DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgment of the Shinnecock Indian Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final determination.

SUMMARY: The Department of the Interior (Department) gives notice that the Acting Principal Deputy Assistant Secretary–Indian Affairs (PDAS–IA) has determined the Shinnecock Indian Nation is entitled to be acknowledged as an Indian tribe within the meaning of Federal law. This notice is based on a determination that affirms the reasoning, analysis, and conclusions in the Proposed Finding (PF). The petitioner satisfies the seven mandatory criteria for acknowledgment set forth in the applicable regulations, and therefore, meets the requirements for a government-to-government relationship with the United States. This notice is the Final Determination (FD). Based on the limited nature and extent of comment and consistent with prior practices, the Department did not produce any detailed report or other summary under the criteria pertaining to this FD.

DATES: This determination is final and will become effective 30 days from publication of this notice in the **Federal Register** on July 19, 2010, unless the petitioner or an interested party files within 30 days of this notice a request for reconsideration pursuant to 25 CFR 83.11.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment (202) 513–7650.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 83.10(h), the Department publishes this notice in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (AS–IA) by 209 DM 8. The AS–IA delegated authority to sign certain Federal acknowledgment findings, including this FD, to the PDAS–IA on June 4, 2009, to avoid the appearance of any possible conflict of interest. The Department issued a PF to acknowledge the Shinnecock Indian Nation, Petitioner #4, on December 14, 2009, and published notice of that preliminary determination in the **Federal Register** on December 21, 2009. This FD affirms the PF that the Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Lance Gumbs, Randall King, and Gordell Wright, satisfies the seven mandatory criteria for acknowledgment as an Indian tribe.

The issuance of this FD complies with the June 18, 2010, deadline set by the settlement agreement that the petitioner and the Department negotiated and the Federal District Court approved by order on May 26, 2009, in *Shinnecock* v. *Salazar,* No. CV–06–5013, 1 (E.D.N.Y.). The settlement agreement controls whenever the schedule for processing the Shinnecock petition under this agreement differs from the timelines provided by the regulations in 25 CFR part 83. The settlement agreement shortened the 180-day comment period provided in the regulations at § 83.10(i) to 90 days; hence, the comment period closed March 22, 2010. Neither the Shinnecock petitioner nor other parties asked for an on-the-record technical assistance meeting under § 83.10(j)(2) or to extend the comment period to 180 days. The petitioner submitted comments certified by its Board of Trustees; however, no third parties submitted comments on the PF during the comment period. Under the settlement agreement the petitioner did not have a response period because no interested or informed party submitted comment.

As part of a consultation process provided by the settlement agreement, the Department wrote a letter to the group's trustees on April 2, 2010, followed by a telephone call to their counsel. These communications informed the petitioner that the Department planned to begin active consideration of its comments on April 19, 2010, and to issue a FD on or before Friday, June 18, 2010. The petitioner did not object to this schedule. Accordingly, the Department began the 60-day period for issuing a FD on April 19, 2010.

The petitioner's comments included a 9-page cover letter signed by the group's attorney with 71 pages of exhibits. It also contained a 73-page report with 45 exhibits by the petitioner's consulting historian disputing the PF's conclusion that the petitioner did not qualify for processing under the unambiguous previous Federal acknowledgment provision in § 83.8 of the acknowledgment regulations. A second report ("Comment") by the group's consulting anthropologist, commenting on issues under § 83.7, consisted of 46 pages, of which 12 pages pertained to criterion § 83.7(b) and the remaining 34 pages concerned criterion § 83.7(e). The second report included 21 exhibits. In addition, the petitioner submitted membership and genealogy updates in electronic form. These items included an updated and separately certified Family Tree Maker™ (FTM) genealogical database of the petitioner's members and their ancestry as well as a Microsoft Access™ database containing tables of all current members, re-enrolled members, current members who had been represented as "potential" members in the PF materials, and deceased members.

This FD reviews and considers the petitioner's argument and evidence submitted as comments along with the record for the PF. Most of the exhibits included in the petitioner's comments that did not concern enrollment contained the same, similar, or related documents already in the record for the PF and proffered arguments already considered in the PF. Because the PF addressed in detail these documents and arguments, this FD must be read in conjunction with the PF.

