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

**- March 31, 2000**

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An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: March 24, 2000.

Kevin Gover.

Assistant Secretary—Indian Affairs.

[FR Doc. 00-8042 Filed 3-30-00; 8:45 am]

BILLING CODE 4310-02-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Proposed Finding for Federal Acknowledgment of the Paucatuck Eastern Pequot Indians of Connecticut

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs proposes to determine that the Paucatuck Eastern Pequot Indians of Connecticut, c/o Ms. Agnes E. Cunha, P.O. Box 370, North Stonington, Connecticut 06359, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the historical Eastern Pequot tribe satisfies criteria 83(b) and 83.7(c) through 1973 and that the petitioner satisfies the remainder of the criteria set forth in 25 CFR 83.7 and, therefore, meets the requirements for a government-to-government relationship with the United States. A specific finding concerning whether one tribe or two tribes, as successors to the historical Eastern Pequot tribe, have occupied the reservation since 1973 will be made as part of the final determination, after receipt of comment on this proposed finding.

**DATES:** As provided by 25 CFR 83.10(i), 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 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 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, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660-MIB.

**FOR FURTHER INFORMATION CONTACT:** R. Lee Fleming, 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—Indian Affairs by 209 DM 8.

#### Introduction

The Paucatuck Eastern Pequot Indians of Connecticut submitted a letter of intent to petition for Federal acknowledgment on June 20, 1989, and was assigned #113. Both the Paucatuck Eastern Pequot Indians of Connecticut and another petitioner, the Eastern Pequot Indians of Connecticut, assert descent and tribal continuity from the historical Eastern Pequot tribe. Both petitioners are derived from families which have been associated with the Lantern Hill reservation since the 19th century.

The Assistant Secretary—Indian Affairs (AS-IA) had placed the Eastern Pequot Indians of Connecticut (EP, #35) petition on active consideration January 1, 1998. After consideration and notification of #35 and other petitioners on the "ready, waiting for active consideration" list, the AS-IA on April 2, 1998, waived the priority provisions of 25 CFR § 83.10(d) in order to consider the petition of the Paucatuck Eastern Pequot Indians of Connecticut (Petitioner #113) simultaneously with the petition of the Eastern Pequot Indians of Connecticut (Petitioner #35). This waiver was made under the authority granted to the Secretary in 25 CFR § 1.2, and delegated to the Assistant Secretary in 290 DM 8.1, based on a finding that the waiver was in the best interest of the Indians.

This finding has been completed under the terms of the AS-IA's directive of February 7, 2000, published in the *Federal Register* on February 11, 2000 (65 FR 7052). Under the terms of the directive, this finding focuses on

evaluating the specific conclusions and description of the group presented by the petitioner to show that it has met the seven mandatory criteria and maintained a tribal community up until the present. Because evaluation of this petition was begun under the previous internal procedures, this finding includes some analyses which go beyond evaluation of the specific positions of the petitioner. Consistent with the directive, draft technical reports, begun under previous internal procedures, were not finalized.

The evaluation of these petitions pertains to Indian groups which have had both continuous recognition by the State of Connecticut and continuous existence of a state reservation since the colonial period. These unique factors provide a defined thread of continuity through periods when other forms of documentation are sparse or do not pertain directly to a specific criterion. State recognition under these circumstances is more than the identification of an entity, because it reflects the existence of a tribe. The general body of evidence has been interpreted in the context of the tribe's relationship to the colony and state.

The Paucatuck Eastern Pequot and Eastern Pequot petitioners are the continuation of a historically state-recognized tribe whose relationship with the State of Connecticut goes back to the early 1600's, possessing a common reservation. Members of the tribe occupied a somewhat different status than non-Indians within Connecticut. This evidence provides a common backbone and consistent backdrop for interpreting the evidence of continued tribal existence. When weighed in combination with this historical and continuous existence, evidence on community and political influence carries greater weight that would be the case under circumstances where there was no evidence of a longstanding relationship with the state based on being a distinct community. The greater weight is assigned for the following reasons in combination:

The historical Eastern Pequot tribe has maintained a continuous historical government-to-government relationship with the State of Connecticut since colonial times;

The historical Eastern Pequot tribe had a state reservation established in colonial times, and has retained its land area under the protection and administration of the state to the present;

The historical Eastern Pequot tribe had members enumerated specifically as tribal members on the Federal Census,

Special Indian Population Schedules, for 1900 and 1910.

