

(5) Federal Register Notice of Proposed Finding

- February 27, 1997

Muskogees, Inc. in the **Federal Register**. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions must be provided to the petitioner and the BIA simultaneously. The petitioner will have a 60-day period in which to respond to such submissions prior to a final determination regarding the petitioner's status.

Under § 83.10(h), a report summarizing the evidence upon which the UHN proposed finding was based is available upon written request to the BIA. The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, MS-4603-MIB, 1849 C Street, NW., Washington, DC 20240. Phone: (202) 208-3592.

Dated: February 11, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97-4838 Filed 2-26-97; 8:45 am]

BILLING CODE 4310-02-P

Proposed Finding for Federal Acknowledgment of the Cowlitz Indian Tribe

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 (Assistant Secretary) proposes to acknowledge that the Cowlitz Indian Tribe, PO Box 2547, 1417 15th Avenue No. 5, Longview, WA 98632-8594, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the tribe satisfies all of the criteria set forth in 25 CFR 83.7 as modified by 25 CFR 83.8, and, therefore, meets 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 the proposed finding may submit arguments and evidence to support or rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the Assistant Secretary must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or request for a copy of the

report of evidence should be addressed to the Office of the Assistant Secretary, 1849 C Street, NW., Washington, DC 20240. Attention: Branch of Acknowledgment and Research, Mailstop 4603—MIB.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Chief, Branch of Acknowledgment and Research, (202) 208-3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary by 209 DM 8.

The petitioner consists of descendants of the historical Lower Cowlitz Indians and Upper Cowlitz, or Cowlitz Klickitat, Indians of southwestern Washington. Its members are descendants specifically of the Lower Cowlitz Indians who were represented in 1855 at the Chehalis River Treaty negotiations held between several American Indian tribes of southwest Washington and Federal officials, and of the Upper Cowlitz band which was subsequently amalgamated with the Lower Cowlitz band. Although the Lower Cowlitz refused to sign the Chehalis River Treaty, their participation in the negotiations constitutes unambiguous Federal acknowledgment of the tribe's sovereignty. The petitioner thus meets the requirements of § 83.8 as having unambiguous previous Federal acknowledgment and has been considered under the modifications of § 83.7 that are prescribed by § 83.8. The date of the treaty negotiations, March 2, 1855, has been used as the date of latest Federal acknowledgment for purposes of this finding to enable the petitioner to proceed under the provisions of § 83.8. Because the petitioner had already completed documentation of the petition before the present regulations became effective, it was not necessary to determine if there was a later date of unambiguous Federal acknowledgment for purposes of this evaluation under the 1994 regulations.

The Federal acknowledgment regulations confirm that it is historically valid for tribes to have combined and functioned together as a unit. Under the regulations in 25 CFR part 83, tribes which combined because of historical circumstances may be acknowledged in so far as the group resulting from the amalgamation continued to function as a single tribal unit. The petitioner is an example of a group which has evolved from linguistically distinct and politically independent bands which combined. In reaching this determination, the Assistant Secretary—Indian Affairs took fully into account

the historical circumstances surrounding the petitioner's development and the impact of Federal policy in combining the Salish-speaking Lower Cowlitz, the métis descendants of the Lower Cowlitz, and the Sahaptin-speaking Upper Cowlitz into a single entity for administrative purposes between the 1860's and the 1920's.

Since 1855, the Cowlitz Indians have continued to reside in a traditionally dispersed residential pattern along the Cowlitz River valley. The residential locations of the individual subgroups today remain similar to those described by observers in the mid-19th century and by BIA Special Agent Charles Roblin's 1919 Schedule of Unenrolled Indians in western Washington. The tribal entity as defined by Federal policy was identified in BIA documents from the 1860's through the 1880's, from 1904 through the 1930's, and since 1950. The umbrella tribal organization was also regularly identified as an American Indian entity by newspaper accounts from the period 1912-1939, and 1950 to the present. The component settlements comprising the umbrella tribal organization were described by local residents and local historians from the 1890's through the 1960's. Additionally, throughout this period, county vital records and articles in local newspapers regularly described individuals, families, and component settlements as "of the Cowlitz Tribe." Therefore, we conclude that the petitioner meets criterion 83.7(a) as modified by criterion 83.8(d).

As a result of the historical circumstances surrounding the petitioner's development, the modern Cowlitz Indian Tribe (CIT) is a two-level tribal community in which there is comparatively intense community within defined subgroups and a looser community encompassing the overall membership. It is significant that the modern situation does not represent a post-World War II dispersal of a once tightly-knit and more closely related group, but the continuation of a long-standing historical pattern. The subgroups have interacted in consistent ways and similar patterns at least since the formation of the formal Cowlitz Tribal Organization in 1912.