This FD considers the petitioner's submissions to determine if they change the Department's reasoning, analysis, and conclusions under § 83.7 and regarding § 83.8. The petitioner's comments raise legal issues already responded to in other documents prior to the PF, attempt to rebut a small number of factual conclusions in the PF, and provide limited new analyses. After considering the petitioner's comments, this FD concludes that the materials submitted for the FD contain essentially the same evidence as the petitioner provided previously and do not merit revision of the reasoning, analysis, and conclusions in the PF. This FD modifies only a few specific findings in the PF concerning criterion § 83.7(e), but these revised calculations, based on updated and newly submitted membership information, do not change the overall conclusions of the PF that the petitioner meets all seven mandatory criteria. This FD affirms the PF.

Unambiguous Previous Federal Acknowledgment: Previous Federal acknowledgment means, "action by the Federal Government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States" (§ 83.1). The preamble to the 1994 regulations states, "the regulations require that previous acknowledgment be unambiguous and clearly premised on acknowledgment of a government-to-government relationship with the United States" (59 FR 9283). This FD finds that evidence in the record does not show that the Federal Government established, by its actions, a relationship between the United States and the petitioner as an Indian tribe at any time.

In its comments concerning previous acknowledgment, the petitioner

revisited the *Thomas* v. *Hendricks* trespass litigation of 1936–1937 that was reviewed in the PF (*Shinnecock* PF, Appendix A, 18–19), providing additional biographical detail about Charles C. Daniels, a special assistant to the U.S. Attorney General, and the nature of his involvement in the *Hendricks* case. This evidence further corroborates conclusions in the PF that Daniels was authorized only to assist the NY Attorney General in the *Hendricks* case, that Daniels requested to participate "without making an appearance or intervening in the action" (Daniels 12/28/1936) to which the Department concurred (Chapman 2/4/1937), and that the United States did not bring suit on behalf of a Shinnecock tribal entity. This evidence of limited involvement contrasts with the role of the U.S. Department of Justice in bringing suit on behalf of the Burt Lake Indians from 1911 to 1917 (*United States of America* v. *John W. McGinn and A. L. Agate; Burt Lake Band* FD, 8). The evidence submitted in the petitioner's comments strengthens and affirms the PF's conclusions that the litigation materials do not demonstrate unambiguous previous Federal acknowledgment.

In its comments concerning § 83.8, the petitioner also revisited correspondence involving officials at the Department of the Interior during the late 1930s and early 1940s, Felix Cohen's "Handbook of Federal Indian Law", the 1914 Reeves Report, the "Clancy Bill" (H.R. 18735, 63rd Congress, 1914), the annual report of the Commissioner of Indian Affairs in 1915, the Criminal Jurisdiction Act of 1948, and the Civil Jurisdiction Act of 1950. The PF addressed this evidence with respect to § 83.8 (*Shinnecock* PF, 14; Appendix A, 9–14, 16–18, 22–23). As explained in the PF and confirmed here, these materials, when placed in context of the complete record, provide evidence that the Department was aware of the Shinnecock of Long Island and held internal discussions as to whether the Department should establish a Federal relationship with them, but the Department took no action to do so. As the PF discussed in detail, during this same period, the Federal Government explicitly rejected the opportunity to establish a relationship with the petitioner, sometimes stating that the petitioner was the State of New York's responsibility (*Shinnecock* PF, 17). Nothing in this evidence now alters the Department's earlier detailed analysis and conclusions regarding these same materials in the PF.

The comments also argued against acknowledgment precedent and the standard used in interpreting evidence under § 83.8, issues that were addressed in correspondence from the Department before the PF and in the PF. Nothing in this argument alters the Department's analysis and conclusions regarding § 83.8.

The petitioner's comments, combined with the rest of the argument and evidence in the record, do not provide evidence of previous unambiguous Federal acknowledgment and the reasoning, analysis, and conclusions pertaining to § 83.8 in the PF are affirmed. Therefore, the petitioner will be evaluated under the requirements of the mandatory acknowledgment criteria § 83.7(a) through (g) without modification by the provisions of § 83.8(d).

Historical Indian Tribe: The petitioner's comments maintained that the Department's identification of the historical Shinnecock Indian tribe in the PF was inconsistent (Comment, 12–16). To be clear, the PF determined that the Shinnecock Indians of the Shinnecock leasehold in 1789 is the historical Indian tribe from which the Department evaluated continuous tribal existence. To allow for the inclusion of available documents from before and after this specific year in the analysis, the PF sometimes referred to the historical Indian tribe as it existed in the late 18th century, especially from 1792 to 1800, a period when the some of the group's members were named and their specific activities were documented. The PF stated, "[t]his PF treats the Indian population on or associated with the Shinnecock leasehold in the late 18th century as the 'historical Indian tribe' " (*Shinnecock* PF, 10).