Past Federal acknowledgment decisions under 25 CFR Part 83 provide no precedents for dealing with a tribe which is presently state recognized with a state reservation and has been so continuously since early colonial times. The closest parallel is the Penobscot and Passamaquoddy Tribes of Maine. The Federal Government in the *Passamaquoddy* case stipulated to tribal existence, based on the historical state relationship (*Joint Tribal Council of the Passamaquoddy Tribe v. Morton* 528 F.2d 370 (1st Cir. 1975)). That precedent provides guidance in this matter. A different standard of tribal existence is not being applied here. Rather, the evidence, when weighed in the context of this continuous strong historical relationship, carries greater weight.

#### Evaluation Under the Criteria in 25 CFR 83.7

Criterion 83.7(a) requires that the petitioner have been identified as an American Indian entity on a substantially continuous basis since 1900. The majority of the external identifications specifically included the petitioner's direct or collateral ancestors as members of that entity. There were no external identifications of the entity as other than Indian or other than Eastern Pequot. From the 1970's through the present, almost no external identifications mentioned the existence of only one or the other of the two current petitioners. Almost every identification mentioned both and described them as rival groups within the context of the Lantern Hill reservation and the historical Eastern Pequot tribe.

In this case, identifications of the petitioner exist frequently and appear concurrently in multiple forms of evidence. Briefly, examples include Federal identifications on the Special Indian Population schedules of the 1900 and 1910 census, a 1934 Bureau of Indian Affairs report, and two reports in 1947 and 1948 published by the Government Printing Office; records generated by a continuous relationship with the State including overseer's reports, documents generated by the State Parks and Forests Commission, documents generated by the Office of the Commissioner of Welfare and Department of Environmental Protection, documents generated by the Connecticut Indian Affairs Council, and legislation pertaining to Connecticut's tribes; descriptions by anthropologists and other scholars; and numerous descriptive, feature-type newspaper articles from 1924 to the present. A

significant example of identification of the Eastern Pequot was the June 9, 1933, order from the Superior Court of New London County, Connecticut, which defined the tribal membership and regulated residency on the Lantern Hill reservation (*In re Ledyard Tribe* 1933) (3/26/1938).

The combination of the various forms of evidence, taken in historical context, provides sufficient external identification of the Eastern Pequot as an American Indian entity from 1900 until the present, and of the petitioner as a group which has existed within that entity. Therefore, the petitioner meets criterion 83.7(a).

The evidence for 83.7(b) and 83.7(c) have been evaluated in the light of the essential requirement of the Federal acknowledgment regulations under 83.7 to show tribal continuity. Particular documents are evaluated by examination in the context of evidence of continuity of existence of community and political processes over time and descent from the historical tribe. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that the petitioner meets a specific criterion at a certain date. Between first sustained contact and 1883 much of the specific evidence cited is evidence for both community and political influence. Under the regulations, evidence about historical political influence can be used as evidence to establish historical community (83.7(b)(1)(ix)) and vice versa (83.7(c)(1)(iv)). The evaluation is done in accord with the provision of the regulations provide that, "Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. \* \* \* Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time." (83.6(e)).

This proposed finding and that being issued simultaneously for petitioner #35 conclude that both of the petitioners before the Department, the Paucatuck Eastern Pequot Indians of Connecticut (#113) and the Eastern Pequot Indians of Connecticut (#35), have evolved in recent times from the historical Eastern Pequot tribe which has existed continuously since first sustained contact with Europeans. Positive proposed findings to acknowledge both

petitioners are therefore being issued. However, for the period from 1973 to the present, with regard to criteria 83.7(b) and 83.7(c), the Department finds that the petitioners and third parties have not provided sufficient information and analysis to enable the Department to determine that there is only one tribe with political factions.

The acknowledgment regulations provide that: "A petitioner may be denied acknowledgment if the evidence available demonstrates that it does not meet one or more criteria. A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)). The reason that this provision of the regulations is not now resulting in two proposed negative findings is that the major question currently remaining to be decided does not pertain to the availability of evidence that the petitioners meet the criteria, but to the nature of the potentially acknowledgeable entity for the period from 1973 to the present. Following an evaluation of evidence and argument submitted during the comment period, the Department, as part of the final determination, will complete the analysis from 1973 to the present under criteria 83.7(b) and (c).

