1967 and 1996. Additional, supporting evidence, is the selective nature of the membership of the STN in this

period, as well as the preceding decades. State recognition provides additional evidence for community between 1967 and 1996.

The present-day community, as defined by the 2001 STN membership list, does not meet the requirements of criterion 83.7(b). The community so defined differs substantially from the community described for period from 1967 to approximately 1996. Important segments of the group as it existed prior to 1996 have resigned membership in the petitioner or do not appear on the current membership list because they declined, for internal political reasons, to participate in the enrollment process which led to the current STN list. There are approximately 60 such individuals, compared with the present STN membership of 317. The absence of these individuals, who were a part of the social and political relations within the group between 1967 to 1996, means that the current petitioner, as defined by its most recent enrollment, is substantially less than the entire community. In the Department's final determination to acknowledge the Eastern Pequot and the Paucatuck Eastern Pequot petitioners as a single tribe, the historical Eastern Pequot, the Department concluded that it did not have the authority to acknowledge petitioners which were parts of unrecognized tribes.

Criterion 83.7(b) for the present-day community is also not shown because substantial numbers of descendants of one subline of the Kilson family were enrolled for the first time beginning in 1996. There is little evidence of their association with the rest of the Schaghticoke families, including other Kilsens, after the early 1900's. They constitute 110 of the 317 who are presently enrolled in the STN, more than a third of the total STN membership.

State recognition does not provide sufficient additional evidence for criterion 83.7(b) to be met from 1996 to the present, because of the substantial questions concerning the composition of the community as defined by the current STN membership list.

The evidence available for this finding indicates that the Schaghticoke meet criterion

83.7(c) during the colonial period and during the early Federal period, to 1801. The actions of the local authorities in regard to the tribe were in accordance with the existing Connecticut statutes. On the basis of precedent, governance of an American Indian group by a colony or state does not negate the existence of tribal autonomy within the meaning of the 25 CFR Part 83 regulations, which only require autonomy in relation to other Indian entities.

In regard to 18th century political authority, the Schaghticoke settlement developed between the 1720's and 1740's, primarily from the Weantinock and Potatuck tribes that existed at the time of first sustained contact with non-Indian settlers. When the Moravian missionaries first arrived at Schaghticoke (which they called Pachgatgoch) on January 26, 1743, Martin Mack and his wife "were lodg'd by Captain Mawessman" This leader, who was baptized with the name of Gideon later the same year, is generally known as Gideon Mauwee and continued to head the settlement until his death in 1760, when he was succeeded by his son, Josua Job Mauwee, until the latter's death in 1771. Throughout the period from 1743 through 1801, the sequence of Schaghticoke petitions to the colony, with their content focused upon preservation of the land base, and with a substantially stable sequence of signers that changed only gradually over the course of time as the older men died and younger ones became household heads, provides sufficient evidence of the existence of political authority or influence within the group for the colonial and early Federal period.

For the period from 1801 to 1860, there is no evidence in the record pertaining to political authority or influence. There are no leaders named either by outside observers or in internal documents. The State or the overseer did not deal with leaders. The evidence available for the proposed finding does not show that the group submitted any petitions to the State authorities. While a single man served as overseer from 1801 to 1852, thus reducing the number of occasions for petitions, the evidence submitted did not include any data showing that the

group expressed its views or was consulted with regard to the 1852 or 1861 overseer appointment. Although, in a certain sense, Eunice Mauwee represented the group to outsiders through the interviews that she granted, there is no evidence that she did so in "matters of consequence," as required under the definition of political influence in the regulations. Although the overseers' records and descriptions by outside observers reflect the existence of a continuing geographical community which maintained continuing ties with non-resident relatives, many of whom received disbursements from the tribal fund when in need, the record provides no data beyond the fact of this continuous existence and descriptions of a few selected members. There is no direct information in regard to political process.

The state relationship by itself does not provide sufficient additional evidence to meet criterion 83.7(c) in the absence of other, specific evidence of political influence. The regulations state at section 83.6.(d) that: "a petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria." The petitioner does not meet criterion 83.7(c) from 1801 through 1860.

There is very limited evidence for political authority or influence under criterion 83.7(c) in the period from 1861 through 1899 in the form of two petitions, submitted in 1876 and 1884, each of which was signed by more than half of the Schaghticoke's adult members. The evidence does not show that there were petitions submitted in connection with the overseers' appointments of 1865 and 1870 or that the State authorities consulted with the group in making them. By themselves, these two documents within a period of 40 years do not provide sufficient evidence to support a finding that the petitioner meets criterion 83.7(c) for this full period.

The two petitions, in combination with the continuous state relationship since colonial times and the continuous existence of the reservation lands held in trust by the State, with oversight function, show that the Schaghticoke meet criterion 83.7(c) for the period from 1876

through 1884. The state relationship here provides additional evidence because in this period there was a specific political dealing with the group in that the Litchfield County Superior Court and Court of Common Pleas did act in response to the petitions. Additional evidence for criterion 83.7(c) in this period is provided by the demonstration that the Schaghticoke have shown community under § 83.7(b)(1) at more than a minimal level. Under § 83.7(c)(1)(iv), this provides supporting evidence for demonstrating criterion 83.7(c). The evidence does not demonstrate that the Schaghticoke meet criterion 83.7(c) from 1861 to 1875 or from 1885 to 1899. The state relationship does not provide additional evidence for these dates because there is an absence of specific evidence of the exercise of political influence within the group within the meaning of the acknowledgment regulations.