The petitioner's comments implied that the PF sometimes treated the group in 1865 as the historical Indian tribe, rather than the 1789 Indian tribe as the historical Indian tribe. This comment is inaccurate. For purposes of demonstrating descent from the historical Indian tribe in 1789 for § 83.7(e), the PF used an 1865 New York State census as the earliest complete list of reservation residents. The PF noted that this practice of using a list with a later date than 1789 or the date of "first contact" is consistent with precedent and the explanation in the preamble to the 1994 regulations. It stated that the regulations "have not been interpreted to require tracing ancestry to the earliest history of a group" (*Shinnecock* PF, 13), and that, "for most groups, ancestry need only to be traced to rolls and/or other documents created when their ancestors can be identified clearly as affiliated with the historical tribe" (59 FR 9288). Other documents discussed in detail in the PF, especially in sections dealing with criteria § 83.7(a) and (c), identified, described, and located the historical Indian tribe from 1789 to 1865.

Evaluation under the Criteria: Criterion § 83.7(a) requires that external observers have identified the petitioner as an American Indian entity on a substantially continuous basis since 1900. None of the petitioner's comments explicitly referred to the PF's conclusions under criterion § 83.7(a). The petitioner meets criterion § 83.7(a) based on the summary findings in the PF. This FD affirms the PF under criterion § 83.7(a).

Criterion § 83.7(b) requires that a predominant portion of the petitioning group has comprised a distinct community since historical times. The petitioner met this criterion in the PF. No new evidence under criterion § 83.7(b) was submitted; however, the petitioner provided a new partial analysis and argument concerning "extant" marriages between 1800 and 1910 (Comment, 5–9) and charted "Kinship Relations of [specific] Households" on the 1850 Federal census of Shinnecock Neck as evidence described in § 83.7(b)(2)(i) and (ii) (Exh. 126). The petitioner also compiled a list of seven categories of identifications between 1792 and 1865 of Shinnecock as evidence described in § 83.7(b)(1)(vii) (Comment, 2–3).

The comments implied that these submissions were in response to information requested in the PF concerning a demonstrable lack of evidence of generation-to-generation genealogical links of Shinnecock members during this period (Comment, 1–2). Such information, although not needed to meet any of the criteria, would further define lines of descent between early 19th century and 1865 reservation populations under § 83.7(e) (*Shinnecock* PF, 59).

The PF did not request evidence to demonstrate criterion § 83.7(b). Because the petitioner meets criterion § 83.7(b) utilizing "crossover" evidence from criterion § 83.7(c) at § 83.7(b)(2)(v), it is not necessary to reanalyze the evidence to demonstrate the petitioner meets criterion § 83.7(b) or to explicate how the petitioner might meet criterion § 83.7(b) using evidence listed under § 83.7(b)(1) or (b)(2)(i)–(iv). Evaluation of the comments by the Department does not change the overall conclusions of the PF that the petitioner meets criterion § 83.7(b). Therefore, this FD affirms the reasoning, analysis, and conclusion of the PF under criterion § 83.7(b).

In the case of the Shinnecock petition, only evidence of the type described at

§ 83.7(c)(2)(i) to show that the petitioner "allocate[d] group resources such as land, residence rights and the like on a consistent basis" from 1789 to the present was used for the petitioner to meet both criteria § 83.7(b) and (c) (*Shinnecock* PF, 29). The PF provided a general discussion of the community historically and at present only for purposes of identifying the community allocating these resources, not for purposes of evaluating evidence described at § 83.7(b)(1) or (b)(2)(i)–(iv) to directly demonstrate social community (*Shinnecock* PF, 29).

None of the evidence submitted with the petitioner's comments is new, and the petitioner does not attempt to rebut the findings under criterion § 83.7(c), or to change the overall conclusions in the PF that the petitioner met criterion § 83.7(b). The petitioner's analyses, reasoning, and summary conclusions to show how the petitioner could meet § 83.7(b) using this evidence directly, however, sometimes misinterprets data or diverges from how such evidence has been evaluated under acknowledgment precedent. The petitioner's alternative analysis is not adopted here.

