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**(5) Federal Register Notice of Proposed Finding**

**- November 9, 1989**

**Proposed Finding Against Federal Acknowledgment of the Mohegan Tribe of Indians of the State of Connecticut**

October 30, 1989.

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(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that The Mohegan Tribe of Indians of the State of Connecticut, c/o Mr. Courtland Fowler, 1841 Norwich, New London Turnpike, Uncasville, Connecticut 06382, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet two of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Mohegan Tribe of Indians is based in the village of Mohegan, in the Town of Montville, Connecticut, on land which was traditionally and aboriginally Mohegan. This organization represents a group of lineal descendants of the Mohegan Indians whose ancestors have inhabited this area since first sustained contact with European settlers in 1638. The Mohegans have been identified as being American Indians from historical times until the present, and distinct from other Indian groups in Connecticut, although at the present they do not appear to be distinct socially from the non-Indian population. Since the early part of the 20th century, a substantial portion of the Mohegan Indian descendants have not resided within the historical Indian settlement, and at present only about 9 percent of the group's 1,032 members reside in or near the village of Mohegan. Since the 1940's, the Mohegan Indians have not maintained group interaction or social relations, either within the historical Indian settlement or between those residents in or near the village of Mohegan and the ever-growing number of non-resident Mohegan Indian descendants.

Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers. The 20,000-acre tract of aboriginal land sequestered by Connecticut officials for the use of the Mohegan in 1871 was reduced to just 100 acres by 1790 when the first land division among tribal members was

made. The tribal lands were again divided in 1861 and tribal members were given title in 1872. The Mohegan as a group and some of its individual members continue to hold title to small parcels of their historic land base.

A Wigwam festival, which served as both a fund-raising fair to benefit the Mohegan church and a Mohegan homecoming in which non-resident Mohegans returned annually to participate, was held on the church grounds almost every year between 1880 and 1927. The Wigwam festival began to decline in the late 1920's. References have been found for only three such community events between 1927 and 1941, when the last successful Wigwam was held.

There is not enough documentary evidence regarding group activities following the cessation of the Wigwam festivals in 1941 to conclude that the petitioning group has maintained a cohesive community within which social interaction took place since that time. The available documentation shows that since 1941, the Mohegan have had few, if any, community events or political meetings of a tribal nature. No evidence was submitted or found regarding other internal events which might have served to bring a substantial number of group members together. There was no evidence of sustained social interaction between the families represented by the current membership. The only current social activity which brings different families together is an annual homecoming which was not started until the late 1970's.

Aboriginal Mohegan leadership was provided by a chief sachem who made decisions in consultation with a council consisting of influential tribal members of similar social rank. The sachem and council form of government was continued until 1789, when the Mohegan abandoned the leadership position of sachem. There is evidence that the Mohegan continued to govern their affairs through some form of council in the years between 1789 and 1803.

The formal position of "chief" was first described in 1903, and various Mohegan men have been identified as chiefs since then. From that time to the mid to late 1930's, the Mohegan made intermittent efforts to maintain some kind of tribal political organization under various leaders and various organizational names. The continuance of the Wigwam festivals to 1941 indicates that some level of group organization and decision making persisted.

There is no documentary evidence of any effort to maintain a functioning tribal governing body and little evidence

of individual political leadership between the early 1940's and 1967. A similar documentary gap exists for the period between 1970 and 1979. The Council of the Descendants of the Mohegan Indians, Inc., formed in 1967, attempted to function as a tribal council for the Mohegan. Not enough is known about the Council of the Descendants to measure its level of influence over or support from the Mohegan group. Evidently, it did not generate enough interest to continue for more than a three-year period (1967-1970).

There is no evidence of any other tribal governing body or other political process between 1941 and 1980. Since 1980, the group has had a formal tribal council and a governing document. However, the available evidence is not sufficient to determine the extent of the Tribal Council's political influence or other authority over its membership.

The group's governing document describes how membership is determined and how the group governs its affairs and its members. Approximately 85 percent of the 1,032 members can demonstrate that they meet the group's membership requirement, which is descent from an individual on a list of Mohegan Indians prepared in or before 1861. Documentary evidence exists establishing their ancestry back to such lists. Descent from the historical tribe could not be documented for 15 percent of the membership. Either the descent claimed could be disproved or there was insufficient information to determine whether the 15 percent descended from the historical tribe.

No evidence was found that the members of the Mohegan Tribe of Indians are members of any other Indian tribe or that the group or its members have been the subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Mohegan Tribe of Indians meet criteria a, d, e, f, and g, but does not meet criteria b and c of § 83.7 of the Acknowledgment regulations (25 CFR Part 83). Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioner and

Interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 18th & C Streets, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4627-MIB.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period, the Assistant Secretary will publish the final determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89-26457 Filed 11-8-89; 8:45 am]

SALLING CODE 4210-02-01