

(7) Federal Register Notice of Final Determination

- January 16, 1986

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Final Determination That the Tchinouk
Indians of Oregon Do Not Exist as an
Indian Tribe**

January 6, 1986.

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 has determined that the Tchinouk Indians, c/o Ms. Karleen Parazoo, 5621 Altamont Drive, Klamath Falls, Oregon 97601, do not exist 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 this group does not meet four of the 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.

A notice of the proposed finding to decline to acknowledge the Tchinouk Indians was published in the Federal Register on Wednesday, June 12, 1985 (page 24709, Vol. 50, No. 113). Interested parties were given 120 days in which to submit factual or legal arguments to rebut the evidence used to support the proposed finding.

Two written comments with limited documentation were received from the petitioner opposing the proposed finding. One comment supporting the finding was received from an individual scholar.

Comments were received from the Tchinouk chairman, by letters dated September 5 and October 7, 1985. The documentation submitted with these letters consisted almost entirely of government documents or correspondence from the petitioner or its members concerning applications made in 1955 for the Western Oregon Judgment Fund and the rejection of these applications based on a determination that the applicants' ancestors were of Chinook, Cree or Cree ancestry, and therefore not eligible. All but two of the submitted documents were either previously submitted as part of the petition or its supplements or were examined by the Acknowledgment staff in the course of their research on the petition. The documents submitted presented no new evidence concerning the history or character of the group and

thus no significant new evidence concerning the proposed finding.

The petitioner's letters also contained several arguments intended to refute various conclusions reached in the proposed finding. Most of these restated arguments that were made in the original petition and were presented without additional evidence, description or documentation to support them. The petitioner stated that the early 19th-century French-Canadian settlement of Champoe (referred to as French Prairie in proposed finding) was an Indian community and that the Tchinouk were part of it. No evidence or argument was included to rebut the conclusion in the proposed finding that Champoe was not a distinct Indian community but a French-Canadian community which included many Indians from a wide variety of tribes and many individuals of mixed French-Indian ancestry.

The petitioner also stated that "we were always people that held meetings" and provided comments which implied that meetings had been held regularly since the 1940's. A small amount of additional detail was provided about meetings in the 1950's. No documentation and no additional detail was provided about these meetings in particular or concerning the general conclusion in the proposed finding that the group had not functioned continuously as a political unit or as an organization of any character throughout the twentieth century or earlier.

The Tchinouk comments argued that court cases such as *Duwamish et al.* which pertain to historical claims of the Chinook or various Lower Chinook bands do not pertain to the Tchinouk. The argument appeared to be based on the difference in spelling, since these cases used the more common spelling "Chinook" rather than the French rendering as "Tchinouk," which the petitioner adopted soon after they organized in 1974. The proposed finding concluded that there were no differences between Tchinouk and Chinook, other than as alternative spellings. The Tchinouk comments stated that the ancestors of the group lived along the lower Columbia River, while also stating that they are not descended from the Lower Chinook bands whose members were paid in 1913 on the McChesney Roll. The Tchinouk in their petition and in various other documents had previously asserted common ancestry with the Lower Chinook bands whose aboriginal lands were on the Lower Columbia River.

In responding to the conclusion in the proposed finding that there was no

known leadership or other political structure, the petitioner asserted, without detail or documentation, that such leadership had existed. Regarding the conclusion that the tribal identity of the group's members and ancestors had changed, the comments stated only that there had been many hardships and it had been "hard to identify ourselves when we needed to."

A comment supporting the proposed finding was received on July 23, 1985, from Dr. Verne Ray, an anthropologist who has conducted extensive research on the Chinook Indians of the lower Columbia River. Dr. Ray stated in part that "Nothing in the totality of scientific, historical, archival and documentary data on the area in question and the ethnology of the Chinook Tribe supports the claims of the 'Tchinouk.'"

No additional comments were received from the Chinook Tribe of Washington, the Klamath Tribe, the attorney for the Tchinouk or Dr. Steven Beckham, all of whom commented on the Tchinouk petition during the period of consideration before the proposed finding was issued. The Chinook Tribe denied that the Tchinouk had any common history with them or any organizational affiliation. The proposed finding concluded that it was not possible to determine, using the currently available evidence, from which Chinookan band the Tchinouk are descended. The Tchinouk attorney presented arguments that the Western Oregon Termination Act of 1954 did not apply to the Tchinouk because it was not a recognized tribe at that time. The proposed finding concluded, after a review of the act and historical materials relating to it and its implementation, that the Tchinouk were forbidden the Federal relationship by that act and therefore did not meet criterion § 83.7(g) of the regulations. Beckham provided copies of comments he prepared for the Oregon Commission on Indian Services which asserted that he had seen no documentary evidence during his research on Indians of western Oregon which showed the existence of a Tchinouk tribe.

Based on information originally provided by the petitioner, on independent research conducted by the Acknowledgment staff, on comments by others on the petition before the proposed finding was issued, and on comments and supporting evidence received from the Tchinouk petitioner and one other person in response to the proposed finding, we conclude that the Tchinouk Indians of Oregon do not meet the requirements necessary under Federal law for a government-to-

government relationship with the United States.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, option other than acknowledgment would be available under which the petitioning group could make application for services and other benefits. No viable alternative could be found due to the lack of inherent social and political cohesion and continuity of the group.

This determination is final and will become effective 60 days after the date on which this notice appears in the Federal Register unless the Secretary of the Interior requests reconsideration pursuant to 25 CFR 83.10.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

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