There is no serious dispute as to the existence of the historical Pequot tribe at the time of first contact, so the proposed finding has discussed and analyzed early colonial developments only insofar as they provide context for the development of the current petitioners. The division of the historical Pequot tribe into the modern Eastern and Western groups stemmed from the establishment of separate reservations, in close (less than two miles from one another) geographic proximity, during the later 17th century. There is no question that the Eastern Pequot, or Lantern Hill reservation, purchased by the Colony of Connecticut for the use of the Pequots under the leadership of Mamoho in 1683, has continued to exist under Connecticut state supervision and jurisdiction, and to be inhabited, until the present day.

Criterion 83.7(b) requires that a predominant portion of the petitioning community comprise a distinct community and have existed as a community from historical times until the present.

Records of colony actions and actions of other tribes from first contact through 1637 clearly identify a distinct Pequot tribal body, which occupied a defined territory acted in concert in opposing or making alliances with other tribes and the English through the end of the Pequot War. Under precedents for

evaluating tribes in early years of contact with Europeans, before substantial cultural and political changes had occurred (Narragansett PF 1982, 1; Mohegan PF 1989, 2; Miami PF 1990, 3-4, 7-8), this is sufficient evidence to demonstrate that 83.7(b) is met for the undifferentiated historical Pequot tribe as a whole, predecessor group to the later historical Eastern Pequot tribe, for the period prior to 1637.

From 1638 through 1654, the records of the United Colonies referred to the Pequots frequently and specifically referred to the Pequots assigned to the custody of the Eastern Niantic sachem Ninigret. The Commissioners of the United Colonies removed them from Ninigret as a body in 1654 and assigned Harmon Garret as governor over that body in 1655. After the death of Harmon Garret, colonial authorities appointed Momoho as his successor over a specific, named, group, "Momohoe [sic] and the Pequots with him in those parts," which then undertook efforts to have a specific piece of land set aside for its use (Hurd 1882, 32; Wheeler 1887, 16; Trumbull 1859, 8n, 81-82 117n, 809). Under precedents for evaluating tribes in early years of contact with Europeans, before substantial cultural changes had occurred, even after tribes had become politically subject to colonial authorities, the material cited is sufficient evidence to show that criterion 83.7(b) is met.

From the establishment of the Lantern Hill reservation in 1685 to the end of the Civil War, the documents show a continuous reservation community, with a distinct land base. There was an essentially continuous population, allowing for normal processes of intermarriage, outmarriage, off-reservation work, and interaction with neighboring tribes.

Petitions in 1723 and 1749 reflected both the existence of an ongoing residential community of Eastern Pequot Indians on the Lantern Hill reservation and a broader community of off-reservation Eastern Pequot. Descriptions in 1749-1751 indicate specifically that the tribal affiliation of these individuals was recognized by the tribe itself. That off-reservation residency does not negate the existence of community has been established by precedent in prior findings (Narragansett PF 1982, 9; Gay Head PF 1985, 2).

Community in the late 18th and 19th centuries is shown by a variety of evidence. This included petitions from the group to the overseers, the consistency of membership in the tribe,

descriptions of a distinct community at several points and other data which taken together show a distinct community which self-identified as Pequot. A portion of the group occupied the reservation continuously. Occupation of a distinct territory by a portion of a group provides evidence for community, even where it is not demonstrated that more than 50 percent of the total group resides thereon (Snoqualmie PF). By comparing a wide variety of documents, it does not appear that in the colonial and early Federal period the Eastern Pequot tribe, or its overseers, added to the membership lists any persons who were not qualified to be included and who were not accepted by the continuing tribal population. Documentation throughout this period contributes to a showing of community under 83.7(b)(1)(vii). "The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes of name," whether they are called Momoho's band, or the Pequots at Stonington, or by other phrases.

From the end of the Civil War through the early 1880's, the overseers' reports were highly consistent in their listing of Eastern Pequot individuals associated with the Lantern Hill reservation. Consistency of membership by itself does not demonstrate community but provides supporting evidence when weighed together, as here, with other factors.

At a number of points from 1763 through 1883, the Eastern Pequot presented petitions to the state, indicating a coordinated group action. Because the community as a whole, throughout this period, had a residential focus on the reservation, and maintained a very high rate of intermarriage and patterned outmarriage, particularly with the Western Pequot and with the Narragansett, the Eastern Pequot tribe meets criterion 83.7(b) for the period through 1883.

