

- Discussion of new Charter

\* During the January 11, 2010, meeting, time has been set aside for public comment via conference call from 1–1:30 p.m. Mountain Standard Time. The call-in information is: Conference Number 1–888–387–8686, Passcode 4274201.

Dated: December 10, 2009.

**George T. Skibine,**

*Acting Principal Deputy, Assistant Secretary—Indian Affairs.*

[FR Doc. E9–30321 Filed 12–18–09; 8:45 am]

**BILLING CODE 4310–6W–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Proclaiming Certain Lands Known as the Pecos Pueblo Grant as an Addition to the Reservation for the Pueblo of Jemez, New Mexico

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

**ACTION:** Notice of Reservation Proclamation.

**SUMMARY:** This notice informs the public that the Assistant Secretary-Indian Affairs proclaimed approximately 5.0 acres, more or less, to be added to the Reservation of the Pueblo of Jemez, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, MS–4639–MIB, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–7737.

**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 Part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the Reservation of the Pueblo of Jemez for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

#### New Mexico Principal Meridian

*Santa Fe County, New Mexico*

A Parcel of land, containing 5.0 acres, more or less, known as Tract Two (2) within Private Claim 340 in the Pecos Pueblo Grant, Santa Fe County, New Mexico, more particularly described as follows:

Beginning at the Southeast corner of the tract, from whence a U.S.G.L.O. Brass Cap set for the ¼ corner common to Section 36, T 16 N, R 11 E and Section 31, T 16 N, R 12 E, bears:

S 0° 15' 55" E 980.88 feet;  
S 89° 45' 24" E 788.54 feet;  
S 0° 02' 41" E 1373.22 feet, thence from said point and place of beginning along the following bearings and distances;  
N 89° 56' 10" W 444.10 feet to the Southwest corner;  
N 0° 15' 55" W 490.44 feet to the Northwest corner;  
S 89° 56' 10" E 444.10 feet to the Northeast corner;  
S 0° 15' 55" E 490.44 feet to the point of beginning.

Being and intended to be the Tract 2 as shown on survey by Robert L. Benavides, dated December, 1980, as Survey No. A–274.

The above-described lands contain a total of 5.0 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect any of the following: (1) Title to the land described above; (2) valid existing easements for public roads, highways, or utilities; (3) valid existing easements for railroads or pipelines; or (4) other rights-of-way or reservations of record.

Dated: December 10, 2009.

**George T. Skibine,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. E9–30320 Filed 12–18–09; 8:45 am]

**BILLING CODE 4310–W7–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Proposed Finding for Federal Acknowledgment of the Shinnecock Indian Nation

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

**ACTION:** Notice of proposed finding.

**SUMMARY:** The Department of the Interior (Department) gives notice that the Acting Principal Deputy Assistant Secretary—Indian Affairs (PDAS–IA) proposes to determine that the Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright, is an Indian Tribe within the meaning of Federal law. This notice is based on a preliminary finding that the petitioner satisfies the seven mandatory criteria for acknowledgment set forth in the applicable regulations, and thus, meets the requirements for a government-to-

government relationship with the United States.

**DATES:** Comments on this proposed finding (PF) are due on or before March 22, 2010. The petitioner then has until April 20, 2010 to respond to those comments. Requests for a formal, on-the-record technical assistance meeting must be received by the Department by January 20, 2010. See the **SUPPLEMENTARY INFORMATION** section of this notice for more information about these dates.

**ADDRESSES:** Comments on the PF 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, *Attention:* Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B–SIB, Washington, DC 20240. Interested and informed parties who make submissions to the Assistant Secretary—Indian Affairs (AS–IA) must also provide copies to the petitioner at Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright.

**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 gives notice that the Acting PDAS–IA proposes to determine that the Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright, is an Indian Tribe within the meaning of Federal law. This notice is based on a preliminary finding that the petitioner satisfies the seven mandatory criteria for acknowledgment set forth in 25 CFR 83.7(a) through (g), and thus, meets the requirements for a government-to-government relationship with the United States.

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 some Federal acknowledgment findings, including this PF, to the Acting PDAS–IA effective June 4, 2009.

The Shinnecock Indian Nation, Petitioner #4, submitted a letter of intent to petition for Federal acknowledgment on February 8, 1978. It submitted partial documentation in 1998, and made multiple submissions in 2003. The petition was ready for evaluation on September 15, 2003. Under the May 23, 2008, **Federal Register** notice of

guidance and direction regarding OFA's internal procedures (73 FR 30146), OFA recommended a waiver of the regulatory provisions regarding the priority for consideration of the petitioner. The AS-IA placed the Shinnecock petitioner on active consideration November 10, 2008, ahead of six other petitioners.