The petitioner, for example, submitted a listing of seven types of identifications of a Shinnecock entity, presumably to demonstrate the petitioner meets criterion § 83.7(b) using corroborating evidence of "the persistence of a named, collective, Indian identity" as described in § 83.7(b)(viii). Six of these identifications were by non-Shinnecock and were therefore the type of identifications of an Indian entity by outsiders used to demonstrate criterion § 83.7(a), not evidence demonstrating collective group "identity" by members. The seventh category of evidence mentioned in the petitioner's comment relates to criterion (b) because it deals with "identity" and not "identification." This category included two petitions signed by Shinnecock Indians in 1800 and 1822. This category of evidence, however, was already addressed in the PF. The PF used evidence in these petitions to demonstrate in part that the petitioner met § 83.7(c) at a high level (*Shinnecock* PF, 49–50) and referenced them in a background statement in the PF section discussing the Shinnecock's "collective Indian identity." The PF stated that the "Indians claiming this identity have consistently referred to their group since the early 1600s as the Shinnecock, the Shinnecock Indian tribe, the Shinnecock Indians, and similar names incorporating various spellings of "Shinnecock" (*Shinnecock* PF, 31, 32). The petitioner's comment fails to distinguish between identifications by outsiders (criterion § 83.7(a)) and a "named, collective, Indian identity," maintained by the group itself (criterion § 83.7(b)), as established in precedent, and its new analysis is not adopted here.

The petitioner submitted new analysis under § 83.7(b)(2) for high rates of marriage within the group for the period 1800 to 1920. The PF section on criterion (b) considered the marriage data generally and found that members who mostly married outside the group after 1880 were more likely to move from the reservation and their descendants are less likely to be members of the current membership. In contrast, those who married within the group and continued to reside on the reservation were more likely to have descendants in the membership. These statements in the PF were not made to demonstrate that the petitioner met criterion § 83.7(b); rather, they were made to identify the general makeup of the group and to trace its continuous association with the reservation because this was the group over which political authority was exercised.

The petitioner contends that an analysis of "extant marriages" based on the length each marriage lasted, rather than a general analysis of "marriage events," would demonstrate that the petitioner meets § 83.7(b)(2) from 1800 to 1920. The PF did not make a determination that the petitioner met criterion § 83.7(b) using evidence for marriage as described at § 83.7(b)(1) or (b)(2); nor is it necessary to do so here. This FD's consideration of this argument, however, finds that the petitioner's analysis is flawed. It does not account for the group's historical membership and does not submit any historical membership lists, annuities lists, rolls, or similar documents that would include on- and off-reservation members, as precedent has established in other cases. In addition, the analysis deals with descendants of only two couples from the early 1800s to 1920, thus representing only a partial analysis of the Shinnecock population.

It is impossible to calculate accurate percentages of marriages between members of the group as required under § 83.7(b)(2)(ii), whether one attempts to analyze single "marriage events" or "extant marriages," without tracking the group's actual membership and without accounting for all of the marriages, not just select lines of descent. This FD does not accept the comment's conclusion that "extant" marriages predominated within the group from 1800 to 1920. The petitioner seeks to substitute a different analysis from that in the PF, and its analysis uses incomplete data for purposes of criterion § 83.7(b) from 1800 to 1920. That specific analysis is flawed, and it diverges from precedent. It is also unnecessary to show that the petitioner meets criterion § 83.7(b), using direct evidence of community, as the petitioner meets criterion § 83.7(b) using crossover evidence from criterion § 83.7(c)(2). The PF's conclusion that the petitioner meets criterion 83.7(b) using crossover evidence under criterion § 83.7(c) is affirmed.

Criterion § 83.7(c) requires that the petitioning group has maintained political influence over its members as an autonomous entity since historical times. The petitioner met this criterion in the PF. Neither the petitioner nor any other party submitted new evidence or analysis under criterion § 83.7(c). The PF found that the Shinnecock petitioner met criterion § 83.7(c) from 1789 to the present using a type of evidence described at § 83.7(c)(2)(i), that demonstrates a petitioner has allocated "group resources such as land, residence rights and the like on a consistent basis." Under the regulations, this form of evidence is sufficient in itself to demonstrate the presence of political influence within a group as required by criterion § 83.7(c). This FD affirms the conclusions of the PF that the petitioner meets the requirements of criterion § 83.7(c).

Criterion § 83.7(d) requires that the petitioner provide a copy of its governing document including its membership criteria. The PF found that the Shinnecock petitioner met criterion § 83.7(d) because, in lieu of a formal governing document, it described in full its governing procedures and membership criteria in 1978, 1998, 2008, and 2009 (*Shinnecock* PF, 92–93).