Additional evidence for community until the 1930's is found in the overseers' reports, although these were not available for the years between 1891 and 1910. The overseers were knowledgeable observers of the group, because of their interaction with it. Allegations by petitioner #113 and the third parties that the overseers were not knowledgeable, or were corrupt, were not sustained by the body of data in the record. Although their reports provide few details, they are premised, particularly the identification of who was and who was not a member, on knowledge that a social group existed.

The Eastern Pequot tribe as a whole, including the ancestors of petitioner #113 as well as petitioner #35, meets the requirements of criterion 83.7(b) between 1883 and 1920. Important evidence for this is the kinship based social ties which derive from the substantial number of marriages in existence in this time period which linked the several family lines. Between 1880 and 1920 the Pequot family lines were linked together both by extant marriages and by ties from marriages in the preceding two generations. They formed a set of families linked by many different kinship ties. In addition, because marriages occurred between Eastern Pequot individuals who were not living in the same town, this provides evidence that social contact was being maintained, and was the basis for locating marriage partners. The documentation throughout the period from 1883 to the 1920's shows "The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes of name" evidence for community under 83.7(b)(1)(vii).

Supporting evidence to that based on kinship is the geographical concentration of much of the membership on or near the reservation at Lantern Hill. While not forming a distinct settlement, except for the small proportion living on the reservation, much of the membership was close enough that, consistent with past decisions, social interaction was easily possible. This geographical pattern thus supports more direct evidence of social ties.

The Eastern Pequot meet the requirements of criterion 83.7(b) for the time period between 1920 and 1940. There continued to be kinship based social ties which derived from the number of marriages in existence in this time period which linked the several family lines and from marriages in the previous generations. In this period also, that evidence is supplemented by the substantial number of marriages with neighboring tribes, particularly the Narragansett. These provide additional evidence that the group was part of the Indian society of the region.

Important additional evidence for community were the "Fourth Sunday" gatherings on the reservation. These were held regularly, and drew a substantial number of members, from different parts of the several family lines. They were both social and political gatherings, and were claimed as activities by both petitioners.

Supporting evidence to that based on kinship and the "Fourth Sunday"

gatherings for this time period is that there continued to be a geographical concentration of much of the membership on or near the reservation at Lantern Hill. While not forming a distinct settlement, except for the small proportion living on the reservation, much of the membership was still close enough that, consistent with precedents of past decisions, social interaction was easily possible. This geographical pattern thus supports more direct evidence of social ties.

Additional evidence for community is found in the overseers' reports, which was useful evidence until 1936, when the overseer system ended, and to a lesser extent through the end of the 1930's, as the former overseer continued to act as agent for the State Park and Forests Commission. Although their reports provide few details, they are premised, particularly the identification of who was and who was not a member, on knowledge that a social group existed.

As evaluated under the standard articulated for a historical state recognized tribe, the petitioner meets criterion 83.7(b) from 1940 to 1973, based on the conclusion that there was a single community, including the Sebastians. Although there is evidence of divisions, there was not evidence to show whether and, if so, when, the historical tribe separated into two communities.

There is insufficient evidence in the record to enable the Department to determine that the petitioners formed a single tribe after 1973. The Department consequently makes no specific finding for the period 1973 to the present because there were not sufficient analysis and information provided by the petitioners or third parties to determine if there is only one tribe with political factions (see for example, *Paucatuck Eastern Pequot Indians of Connecticut et al. v. Connecticut Indian Affairs Council et al.* 555 A.2d 1003 (App. Ct. 1989), decided March 28, 1989, which describes each current petitioner as a "faction of the tribe"). This question reflects in part the apparent recentness of the political alignments reflected in the petitioners after their formal organization in the early 1970's.

The historical Eastern Pequot tribe, which includes the petitioner as one of its component subgroups, meets criterion 83.7(b) through 1973. A specific finding concerning community from 1973 until the present will be presented in the final determination after receipt of comments from the petitioner and interested parties.

Criterion 83.7(c) requires that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.