There is almost no specific evidence of Schaghticoke political activity from 1900 to 1949. The evidence available for the proposed finding does not show that the group submitted a petition in connection with the overseers' appointments of 1904-1905, 1914, or 1932, or that State authorities consulted with the group in making these appointments. The several accounts of the Schaghticoke around the turn of the century, including one by ethnographer Frank Speck, do not name anyone as a leader. Though they describe some individuals who were well known to non-Indians for various reasons, the accounts do not identify them as leaders. There was no significant evidence from documents or interviews to support the petitioner's position that James Harris (died 1909) and George Cogswell (died 1923) were leaders. Although they were well known, none of the contemporary descriptions of their activities described roles as leaders of the Schaghticoke or provided substantial evidence that they exercised political influence or carried out activities which meet the definition of political influence in § 83.1 of the regulations.

There is no good evidence to support the petitioner's statements that Howard Nelson Harris was chief from approximately 1920 until 1954, when he was appointed to that position by

the Schaghticoke council initiated by Franklin Bearce in 1949. Interview data from the Harris family itself did not provide any significant evidence that he was a leader before 1954, and little specific evidence to demonstrate he exercised political influence from 1954 until his death in 1967. Some Schaghticoke, from a different family line than Harris, specifically denied that he was chief at all, and stated that different individuals, with the title of Sagamore, were chief from the 1930's until 1967. Evidence of Howard Harris' contacts with the state in the mid-1920's and in 1950 provided no indication that he was considered to be a leader or that he had presented himself to State officials as a leader.

There was little or no evidence to support the petitioner's claims that various other individuals exercised leadership on the reservation between 1900 and the 1950's or that various individuals listed by the petitioner as being "culture keepers," from 1900 to the present actually functioned as informal leaders who influenced significant numbers of members.

There are no named Schaghticoke leaders with whom the state dealt between 1900 and the 1967. One state report, in 1934, said that there were no leaders recognized by the Schaghticoke. This is evidence which specifically indicates that there were no leaders in the period between 1900 and 1949.

Between approximately 1949 and 1959, there was a council with named officers which pursued a claim before the Indian Claims Commission and attempted to deal with the State on the issue of providing more housing on the reservation. This council came about through the efforts of Franklin Bearce, a non-Schaghticoke. There is not good evidence that those holding office in this time period had a following or significant duties for any extended period of time. There is some evidence to indicate that Bearce consulted regularly with various Schaghticoke individuals, including especially Howard Harris, and that his efforts tapped into an existing set of issues and relationships, but the present evidence is insufficient to demonstrate that criterion

83.7(c) is met for this period. It was not shown that the claims issue itself, involving losses that had occurred over a hundred years before, was of importance to the membership in general and thus evidence for criterion 83.7(c) under § 83.7(c)(1)(ii).

There is either no direct evidence to show political influence, or only a small amount of direct evidence, between 1900 and 1967. State recognition in the form it takes in relation to the Schaghticoke does not provide enough additional evidence which, added to the limited specific evidence in the record, demonstrates that criterion 83.7(c) is met for that time period.

From 1967, until approximately 1996, there is substantial evidence of political involvement of much or most of the Schaghticoke membership. There was a continuing series of conflicts that showed consistently broad involvement of members of the group. The several family line groups and sublines have formed a framework for political conflict, as the units which have mobilized for and against certain issues, and in support of or against specific leaders. These conflicts occurred multiple times over a period of more than 30 years, showing involvement in political processes by most of the group's members. They indicate that knowledge of issues and events were being communicated within the membership, evidence described in §83.7(c)(1)(iii), that there was controversy over valued group goals, evidence described in § 83.7(c)(1)(v), and that most of the membership considered the issues acted upon to be of importance, the form of evidence described in § (83.7(c)(1)(ii). Overall, there is sufficient evidence to demonstrate that the petitioner meets the requirements of criterion 83.7(c) from 1967 to approximately 1996.

The STN does not meet the requirements of criterion 83.7(c) from approximately 1996 to the present. Changes in the STN's membership starting around 1996 and culminating in the 2001 membership list preclude a finding that political processes continued within the group. Former STN members who are not presently members have a strong history of past involvement

in Schaghticoke political processes and are clearly part of the same group. The conclusion of this proposed finding is that in the present-day there continues to be a single Schaghticoke political system encompassing the STN and a substantial number of former members who are not presently members of the STN. Consequently, the present petitioner's membership does not substantially encompass the complete political system. The regulations do not permit acknowledgment of only part of a group. The Secretary does not have the authority to acknowledge parts of tribes.

In addition, there is not evidence to show whether the substantial portion of the currently enrolled STN membership who have only been STN members for a few years are maintaining significant social contact or more than a *pro forma* political relationship with each other or with the rest of the present membership. These descendants comprise a third of the present STN membership.

