

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Reconsidered Final Determination Against Federal Acknowledgment of the Ramapough Mountain Indians, Inc.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 25 CFR 83.11(h)(3), notice is hereby given that the Assistant Secretary—Indian Affairs Ada E. Deer signed a reconsidered final determination which affirms the decision of January 16, 1996, to decline to acknowledge that the Ramapough Mountain Indians, Inc. (RMI), P.O. Box 478, Mahwah, New Jersey 07430-0478, exists as an Indian tribe within the meaning of Federal law. The reconsidered final determination was issued following full consideration of four issues identified by the Interior Board of Indian Appeals (IBIA) and which the Secretary of the Interior requested the Assistant Secretary—Indian Affairs to address. The group does not satisfy three of the seven criteria set forth in 25 CFR 83.7, and therefore does not meet the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.11(h)(3), this reconsidered final determination will become effective January 7, 1998.

ADDRESSES: Requests for a copy of the reconsidered final determination should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, NW, Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, MS 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 (the Secretary) to the Assistant Secretary—Indian Affairs (the Assistant Secretary) by 209 DM 8. A notice proposing to decline to acknowledge the Ramapough Mountain Indians was published in the **Federal Register** on December 8, 1993. Under the 1978 regulations for Federal acknowledgment of Indian tribes, the petitioner had not met four of the mandatory criteria (83.7(a), (b), (c), and (e)). The original 180-day comment period was extended until May 8, 1995. The 60-day comment period for the

petitioner to respond to third-party comments ended on July 10, 1995.

The Bureau of Indian Affairs (BIA) began the final determination process on September 18, 1995. The final determination, made under the 1994 revised regulations, concluded that the RMI failed to meet three of the mandatory criteria (83.7(b), (c), and (e)). It was signed on January 16, 1996, and a notice was published in the **Federal Register**, on February 6, 1996, (Vol. 61, No. 25, 4476). The RMI filed a request for reconsideration with the IBIA, on May 6, 1996.

The IBIA affirmed the Department of the Interior's (the Department) final determination on July 18, 1997. At the same time, the IBIA asked the Secretary to consider whether four specific issues identified by the IBIA constituted grounds for reconsideration of the final determination. On September 29, 1997, the Secretary requested the Assistant Secretary to address the four issues raised by the IBIA and issue a "reconsidered determination." Three of the four questions concerned issues of due process. The fourth issue involved the interpretation of criterion 83.7(b) of the Federal acknowledgment regulations (25 CFR Part 83). On November 7, 1997, the Assistant Secretary signed a reconsidered final determination, which affirms and supplements the final determination and supersedes specific points in the final determination. A brief discussion of the four issues discussed in the reconsidered final determination follows.

The first issue considered by the Assistant Secretary was whether the BIA had refused to furnish copies of the anthropologist's field notes to the RMI and, if so, whether this was a denial of due process and constituted a basis for reconsideration of the final determination. The RMI correspondence files were thoroughly reviewed, as well as notes taken on telephone conversations and the notes retained from meetings with the RMI. There was no evidence that the RMI had requested the anthropologist's field notes and no evidence that the field notes had been denied to the RMI. The Assistant Secretary determined that there was no denial of due process and, therefore, this was not a cause for reconsideration of the final determination.

The second issue considered by the Assistant Secretary was whether the BIA failed to provide consultation concerning the date of beginning the final determination evaluation process and, if so, whether this failure violated the RMI's rights to due process and constituted a basis for reconsideration. The Secretary determined that the intent

of § 83.10(l) is to allow the BIA to inform the petitioner of the proposed time frame for beginning or completing the final determination evaluation if a long administrative delay is expected before the final determination evaluation will begin, or when new evidence submitted by the petitioner is so extensive that the evaluation will require more than the regulatory 60-day period. The BIA did not expect any delays in beginning the final determination evaluation because personnel were available to do the work immediately. Further, the amount and character of the evidence submitted by the RMI in its response to the proposed finding were such that it could be evaluated within the 60-day timeframe. The Department also considered the reasons delineated in the RMI's requests to suspend the final determination process and notified the RMI in writing of its decision to continue with the evaluation. The final determination was issued within the 60-day regulatory time-frame. The Assistant Secretary determined that written notification, without prior oral consultation, was not a denial of due process and was not grounds for reconsideration of the final determination.

The third issue evaluated by the Assistant Secretary was whether the BIA had misled the RMI concerning RMI's required research. The Assistant Secretary also considered whether failure to notify the RMI of a change in the Assistant Secretary's conclusions on criterion 83.7(b) between the proposed finding and the final determination was a denial of due process. The Assistant Secretary also evaluated whether either of these matters constituted grounds of reconsideration.

The petitioner was told to focus its research on the pre-1850 time period since there was no evidence that its members descended from an historical Indian tribe. However, a review of the administrative files showed that the RMI were notified in several letters and in meetings with the BIA staff that they had to address all four of the criteria not met at the time of the proposed finding. These letters and the proposed finding clearly show that the RMI had actual notice that there was insufficient evidence for community from historical times to the present. The proposed finding technical reports and the summary under the criteria pointed to this lack of evidence. The Assistant Secretary determined that there was no denial of due process on this point and no grounds for reconsideration.