Throughout its history, the context for administration of the Lantern Hill reservation has been set by the legislation passed by Connecticut and the administrative systems established by that legislation. The documents generated showed tribe's external relationship with the non-Indian administrative authorities, providing evidence that there was a political relationship between an Indian political entity and the non-Indian government, although they provided little information about internal political processes. These individual political documents have been interpreted in light of the general continuity of the reservation population as shown by a wide variety of other documents. The major specific evidence for political authority or influence between first sustained contact and 1883 is to be read together with the overall evidence of tribal existence and the discussion of the evidence for criterion 83.7(b).

The evidence submitted for the early contact period, 1620-1637, consisted primarily of historical narratives, written mainly by modern anthropologists based in part on colonial era documents which described dealings with the tribe by the colonial authorities and listed some leaders. Precedent does not require detailed information concerning the internal political processes of the historical tribes which were predecessors of New England petitioners in the early contact period (Narragansett PF 1982, 11; Gay Head PF 1987, 10; Mohegan PF 1989, 5). This material meets 83.7(c) for the undifferentiated historical Pequot tribe as a whole, predecessor group to the later historical Eastern Pequot tribe, for the period prior to 1637.

The evidence indicates that the modern Eastern Pequot evolved primarily from those Pequot subject neither to the Mohegan nor the Narragansett after the Pequot War, but rather those who were placed in charge of the Eastern Niantic. The precedents clearly indicate that the acknowledgment process allows for the historical combination and division of tribal subgroups and bands, and that temporary subjection to another Indian tribe does not result in a permanent cessation of tribal autonomy (Mohegan PF 1989, 26-27; Narragansett FD, 48 **Federal Register** 29 2/10/1983, 6177; Narragansett PF 1982, 2). The events of this period do not indicate that the

petitioner fails to meet the "autonomous entity" requirement under 83.7(c).

Historical records and narratives indicate that for approximately 330 years, the predecessors of the Eastern Pequot tribe antecedent to the current petitioners were under supervision of non-Indian authorities, appointed Indian governors from 1655 to 1695 and under colony-appointed and state-appointed non-Indian overseers through much of the 18th through the 20th centuries. From its establishment in 1683 until 1989, the Eastern Pequot reservation was under the direct administration of Connecticut, first as a British colony and then, after the American Revolution, as a state. The AS-IA concluded in the Mohegan case that: "[T]he autonomy requirement is solely concerned with autonomy from other Indian tribes, not non-Indian systems of government that were imposed on the Mohegan by the State of Connecticut." (Mohegan PF 1989, 26-27; for related precedents, see Narragansett PF 1982, 11; Narragansett PF 1982, 2; Gay Head PF, 4). The petitioners meet the "autonomy" requirement of 83.7(c) as long as the state was dealing with a group as a group which had named leaders or the evidence shows that the group was acting in concert and thus was exercising political influence internally.

Documents from the period through 1751 named the leaders with whom the colony of Connecticut was dealing and provided limited information concerning internal political processes identifying both a leader and the existence of a group actively defending its land base.

Precedents also indicate that the defense of a tribe's economic position is a significant indicator of political processes (Snoqualmie PF 1993, 25; Tunica-Biloxi PF 1980, 4). On the basis of precedent, this material is adequate to meet 83.7(c) during the colonial period.

After 1751, there is no evidence in Eastern Pequot petitions that any one individual held the position of sachem, or a comparable office. Precedent indicates no requirement under the regulations that such a formal office has been maintained (Mohegan PF 1989, 5), and the petitions from the tribe to the colony and stated indicate that the tribe did maintain some type of political structure capable of representing its wishes in dealing with colonial authorities. The appointment of overseers for the Eastern Pequot reservation by the colony of Connecticut in itself provides data about the continuous existence of the tribal entity, but no specific information about internal political leadership or

influence. However, the initiative of the Eastern Pequot Indians in requesting particular persons as overseers in 1763 and 1788, combined with the signatures on the petitions, indicates that the Indians on the Lantern Hill reservation at this time did have internal political processes and that they utilized the overseers appointed by the state to serve certain purposes which they themselves desired. On the basis of precedent, this material is adequate to meet 83.7(c) for a tribe during the second half of the 18th century.

The evidence of petitions from overseers for group purposes, together with accounts which identified "principal men" and a religious leader, in the context of a group with a distinct territory, is adequate to show that the petitioner meets criterion 83.7(c) for the period from 1800 to 1822.