Because the state relationship here lacks a substantial political component, it does not add substantial evidence concerning political processes. In the absence of any specific, direct evidence of political processes and leadership, the state relationship does not in itself provide sufficient evidence for the Schaghticoke to meet criterion 83.7(c) between 1800 and 1876, 1884 and 1949, and 1960 to 1967. The state relationship does not add sufficient additional evidence to the specific evidence in the record for the period from 1949 to 1959 to demonstrate that criterion 83.7(c) is met for that time period.

The Schaghticoke Tribal Nation does not meet the requirements of criterion 83.7(c) from 1800 to 1875, from 1885 to 1967, and in the present-day group. Therefore the petitioner does not meet the requirements of criterion 83.7(c).

The petitioner submitted ample evidence to demonstrate that 100 percent of its membership descends from the historical Schaghticoke tribe. All persons on the petitioner's

current membership list, dated August 30, 2001, descend from Indians who were identified as Schaghticoke Indians by the State of Connecticut in the 19th century. The petitioner's continuity of descent has been maintained through three families: Cogswell, Kilson and Harris, who, along with their collateral relatives, were named as Schaghticoke Indians throughout the 19th century overseers' reports. Everyone on the petitioner's current membership list descends from at least one of the Schaghticoke Indians who signed an 1884 petition for a new overseer.

The Federal census records from 1870 to 1910, including the 1900 and 1910 separate Indian Population Schedules, show that the petitioner's direct ancestors lived on the reservation at least during some part of their lives, although some periodically moved off to seek employment elsewhere.

The petitioner has provided a copy of its current membership list, dated August 30, 2001, and certified by its governing body, by a letter dated October 14, 2002, as well as previous membership lists.

The petitioner claims two sources for determining eligibility for membership: (1) descent from Gideon Mauwee (ca. 1687 to 1760), which is apparently based on long-standing Schaghticoke traditions of the relationships between Gideon's granddaughter Eunice Mauwee (who died in 1860), Parmelia (Mauwee) Kilson, Abigail (Mauwee) Harris, and Truman Bradley a.k.a. Truman Mauwee. However, the records of the late 18th century and early 19th century do not show the exact genealogical connection among these Schaghticoke Indians; or (2) descent from "any person identified on the 1910 US Federal Census as a Schaghticoke Indian." This definition of eligibility contains a slight terminological problem, in that, although the reservation was identified as Schaghticoke in 1910, its residents were identified as "Pequot."

Nonetheless, all of the petitioner's 317 current members, have satisfied the petitioner's own criteria for membership: 202 have a direct ancestor listed on the 1910 census of the

Schaghticoke reservation, and the remaining 115 individuals descend from Joseph D. Kilson (110) or from Julia M. Kilson (and her husband Truman Bradley) (5), who descend from the Parmelia (Mauwee) Kilson, and thus by tradition from Gideon Mauwee.

More importantly, the petitioner's descent from Schaghticoke Indians of the early 1800's, as identified by the State records, is well documented. While the exact "blood-line" connections to the previous generations in the 1700's are less sure, there is more than enough evidence to show the reasonable likelihood of the connection as well. Therefore, based on the evidence available at this time, the petitioner has demonstrated that it descends from the historical Schaghticoke tribe as identified by the State in the early 1800's and therefore meets the requirements of criterion 83.7(e).

The petitioner meets the requirements of criterion 83.7(d) because it has submitted a governing document, including a description of its membership criteria, 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 the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

The evidence available for this proposed finding demonstrates that the Schaghticoke Tribal Nation does not meet all seven criteria required for Federal acknowledgment. In accordance with the regulations, 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 (83.6(c), 83.10(m)).

A copy of this proposed finding, which summarizes the evidence, reasoning, and analyses that are the basis for decision is available upon written request (83.10(h)).

During the comment period, the Assistant Secretary shall provide technical advice concerning the proposed finding (83.10(j)(i)). Under the court-approved agreement any

interested party, including any parties or *amici curiae* to the litigation, who wishes to request a formal on-the-record technical assistance meeting under 25 CFR 83.10(j)(2), must make their request not later than 30 days after service of the proposed finding. A formal technical assistance meeting will be held within 60 days of the first such request. 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)).

Parties to the litigation have six months from the service of the proposed finding to provide comments, documents and arguments on the proposed finding to the Department. Interested and informed parties who are not also parties to the litigation have 180 days from the date of publication of this notice in the *Federal Register* to provide comments to the Department. Comments on the proposed finding should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660-MIB. The petitioner and all interested and informed parties commenting on the proposed finding must provide copies of their comments to all parties and *amici curiae* to the litigation at the same time. The addresses of the petitioners, parties and *amici curiae* are available from the Department upon request.

The petitioner shall file any reply to these comments with the Department within 30 days of the close of 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 AS-IA

will make a final determination regarding the petitioner's status within four months of the end of the petitioner's reply period and publish notice of this final determination in the *Federal Register*.

Dated: DEC 5 2002



Neal A. McCaleb

Assistant Secretary - Indian Affairs