The Shinnecock petitioner claims that the Federal Government recognized it at various times from 1889 to the present, and, therefore, it would be eligible to be evaluated under 25 CFR 83.8, which reduces the burden of evidence required of previously acknowledged petitioners. The evidence in the record shows that the Federal Government was aware of the Shinnecock, but never established a relationship with it. To qualify for evaluation under § 83.8, there must be substantial evidence that the Federal Government, by its actions, unambiguously established a political relationship with the petitioner as an Indian Tribe, not that the Federal Government was merely aware of the petitioner's existence. There is not substantial evidence of unambiguous Federal acknowledgment in the record. Therefore, the petitioner is not eligible to be evaluated under 25 CFR 83.8. An evaluation under section § 83.7 rather than section § 83.8 does not result in a different finding. Whether the petitioner is eligible to be evaluated under § 83.8 of the regulations is subject to reconsideration at the time of the final determination.

The May 23, 2008, **Federal Register** notice of guidance and direction included a provision interpreting "first sustained contact" as on or after March 4, 1789, thus "reducing the time period for which petitioners must submit evidence." Petitioners like the Shinnecock, which experienced first sustained non-Indian contact prior to March 4, 1789, are required to demonstrate continuous existence from 1789 only.

The Shinnecock Indians lived on a historical land base on and near Shinnecock Neck, near the eastern end of Long Island, New York, since first contact in the early 1600s to the present. In 1703, the Town of Southampton agreed to lease approximately 3,500 acres of the Shinnecock Hills and Neck to the Shinnecock Indians for 1,000 years. In 1792, the New York Assembly passed legislation that reorganized the Indians on the Shinnecock leasehold under a three-man Indian Trusteeship in which the Indians would elect trustees annually. In 1859, the State of New York passed legislation regarding the 1,000-year lease to the Shinnecock Indians and granted the Shinnecock Indians title in fee simple to a much smaller parcel

of land. This reduced land base, consisting of approximately 650 acres, is the current New York State "reservation" inhabited by the Shinnecock petitioner today.

The Shinnecock petitioner meets criterion 83.7(a), because external observers have identified it as an American Indian entity on a substantially continuous basis since 1900. The record contains acceptable identifications of the petitioner nearly every year since 1900; this is sufficient to satisfy the criterion. Evidence that identifies the petitioner appears in the records of the Town of Southampton, the State of New York, and the Federal Government. Furthermore, scholarly writings identify the petitioner as an American Indian entity, as do writings from newspapers and magazines. Although some documents in the record express doubt that the petitioner is an American Indian entity, the criterion allows for occasional questioning of the petitioner's Indian character, holding that such evidence "shall not be considered to be conclusive evidence that this criterion has not been met." Therefore, the petitioner satisfies criterion 83.7(a).

The Shinnecock petitioner meets criterion 83.7(b) under a "cross-over" provision in the regulations at § 83.7(b)(2)(v). This cross-over provision allows groups to meet criterion 83.7(b) for a particular period in time provided that they meet criterion 83.7(c) during that same period using a form of evidence which is sufficient in itself to demonstrate political influence and authority. Such forms of evidence are described at § 83.7(c)(2). The Shinnecock petitioner meets criterion 83.7(b) from 1789 to the present because it meets criterion 83.7(c) during that same period using the form of evidence described in § 83.7(c)(2)(i).

The Shinnecock petitioner meets criterion 83.7(c) from 1789 to the present using the form of evidence described at § 83.7(c)(2)(i), that a petitioner allocates "group resources such as land, residence rights and the like on a consistent basis." 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). The evidence in the record demonstrates that the Indian group located at Shinnecock Neck and its leaders have maintained a Trusteeship system that has allocated land, residence rights, and the like from 1789 to the present. The Shinnecock petitioner also defended its common land base through litigation, and the Shinnecock petitioner has managed the land base for the benefit of the group's

members. The evidence for political influence and authority showing the petitioner meets criterion § 83.7(c)(2) from 1789 to the present also provides sufficient cross-over evidence to demonstrate the Shinnecock petitioner meets criterion § 83.7(b) for community from 1789 to the present as provided at § 83.7(b)(2)(v).

The Shinnecock petitioner meets the requirements of criterion § 83.7(d), even though it does not have a formal, written governing document. A combination of written statements, historical New York State legislation, and group actions define the historical governance of the group. Meeting minutes reflect the petitioner's efforts since 2003 to finalize a constitution. Historically, the petitioner required that any individual awarded an allotment of land on the reservation be a "Blood Shinnecock," that is, a descendant of any of four historical individuals born between 1757 and 1810: Paul Cuffee, James Bunn, Charles Kellis, or David Waukus. Since 1978, the petitioner has developed membership criteria that require a demonstration of descent from a Shinnecock reservation resident as enumerated on the Indian Population schedule of the 1900 or 1910 Federal census of Southampton, Suffolk County, New York.

The Shinnecock petitioner meets the requirements of criterion 83.7(e). The petitioner's membership list of January 8, 2009, includes 1,066 adult and minor members. A total of 1,022 of these members, or 96 percent, demonstrate descent from Indian residents of the 1865 Shinnecock reservation, which the Department determined to be a reliable list of members of the historical Shinnecock Tribe for the purposes of this PF.