Petitions from the group in 1839 and 1841, sought the appointment of a new overseer and objected to the actions of the existing one. The 1839 initiative of the Indians in requesting the replacement of an inadequate overseer indicated that the Indians themselves still, as in the later 18th century, expected the state-appointed overseers as agents to carry out their wishes in some matters. Of the four men who signed, two (Cyrus Shelly and Samuel Shuntaup) had been identified as "principal men" of the Eastern Pequot by Jedediah Morse nearly 20 years earlier. The regulations do not require that in order to demonstrate political process, a petition must be signed by the entire tribe. Petitions which show a portion of the tribe expressing an opinion or preference are also evidence of political process (Mohegan PF 1989, 6).

Petitions and lists generated by a proposed sale of reservation land are evidence indicating that from 1873 through 1883 the tribe was able to generate organized protests against a governmental initiative which they regarded as contrary to its economic interests, and to present documents to this effect to the non-Indian authorities. This evidence shows that the petitioner meets 83.7(c) for the period from 1873-1883.

There was no information in the record which specifically named or identified formal or informal leaders between 1883 and 1920 with the single exception of a 1913 obituary of Calvin Williams, a petition signer from the 1870's and early 1880's, who continued to serve as reservation preacher until his death in 1913. There is evidence from oral history and some records that he may have continued as tribal preacher, holding religious and social meetings on

the reservation in the first decade of the 20th century. Under the regulations, evidence about community may be used as supporting evidence to demonstrate political processes, especially where a community is closely knit and distinct (see 83.7(c)(1)(iv)). Given the extensive intermarriage within the tribe and with neighboring tribes, the petitioner has strong evidence demonstrating community in this time period. The evidence is sufficient to demonstrate that criterion 83.7(c) is met between 1883 and 1920 as evaluated under the principle that it is entitled to greater weight because the petitioners are, singly and together, a continuously existing state-recognized tribe and with a continuous land base since colonial times.

The amount of data concerning political authority and influence in the record overall, including conflicts between the two groups, is considerably more extensive than that relating to internal political processes within petitioner #113 alone. As evaluated under the standard articulated for a historical state recognized tribe, the petitioner meets criterion 83.7(c) from 1883 to 1973, based on the conclusion that there was a single tribe, the entirety of whose actions reflected political influence, including the Gardners as one subgroup.

Because the two petitioners derive from a single historical tribe with a continuous state relationship since colonial times, the conflicts between the two, which have focused on their relationship with the State of Connecticut, are relevant evidence for political influence. However, it is unclear if the conflict is within one tribe, or between two. Both groups derive from the historical Eastern Pequot tribe which was recognized by the State of Connecticut. The State continues to recognize a successor to the historical Eastern Pequot tribe, but has not taken a position as to the present leaders of that successor. The petitioners and third parties have failed to provide adequate evidence and analysis to permit the Department to determine if the political processes since 1973 are those of factions of one tribe.

There are insufficient evidence and analysis in the record to enable the Department to determine that the petitioners formed a single tribe in this time period. The Department consequently makes no specific finding for the period 1973 to the present because there was not sufficient information to determine if there is only one tribe with political factions (see for example, *Paucatuck Eastern Pequot*

*Indians of Connecticut et al. v. Connecticut Indian Affairs Council et al.* 555 A.2d 1003 (App. Ct. 1989), decided March 28, 1989, which describes each current petitioner as a "faction of the tribe"). This question reflects in part the apparent recentness of the political alignments reflected in the petitioners after their formal organization in the early 1970's.

The historical Eastern Pequot tribe, which includes the petitioner as one of its component subgroups, meets criterion 83.7(c) through 1973. A specific finding concerning political influence from 1973 until the present will be presented in the final determination after receipt of comments from the petitioner and interested parties.

Criterion 83.7(d) requires that the petitioner provide copies of the group's current constitution and by-laws. The Paucatuck Eastern Pequot petitioner meets criterion 83.7(d).

Criterion 83.7(e) states that the petitioner's membership must consist of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. Extensive genealogical material submitted by the petitioner, by petitioner #35, and by the third parties indicates that the petitioner's current members are descendants of Marlboro and Eunice (Wheeler) Gardner and of Rachel (Hoxie) Jackson. As those individuals were, during their lives, members of the Eastern Pequot tribe as ascertained by evidence acceptable to the Secretary, the descendants of these individuals descend from the historical tribe.