Genealogical relationships within the subgroups remain comparatively close: Within each subgroup, today's adults ordinarily share a set of grandparents. Within the Cowlitz as a whole, the majority of the adult membership shares at least one set of great-grandparents. Throughout the late 19th and early 20th centuries large proportions of people known as Cowlitz married non-Indians, and assimilated into the dominant

society. However, more than half of those who remained continued until the 1920's a pattern of matrimonial endogamy among Upper Cowlitz, Lower Cowlitz, and Cowlitz métis, and patterned out-marriages with other Indian groups. It is this group who remained who constitute the ancestry of today's petitioner.

The active involvement of individuals in the CIT tribal entity has traditionally been, and still is, connected to, and in some cases subordinate to, involvement in subgroup activities. There is also evidence that some individuals, with either the active or tacit support of other family members, became involved in the CIT's Tribal Council activities to ensure that the Tribal Council addressed the interests of their own subgroup.

Viewed in the light of the requirement in 83.1 that the criterion for community be "understood in the context of the history, geography, culture, and social organization of the group," we find that the historical development of the Cowlitz Indian Tribe (CIT) has resulted in a two-level community structure, in which community is stronger at the level of the subgroup and looser, but still extant, at the level of the tribe as a whole. The BIA found social interaction indicative of community through a combination of evidence of weak but consistent interaction among subgroups, and strong interaction within all of the subgroups of the Cowlitz Indian Tribe. There is thus sufficient evidence of community among all subgroups within the Cowlitz Indian Tribe. Thus, we conclude that the petitioner meets criterion 83.7(b) as modified by § 83.8(d), which requires a showing that the group constitutes a distinct, cohesive community at present.

As a consequence of the nature of the historical development of the Cowlitz entity, the interaction among the Cowlitz subgroups at the tribal level is primarily political in nature: the subgroups do not have separate formal leadership, while there is communication and interaction between members of the different subgroups. People within one subgroup know who within another subgroup is an effective political contact or communications liaison. The subgroups form a single political system, with no signs of considering breaking away, despite the presence of conflicts.

The evidence presented indicated that the Cowlitz Indians have had an unbroken sequence of named leadership since the Chehalis River Treaty Council in 1855. Leaders came from both the Lower Cowlitz band and Upper Cowlitz bands until 1912, and after that from the combined Cowlitz Tribal Organization

(now CIT). From 1904 through 1934, evidence of continuous political leadership includes the smooth shifting of leadership from the federally-recognized chieftainship and political influence of Atwin Stockum and Captain Peter, to a council of elected officers. This organization held meetings attended by a significant portion of the voting members of the tribe almost annually from 1912 through 1939, and from 1950 through the present.

The Cowlitz Tribal Organization was not exclusively a claims organization, although it pursued claims. It did not develop in response external events such as the movement to enroll outsiders at Quinalt or Thomas Bishop's Northwestern Indian Federation. Neither did it result from the making of the Roblin Roll by the BIA. Rather, the Cowlitz tribe existed prior to these events and the formal Cowlitz tribal organization operated independently of these external events. In fact, Roblin's 1919 Report showed that the Cowlitz were one of only two unenrolled Washington Indian groups whom he identified as a tribe. Additionally, for the period from 1912 through 1950, the existence of an externally named leadership, along with evidence for the continuation of structured political activity and influence under § 83.8(d)(3) for the overall membership within the loosely-integrated community, was supplemented by considerable evidence of informal leadership exercised within the component subgroups by non-elected elders.

The evidence also indicated that throughout the period since 1855, the named leaders were identified by knowledgeable external authorities, primarily Federal officials, as exercising a sufficient amount of political influence or authority within the overall membership to meet criterion 83.7(c), which is intended to establish continuous tribal political existence. Evidence from BIA documentation was ample for this purpose for the period through the late 1930's, and there was also sufficient evidence for the more recent period. In 1953, the BIA notified the Cowlitz Tribe of Indians (CTI), through its elected leader, of the pending western Washington termination legislation. In 1964, the council and some of the general membership became involved in a dispute concerning the approval of an attorney contract for pursuing claims litigation under the 1946 Indian Claims Commission (ICC) Act. While there is no evidence that the disputants aligned themselves along factional lines, the disputes were perceived by Federal

officials as a threat to the leadership's stability, indicating that the membership exerted influence on the formally elected leadership.

In 1967, an informally functioning executive committee which had developed under the 1950 constitution of the CTI was expanded by resolution of the general membership at the annual meeting into a formal tribal council. The Tribal Council was then incorporated into the 1974 constitutional revision, which also was adopted by vote of the general membership. However, the annual membership, or General Council, meetings have remained the primary political center. There are political strains over its role *vis-a-vis* that of the Tribal Council and rivalries between the elected leadership of the General Council and that of the Tribal Council. In addition, there was considerable evidence of informal leadership during the period 1950-1973 by community elders.

The 1973/1974 decisions concerning enrollment qualifications have continued to have political impact until the present day.

Some family groups with Yakima-enrolled close relatives maintain that they remain active in the Tribal Council to protect their membership status. The 1/16 Cowlitz blood-quantum provision continued to provoke membership-eligibility disputes within the general membership and within the Tribal Council as recently as the early 1990's.