The petitioner did not submit new criterion § 83.7(d) evidence for the FD but commented that the Office of Federal Acknowledgment (OFA) "failed to include in its iteration [of membership requirements] the letter from the Nation's attorney" dated May 27, 2009, that "clearly describes the petitioner's current membership criteria" (Comment, 16).

The cited transmittal letter does not constitute petition documentation and repeats information already provided to the Department in 2008 and cited in the PF. The petitioner's comment does not affect the analysis or conclusion of the PF under this criterion. Therefore, the FD affirms the PF that the petitioner meets the requirements of criterion § 83.7(d).

Criterion § 83.7(e) requires that the petitioner's members descend from a historical Indian tribe or from historical

Indian tribes that combined and functioned as a single autonomous political entity and that the petitioner submits a membership list. The PF found that the Shinnecock petitioner met criterion § 83.7(e) because it submitted a separately certified membership list and demonstrated that its 1,066 members descend from the historical Indian tribe. In the comment period, the petitioner submitted a 46-page report by its anthropologist with its 21 numbered exhibits (Exh. 123–143) including an updated membership list (Exh. 140); membership files for 62 members re-enrolled in the group (Exh. 142); an updated genealogical database; and separate lists of re-enrolled members, formerly "potential" members, and members deceased since the PF.

Evaluation under criterion § 83.7(e) considers the comments addressing: (1) The petitioner's current members; (2) the historical Indian tribal members they claim as ancestors; and (3) the evidence of that descent. Each of those three considerations is addressed here in that order.

New membership evidence for the FD includes the Shinnecock Board of Trustee's March 18, 2010, resolution stating that it "hereby opens the membership roll on a limited basis to add 169 individuals, to re-enroll 62 individuals, and to remove five deceased individuals from the roll for a final total of 1,292 enrolled members" (Petitioner resolution 3/18/2010). The 169 individuals were analyzed in the PF as the petitioner identified them as "potential members"; the 62 re-enrolled persons are reviewed here for the first time. The petitioner submitted a separately certified, updated membership list of 1,292 members (Exh. 140). Added members included 10 of the 13 non-members who voted in the 2009 Shinnecock elections (*Shinnecock* PF, 95, 103, 110, 112, 114).

For the FD, the petitioner did not add to the 2010 membership list the remaining 139 of 201 members disenrolled in 2009 for lack of descent documentation. Neither did the petitioner add to its 2010 membership list the 100 applicants whose files had been approved by the enrollment officer prior to the PF. The petitioner apparently did not overturn its longstanding bar to membership for children born to Shinnecock fathers not married to their non-Shinnecock mothers, 99 of whom were noted in the PF as additional prospective members.

The PF concluded that the historical Shinnecock Indian tribe of 1789 evolved as a continuously existing Indian tribe to 1865, which is the date of the earliest record to state plainly that it is an enumeration of all residents of the Shinnecock Reservation. This record is part of the 1865 New York State census of Southampton, Suffolk County. The PF invited the submission of evidence that would support or rebut the Department's conclusion about the tribe's continuity between 1789 and 1865, and, therefore, its reliance on the 1865 list to measure descent from the 1789 Shinnecock tribe (*Shinnecock* PF, 21, 100, 103, 113, 115).

The petitioner submitted limited new evidence addressing the petitioner's continuity as an Indian tribe between 1789 and 1865 or the Department's use of the 1865 State census to measure current members' descent from the 1789 Shinnecock tribe. None of this new evidence was created before 1865. Their submissions also included argument and analyses. If accepted, these submissions would support the Department's conclusion of continuity.

The petitioner offered alternative theories or interpretations of the 1806 and 1815 debarments (prohibiting individuals from drawing land on the Shinnecock Reservation) and of an 1836 deed (Comment, 30–35). The alternative debarment theory is plausible in some respects, but, when analyzed, does not account for all the known aspects of the 1806 debarment. The petitioner's argument about the Department's characterization of the 1836 deed reflects an incomplete reading of the deed. Neither alternative, however, would change the conclusion reached in the PF to rely upon descent from the 1865 Indians to measure descent from the 1789 Shinnecock tribe.