The lines of descent for individual families have been verified through Federal census records from 1850 through 1920; public vital records of births, marriages, and deaths; and to a lesser extent through church records of baptisms, marriages, and burials, as well as through use of state records concerning the Lantern Hill reservation. These are the same types of records which have been used to verify descent for prior Federal acknowledgment decisions. Therefore, the petitioner meets criterion 83.7(e).

Criterion 83.7(f) states that the petitioner's membership must be composed principally of persons who are not members of any acknowledged North American Indian tribe. The Paucatuck Eastern Pequot petitioner meets criterion 83.7(f).

Criterion 83.7(g) states that neither the petitioner nor its members can have been the subject of congressional legislation that has expressly terminated

or forbidden the Federal relationship. The Paucatuck Eastern Pequot petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, the Paucatuck Eastern Pequot Indians of Connecticut, should be granted Federal acknowledgment under 25 CFR Part 83.

This positive proposed finding for the Paucatuck Eastern Pequot and the positive proposed finding for the Eastern Pequot petitioner which is being issued simultaneously do not prevent the Department, in the final determination stage, from recognizing a combined entity, or both petitioners, or either one of the current petitioners but not the other, or neither of the current petitioners, depending upon the evidence and analysis developed during the comment periods by both petitioners and all interested and informed parties, as verified and evaluated by Bureau of Indian Affairs staff.

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. Under the Assistant Secretary's directive, the technical report prepared in addition to this summary evaluation report of the evidence will not be completed but will remain in draft.

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, Bureau of Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660—MIB. 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 Assistant Secretary'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 Assistant Secretary's discretion if warranted by the extent and nature of the comments.

The proposed finding takes into consideration only materials from the petitioner and all interested parties submitted through April 5, 1999. Subsequent submissions have been held by the Bureau of Indian Affairs and will

be considered during preparation of the final determination.

In addition to evidence and argument on the proposed findings in general, petitioners, interested parties and informed parties may submit comments as to the Secretary's authority, under the circumstances of recent separation of the two petitioners, to acknowledge two tribes or only one tribe which encompasses them both as the continuation of the historical tribe.

After the expiration of the comment and response periods described above, the Bureau of Indian Affairs will consult with the petitioner concerning establishment of a time frame 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 Assistant Secretary—Indian Affairs will publish the final determination of the petitioner's status in the *Federal Register* as provided in 25 CFR 83.10(1).

Dated: March 24, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00-8040 Filed 3-30-00; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs proposes to determine that the Eastern Pequot Indians of Connecticut, Holly Green Plaza Unit 2A East, 391 Norwich Westerly Road, PO Box 208, North Stonington, Connecticut 06359, c/o Ms. Mary E. Sebastian, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the historical Eastern Pequot tribe satisfies criteria 83(b) and 83.7(c) through 1973 and that the petitioner satisfies the remainder of the criteria set forth in 25 CFR 83.7 and, therefore, meets the requirements for a government-to-government relationship with the United States. A specific finding concerning whether one tribe or two tribes, as successors to the historical Eastern Pequot tribe, have occupied the reservation since 1973 will be made as

part of the final determination, after receipt of comment on this proposed finding.

**DATES:** As provided by 25 CFR 83.10(i), 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 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 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, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660—MIB. **FOR FURTHER INFORMATION CONTACT:** R. Lee Fleming, 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—Indian Affairs by 209 DM 8.

#### Introduction

The Eastern Pequot Indians of Connecticut submitted a letter of intent to petition for Federal acknowledgment on June 28, 1978, and was assigned #35. Both the Eastern Pequot Indians of Connecticut and another petitioner, the Paucatuck Eastern Pequot Indians of Connecticut, assert descent and tribal continuity from the historical Eastern Pequot tribe. Both petitioners are derived from families which have been associated with the Lantern Hill reservation since the 19th century.

The Assistant Secretary—Indian Affairs (AS-IA) placed the Eastern Pequot Indians of Connecticut (EP, #35) petition on active consideration January 1, 1998. After consideration and notification of #35 and other petitioners on the "ready, waiting for active consideration" list, the AS-IA on April 2, 1998, waived the priority provisions of 25 CFR 83.10(d) in order to consider the petition of the Paucatuck Eastern Pequot Indians of Connecticut (Petitioner #113) simultaneously with the petition of the Eastern Pequot Indians of Connecticut (Petitioner #35). This waiver was made under the authority granted to the Secretary in 25 CFR 1.2, and delegated to the Assistant