The Tribal and General Councils have responded to demands from the general membership to broaden the focus of Cowlitz Indian Tribe activities beyond claims and Federal acknowledgment, and to intervene in other matters of concern to the general membership, or of concern to particular extended families or socially-defined categories within the general membership. This process provided evidence for continuous functioning by leaders, leaders' influence on the membership, members' influence on the policies of the governing body, and acknowledgment of leaders by followers under § 83.8(d)(3). Therefore, we conclude that the petitioner meets criterion 83.7(c) as modified by criterion 83.8(d).

The petitioning group has provided a copy of its governing document, which describes its membership criteria. Thus, we conclude that the petitioner meets criterion 83.7(d).

The petitioner's members descend from the Lower Cowlitz band as it existed at the time of the Chehalis River treaty negotiations in 1855, from métis-descendants of Lower Cowlitz women who had married French-Canadian

employees of the Hudson's Bay Company prior to 1855, from the Upper Cowlitz and Lower Cowlitz bands as enumerated by the Federal Government's Office of Indian Affairs (OIA) in 1878, and from persons enumerated as Cowlitz Indians on the BIA's 1919 Schedule of Unenrolled Indians in Western Washington prepared by special agent Charles Roblin.

The present membership also descends from individuals identified as Cowlitz Indians in pre-1855 Roman Catholic Church records, persons identified as Cowlitz Indians in public vital records, and from individuals identified as Cowlitz Indians on BIA allotment records (for Indian homesteads, public domain allotments, and Yakima Reservation allotments) and in affidavits filed with the BIA between 1911 and 1918 in connection with applications for adoption and allotment on the Quinault Reservation.

Previous acknowledgment decisions have allowed for the movement of families between bands and tribes, as well as the formal or informal merger of bands and tribes. The amalgamation of the Lower Cowlitz and Upper Cowlitz, and the association of non-Cowlitz métis families with the Cowlitz Indians in the society which developed at the Hudson's Bay Company settlement on Cowlitz Prairie prior to the 1855 date of prior unambiguous Federal acknowledgment, fall within these parameters. The process by which a limited number of non-Cowlitz métis families became associated with the Cowlitz Indians was carefully analyzed by the BIA. It was concluded that descent from such associated métis families constituted descent from the historical tribe within the meaning of criterion 83.7(e). Thus we conclude that the petitioner meets criterion 83.7(e).

The constitution of the Cowlitz Indian Tribe prohibits dual enrollment. This provision is enforced. The BIA found no evidence that a substantial proportion of the petitioner's membership was enrolled in any other Federally acknowledged tribe. Therefore, we find that the petitioner meets criterion 83.7(f).

No evidence was found that the petitioner or its members are the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship. Therefore, we find that the petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, we conclude that the Cowlitz Indian Tribe should be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the revised 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, Bureau of Indian Affairs, 1849 C Street, N.W., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mailstop 4603—MIB. Third parties must simultaneously supply copies of their comments to the petitioner in order for them to be considered by the Department of the Interior.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (83.10(j)(1)). In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (83.10(j)(2)).

If third party comments are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to these comments. This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (83.10(k)).

At the end of the response periods the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable time frame for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins. The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and third parties. A summary of the final determination will be published in the Federal Register within 60 days from the date on which the consideration of the written arguments and evidence

rebutting or supporting the proposed finding begins, as provided in 25 CFR 83.10(l)(2).

Dated: February 12, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97-4837 Filed 2-26-97; 8:45 am]

BILLING CODE 4310-02-P

Sac and Fox Nation of Missouri Liquor and Beer Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: 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, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. § 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983). I certify that the Sac and Fox Nation of Missouri Liquor and Beer Act was duly adopted by Resolution R-53-96 of the Sac and Fox Nation of Missouri Tribal Council on September 27, 1996. The ordinance provides for the regulation, sale, possession and use of alcoholic liquor and beer within the Tribe's jurisdiction. **DATES:** This ordinance is effective as of February 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jerry Cordova, Office of Tribal Services, 1849 C Street, N.W., MS 4603 MIB, Washington, D.C. 20240-4001; telephone (202) 208-4401.

SUPPLEMENTARY INFORMATION: The Sac and Fox Nation of Missouri Liquor and Beer Ordinance shall read as follows:

Sac and Fox Liquor and Beer Act

Section 1. Title and Purpose

This Title shall be known as the Sac and Fox Liquor and Beer Act ("Act"). This law is enacted to regulate the sale and distribution of liquor and beer products on all properties under the jurisdiction of the Sac and Fox Nation of Missouri, and to generate revenue to fund needed tribal programs and services.

Section 2. Authority

This Act is enacted pursuant to Article V (f) and (i) of the Constitution of the Sac and Fox Nation of Missouri in Kansas and Nebraska and the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 588, 18 U.S.C. § 1161).

Section 3. Definitions

Unless otherwise required by the context, the following words and