The petitioner's comment about "Shinnecock households" recorded in the early (1790–1840) Federal census records provides the opportunity to present a clarification here, which the PF did not include, of how the 1790–1880 Federal census enumerated Indians (Comment, 9). In establishing the Federal census, the U.S. Constitution directed that "Indians not taxed" be excluded (Art. 1, Sec. 2). Indians documented in contemporary records as residents of the Shinnecock leasehold or reservation—such as David Waukus (b.bef.1773–d.aft.1828) and Abraham Jacob (b.bef.1771–d.aft.1822)—constituted "Indians not taxed." They were not enumerated in the early censuses, apparently because the census enumerators complied with their instructions (*Shinnecock PF* Appendix F, 7). Indians or spouses of Indians who owned property off of the reservation—such as Paul Cuffee or James Bunn—were taxable, and that may explain the appearance of these individuals on early census records. Their appearance in the early censuses does not demonstrate either reservation residence or Shinnecock ancestry, as the comments presume. The pre-1840 Federal census enumerations that include individuals associated with the Shinnecock Indians are not treated as enumerations of Shinnecock Reservation residents in either the PF or the FD.

(It should be noted that, by 1840 and 1850, the census enumerators appeared to depart from their instructions, as they recorded individuals known to be reservation residents from contemporary court records. Further, in 1870 the enumerator prepared two returns of "Shinnecock," one of which is marked as a special report of "Indians not taxed.")

The petitioner submitted additional descent evidence and comment. Submitted evidence (Exh. 132–134) resolved parentage questions for the three current members among the four individuals noted in the PF, but not for the fourth noted individual, Frederick Cuffee (b.1782) (*Shinnecoc*k PF, 111).

Additional evidence clarified the identity and parentage of a current member whose previous FTM entry the petitioner had erroneously tagged as "adopted" (Exh. 135). The petitioner provided acceptable indirect evidence of parentage for Roxanna Bunn (b.ca.1809-d.1899) (Exh. 130). This additional genealogical connection helps support the PF's finding of 1789-to-1865 continuity and increases the number of 1865 reservation residents represented by current members, although it does not affect the number of current members demonstrating descent from 1865 Shinnecock Indians.

Another submission consisted of two charts of the descendants of James Bunn (b.ca.1767) and of David Walker/Waukus (b.bef.1773)—handwritten and dated by a Dr. Morris Steggerda on October 2, 1930—offered as parentage evidence for Elizabeth "Betsy" Bunn (b.1796) and for the various children the petitioner ascribed to David Waukus (Exh. 129). This type of evidence, created more than 100 years after the births it illustrates, is useful only as a guide to research. The named informants (born in 1845 and 1848) could not have provided firsthand knowledge of events occurring before their own births. Here, too, the number of current members demonstrating descent from 1865 Shinnecock Indians is not affected by determinations of these specific parentages.

The bulk of the new descent evidence consisted of membership files for the 62 re-enrolled members (Exh. 142) and for one member whose file had not been

submitted previously (Exh. 138). The Department genealogist analyzed the new descent evidence for the historical individuals, the questioned 2009 members, and the 62 new 2010 members. The result is that 1,254 current members demonstrate descent from the historical Indian tribe and 38 do not.

Thirty-one of the 38 current members who did not demonstrate descent from the 1865 reservation residents documented back to within a generation of the 1865 residents. They documented descent from Frederick Cuffee (b. 1872) for whom contemporary evidence of parentage has not been found. Five of the remaining seven current members who did not demonstrate descent from the 1865 reservation residents consist of one re-enrolled member and four previously "potential" members. They are depicted as close relatives of current members but need better evidence of their own parentage, and the two remaining members who did not demonstrate descent are documented as their children.

The 38 current members who did not demonstrate descent from an 1865 reservation resident may all be described as lacking satisfactory evidence of a single child-to-parent link in their line of descent from the 1865 reservation residents they claim as ancestors. In no instance did the evidence demonstrate that any of them descend from a specific non-Indian instead of the specific 1865 Shinnecock Reservation resident they claim as an ancestor.

The petitioner also submitted considerable descent argument. However, most of it is not applicable to the FD because it centers on the PF's Appendix D descriptions of the group's pre-1800 progenitors and the PF's calculations of members' descent from these pre-1800 individuals (Comment, 19–32) and from reservation residents in 1900 and 1910 (Comment, 35–36, 39; Exh. 137). The PF provided the pre-1800 and post-1900 information and calculations as background information that gave context for the Department's rebuttable use of the 1865 State census as a reliable list for measuring members' descent from the 1789 historical Indian tribe under criterion § 83.7(e). However, descent from the pre-1800 or post-1900 historical individuals was not and is not the measurement relied upon to determine whether the petitioner meets criterion § 83.7(e). Rather, descent from individuals on the 1865 list is the measurement for criterion § 83.7(e).