The proposed finding concluded that the RMI did not meet criterion 83.7(b) at any point in time. The final

determination concluded that the RMI met criterion 83.7(b) between 1870 and 1950, but not before 1870 and not after 1950. The change in the Assistant Secretary's conclusions between the proposed finding and final determination was the result of a change in the wording of criterion 83.7(b) in the 1994 revised regulations, in conjunction with the BIA researchers' discovery of new, supplementary evidence that RMI had maintained a community from 1870 to 1950, including a church register which showed a high rate of endogamy among the petitioner's ancestors from 1878 to 1918. The RMI was not harmed by this change between the proposed finding and the final determination, but in fact benefited from the refined conclusions in the final determination. The Assistant Secretary is not required to notify petitioners of changes in conclusions between a proposed finding and a final determination before the final determination is signed. The Assistant Secretary determined that, while there had been a change in conclusions between the proposed finding and the final determination, failure to notify the RMI of the change was not a denial of due process and is not grounds for reconsideration.

With regard to the fourth issue, the IBIA asked the Secretary to clarify whether or not the Department required petitioners to live in a "village-like setting" in order to meet the requirements of criterion 83.7(b) and, if so, to make this requirement invalid. The Assistant Secretary clarified in the reconsidered final determination that neither the Department nor the regulations require petitioners to live in a "village-like setting." The regulations do require that petitioner's maintain a community from the time of first-sustained contact with non-Indians to the present. The reconsidered final determination discusses the fact that evidence demonstrating that a petitioner's members live in a "village-like setting" and maintain consistent interaction with the remainder of the membership may be sufficient evidence to meet criterion 83.7(b), but it is not required (83.7(b)(2)). There are many other forms of evidence that may be used to demonstrate that petitioner's members have maintained social relations with each other (83.7(b)(1)). The reconsidered final determination also corrected an error in the final determination's summary of the proposed finding's conclusions about the residential distribution of the RMI members.

The reconsidered final determination supplements the original final determination and supersedes it to the extent the original is inconsistent with the reconsidered final determination. In conjunction with the original final determination, the reconsidered final determination is an amended final determination for the RMI petitioner.

Dated: December 30, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 25, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Written comments should be submitted by January 22, 1998.

Carol D. Shull,

Keeper of the National Register.

Alabama

Clarke County

Jackson Historic District (Clarke County MPS), Roughly along College, Forest, and Carroll Aves., bounded by Cedar, Florida, Commerce, Clinton, and Spruce Sts., Jackson, 97001656

CALIFORNIA

Inyo County

Inyo County Courthouse, 168 N. Edwards St., Independence, 97001664

Lassen County

Lassen County Court House, Courthouse Square, Susanville, 97001659

Los Angeles County

Padua Hills Theatre, 4467 Via Padova, Claremont, 97001660

Napa County

St. Helena Historic Commercial District, Along Main St., between Adams and Spring Sts., St. Helena, 97001661

Sacramento County

Cranston—Geary House, 2101 G St., Sacramento, 97001662

San Mateo County

Hotel St. Matthew, 215-229 Second Ave., San Mateo, 97001663

Sonoma County

Hood, William, House, 7501 Sonoma Hwy, Santa Rosa, 97001658

Sutter County

Live Oak Historic Commercial District, Along Broadway between Pennington Rd. and Elm St., Live Oak, 97001657

COLORADO

Adams County

Brighton High School, 830 E. Bridge St., Brighton, 97001665

MISSOURI

Howard County

Bedford, Edwin and Nora Payne, House, 308 S. Main St., Fayette, 97001666

NORTH CAROLINA

Rutherford County

Cliffside Public School, 1 N. Main St., Cliffside, 97001667

Wake County

Mordecai Place Historic District, Roughly bounded by N. Blount St., Courtland Dr., Old Wake Forest Rd. and Mordecai Dr., Raleigh, 97001668

PENNSYLVANIA

Philadelphia County

West Philadelphia Streetcar Suburb Historic District, Roughly bounded by U. of Pennsylvania campus, Woodlands Cemetery, Powelton Ave., 52nd St., and Woodland Ave., Philadelphia, 97001669

Wayne County

Honesdale Residential Historic District, Roughly bounded by Lackawaxen R., Dyberry Cr. and Dyberry Cemetery, Overlook and 18th Sts., Honesdale, 97001670

TENNESSEE

Bedford County

Brame—Reed House, 1550 TN 64 W, Shelbyville vicinity, 97001671

WASHINGTON

King County

Agen Warehouse, 1201 Western Ave., Seattle, 97001673

Dearborn, Henry H., House, 1117 Minor Ave., Seattle, 97001672

Spokane County

Seehorn—Lang Building, 151-165 S. Lincoln St., Spokane, 97001674

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