Analysis of the petitioner's comments addressing pre-1800 or post-1900 descent calculations neither supports nor rebuts the Department's use of the 1865 State census as a reliable list of the 1789 historical Shinnecock tribe as it evolved or the PF's conclusions under criterion § 83.7(e). Thus, the individual comments on descent calculations are not addressed in this FD.

The Department's measurement of descent from the historical Indian tribe for criterion § 83.7(e) differs from the petitioner's measurement of descent for membership purposes; however, the results of both types of descent measurements are similar. The petitioner requires its 1,292 members to demonstrate direct or collateral descent from any of the 130 Indian individuals on the 1900 or 1910 Indian schedules of Southampton, NY. Analysis for the FD showed 93 percent of the members claimed a direct ancestor on the 1900 or 1910 Indian schedule, and another 7 percent claimed descent from one of two siblings of one such Indian. The Department verified that 92 percent demonstrated descent from 1900 or 1910 reservation residents and 7 percent demonstrated descent from a sibling of such a resident, resulting in 99 percent descent overall. For purposes of demonstrating descent from the historical Indian tribe under criterion § 83.7(e), the Department evaluated members' direct descent from any of the 156 Indian individuals of the 1865 Shinnecock Reservation. Analysis for the FD verified that 97 percent of the 1,292 members demonstrated descent from an 1865 Shinnecock Reservation resident.

For the FD, the Department continues to rely upon the enumeration of the 146 individuals within the 28 Indian families residing on the Shinnecock Reservation from the 1865 New York State census. For the purposes of criterion § 83.7(e), the Department determines this state census to be a reliable list for measuring descent from the 1789 historical Shinnecock tribe as it evolved. The Department finds that the petitioner demonstrates descent from 48 of those 146 individuals.

Had the petitioner included the 139 members who were disenrolled in 2009, the petitioner would have also met criterion (e) (1,262 of 1,431, or 88 percent). The petitioner submitted a separately certified and updated list of all current members and evidence that demonstrates 97 percent of the members (1,254 of 1,292) descend from the historical Shinnecock tribe. Therefore, the FD affirms the PF's conclusion that the petitioner meets the requirements of criterion § 83.7(e) but with a revised membership total and percentage of descent.

The membership list used for the FD of an acknowledged tribe becomes its base roll for purposes of Federal funding and other administrative purposes (see § 83.12(b)). Therefore, the list of 1,292 members certified by the Shinnecock trustees as its complete membership list on March 18, 2010, is the base roll for purposes of Federal funding and other administrative purposes for the acknowledged Shinnecock Indian tribe. Under § 83.12, any additions to be made to subsequent tribal membership rolls of this acknowledged Indian tribe, other than descendants of those on the base roll and who meet the tribe's membership criteria, "shall be limited to those meeting the requirements of § 83.7(e) and maintaining significant social and political ties with the Indian tribe (i.e., maintaining the same relationship with the tribe as those on the list submitted with the group's documented petition)."

Criterion § 83.7(f) requires that the petitioner's membership be composed principally of persons who are not members of another federally recognized Indian tribe. The Shinnecock petitioner met this criterion in the PF. Four of the 169 new members added since the PF stated on consent forms that they belonged to federally recognized Indian tribes. None of the 62 re-enrolled members claimed enrollment in a federally recognized Indian tribe but one claimed membership in the Hassanamisco Nipmuc and two in the Unkechaug or Poospatuck groups. A total of ten current members claim enrollment in federally recognized tribes: Fort Sill Apache Tribe of Oklahoma (1 member), Hoopa Valley Tribe (2 members), Mashantucket Pequot Tribe of Connecticut (2 members), Navajo Nation (1 member), Pueblo of Taos (3 members), and White Mountain Apache Tribe of the Fort Apache Reservation (1 member).

The evidence in the record demonstrates that the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. The FD affirms the PF's conclusion that the petitioner meets the requirements of criterion § 83.7(d).

Criterion § 83.7(g) requires that the petitioner not be subject to congressional legislation that has terminated or forbidden the Federal relationship. The PF found that the Shinnecock petitioner met criterion § 83.7(g), because there is no evidence that Congress has either terminated or forbidden a Federal relationship with the petitioner or its members. The

petitioner did not submit comment on this criterion; therefore, this FD affirms the PF's conclusion that the petitioner meets the requirements of criterion § 83.7(g).

This notice is the FD to extend Federal acknowledgment under 25 CFR part 83 to the Shinnecock Indian Nation petitioner. As provided in § 83.10(h) of the regulations, this FD summarizes the evidence, reasoning, and analyses that form the basis for this decision. In addition to its publication in the **Federal Register**, this notice will be posted on the Department's Indian Affairs Web site at *http://www.bia.gov.*

The May 26, 2009, settlement agreement that the petitioner and the Department negotiated and the Court approved by order on May 26, 2009, in *Shinnecock* v. *Salazar,* No. CV–06–5013, 1 (E.D.N.Y.), shortens several of the regulatory periods following publication of a notice of a FD provided in § 83.11. A copy of the court-approved stipulation and order for settlement appears as Appendix B of the Shinnecock Indian Nation Proposed Finding (PF), which is available at *http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm.*

This FD on the Shinnecock petitioner will become a final and effective agency decision 30 days after the publication of this notice in the **Federal Register**, unless the petitioner or an interested party files a request for reconsideration, pursuant to § 83.11, with the Interior Board of Indian Appeals (IBIA) within that shortened time period. If the IBIA receives a request for reconsideration within the 30-day period, the party requesting reconsideration has an additional 30 days to file a detailed statement in support of its request. This statement shall be the requesting party's opening brief. The IBIA must receive the detailed statement no later than 60 days after the publication of this FD notice in the **Federal Register**. The Shinnecock petitioner or interested parties opposed to the requested reconsideration shall have 30 days to file an answer brief in opposition to the reconsideration request. The IBIA must receive the answer brief no later than 90 days after the publication of this FD notice in the **Federal Register**.

Dated: June 13, 2010.

George T. Skibine,

Acting Principal Deputy, Assistant Secretary—Indian Affairs.

[FR Doc. 2010–14733 Filed 6–17–10; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Advisory Committee on Water Information (ACWI); Meeting

AGENCY: United States Geological Survey, Interior Department.

ACTION: Notice of an open meeting of the Advisory Committee on Water Information (ACWI).

SUMMARY: Notice is hereby given of a meeting of the ACWI. This meeting is to discuss broad policy-related topics relating to national water initiatives, and the development and dissemination of water information, through reports from ACWI subgroups. The agenda will include results of the Department of Agriculture's Conservation Effects Assessment Program for the Upper Mississippi; an update by the Subcommittee on Ground Water regarding their National Framework for Ground Water Monitoring; a briefing on the Reservoir Sedimentation Database; highlights from the 7th National Monitoring Conference, which was held earlier this year in Denver, Colorado; status of the National Monitoring Network for U.S. Coastal Waters and their Tributaries; an update on Federal agency interactions with the regional water quality monitoring organizations of the Integrated Ocean Observing Systems; and updates on recent activities of the Methods and Data Comparability Board.

The ACWI was established under the authority of the Office of Management and Budget Memorandum M–92–01 and the Federal Advisory Committee Act. The purpose of the ACWI is to provide a forum for water information users and professionals to advise the Federal Government on activities and plans that may improve the effectiveness of meeting the Nation's water information needs. Member organizations help to foster communications between the Federal and non-Federal sectors on sharing water information.

Membership, limited to 35 organizations, represents a wide range of water resources interests and functions. Representation on the ACWI includes all levels of government, academia, private industry, and professional and technical societies. For more information on the ACWI, its membership, subgroups, meetings and activities, please see the Web site at: *http://ACWI.gov*.

DATES: The formal meeting will convene at 9 a.m. on July 13, 2010, and will adjourn at 5:30 p.m. on July 14, 2010.

ADDRESSES: The meeting will be held at the Crowne Plaza Dulles Airport, located at 2200 Centreville Road, Herndon, Virginia 20171.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy E. Norton, ACWI Executive Secretary and Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 417, Reston, VA 20192. Telephone: 703–648–6810; Fax: 703–648–5644; e-mail: *wenorton@usgs.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Up to a half hour will be set aside for public comment. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provide a written request with a description of the general subject to Ms. Norton at the above address no later than July 2, 2010. It is requested that 65 copies of a written statement be submitted at the time of the meeting for distribution to members of the ACWI and placement in the official file. Any member of the public may submit written information and (or) comments to Ms. Norton for distribution at the ACWI meeting.

Dated: May 31, 2010.

Katherine Lins,

Chief, Office of Water Information.

[FR Doc. 2010–14738 Filed 6–17–10; 8:45 am]

BILLING CODE 4310–AM–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 22, 2010. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service,, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 6, 2010.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your