The petitioner submitted membership lists in 1998 (1,363 members), 2003 (1,330 members), 2008 (994 members and 275 members "placed in pending file"), and 2009 (1,066 members). No new members have been added since 1998. In January 2009, the petitioner "disenrolled" 201 members when it determined there was insufficient evidence of descent and furnished descent documentation for most of the 169 individuals submitted as "potential" members. Evidence shows that some disenrolled members reside on the reservation and were permitted to vote in the 2009 trustee election, and that some potential members reside on the reservation and were permitted to vote in 2009 and previous trustee elections. The 2009 trustee voter list includes three other individuals not on any type of membership list. For these reasons, the Department's evaluation

was not limited to the 2009 membership list.

Evidence identifies 113 historical individuals associated with the Shinnecock reservation 1792–1799, but the petitioner's members demonstrate descent from individuals appearing on or near the reservation after that time. A few pre-1800 reservation residents continued to serve as Shinnecock trustees and petition signers through the 1820s alongside individuals who most likely include those known to have married Shinnecock women before 1800, but whose identities are not in the record. Genealogical evidence demonstrates that descendants of some of the 1800–1820s reservation residents resided on the reservation in 1865. Additional evidence for the Shinnecock population 1800–1865 may be submitted during the comment period to provide further context.

The Department finds that the historical Tribe is the Shinnecock Indian Tribe of the Shinnecock leasehold in 1789. This historical Indian Tribe continued to evolve and exist up to 1865. The earliest record to state plainly that it is an enumeration of all residents of the Shinnecock reservation is in the 1865 New York State census of Southampton. For purposes of criterion 83.7(e), current members who demonstrate descent from an Indian on the 1865 State census of the Shinnecock reservation are deemed to demonstrate descent from the historical Shinnecock Tribe. The petitioner demonstrates such descent at an acceptable level whether the analysis considers the current members only (1,022 of 1,066, or 96 percent), the current and disenrolled members (1,030 of 1,267, or 81 percent), or the current, disenrolled, and potential members (1,178 of 1,436, or 82 percent). The current, disenrolled, and potential members who lack evidence of descent for the PF are closely related as kin to current members with demonstrated descent from the 1865 reservation residents. The Department anticipates that they should be able to locate the documentation necessary to resolve the few missing generation-to-generation connections.

The Shinnecock petitioner meets the requirements of criterion 83.7(f). Since the petition contained evidence of only four members enrolled in Federally recognized Tribes, OFA researchers did not examine any Tribal rolls for the presence of the petitioner's members. Evidence in the record indicates that the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian Tribes.

The Shinnecock petitioner meets 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.

Based on this preliminary factual determination, the Department proposes to extend Federal acknowledgment under 25 CFR Part 83 to the petitioner known as the Shinnecock Indian Nation.

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. Requests for a copy of the report of evidence should be addressed to the Federal Government as instructed in the **ADDRESSES** section of this notice. It will be posted on the Department's Indian Affairs Web site at <http://www.bia.gov>.

Consistent with 25 CFR 83.10(l), the Department will consult with the petitioner within two weeks of the close of the response period (or the close of the comment period if neither the petitioner nor parties submit comments or Shinnecock waives its response period to submissions) to discuss any issues related to an equitable timeframe for consideration of all written arguments and evidence received during the comment and response periods. The Department will issue a final determination (FD) regarding the petitioner's status within 60 days of the date active consideration begins for the Shinnecock FD.

This PF meets the December 15, 2009, deadline the petitioner and U.S. negotiated in a settlement agreement that the Court approved by order on May 26, 2009, in *Shinnecock v. Salazar*, No. CV-06-5013, 1 (E.D.N.Y.). To the extent that the schedule for processing the Shinnecock petition under the agreement differs from the regulatory timelines provided by the regulations in 25 CFR Part 83, the settlement agreement controls. Under the terms of the settlement agreement, any individual or organization wishing to challenge or support the PF may submit factual or legal arguments and evidence, to rebut or support the evidence relied upon, by the date set out in the **ADDRESSES** section of this notice. However, if the Shinnecock petitioner or an interested party requests additional time in writing, the Department will extend the comment period to the full 180 days that would otherwise be available under the regulations at 83.10(i).

During the comment period, the Shinnecock petitioner and the interested parties may request in writing that the AS-IA hold a formal, on-the-record technical assistance meeting as provided by the acknowledgment regulations at § 83.10(j)(2). To accommodate the shortened comment period, requests for such a meeting on the Shinnecock PF must be received by the Department within 30 calendar days of the publication of this **Federal Register** notice.

The settlement agreement provides the petitioner 30 days to respond to comments on the PF submitted by interested or informed parties. This reduced response period starts automatically at the close of the comment period. The petitioner may request restoration of the full 60-day response period, although it must notify the Department in writing prior to the close of the response period. If parties do not submit comments or if the petitioner submits a written waiver to the interested and informed party submissions, the response period will not apply.

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 personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2009.

**George T. Skibine,**

*Acting Principal Deputy, Assistant Secretary—Indian Affairs.*

[FR Doc. E9-30209 Filed 12-18-09; 8:45 am]

**BILLING CODE 4310-G1-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2009-XXXXX; 81420-1113-0000-F3]

#### **Proposed Programmatic Safe Harbor Agreement for the Sacramento River Conservation Area Forum in Shasta, Tehama, Butte, Glenn, Colusa, Yolo, and Sutter Counties, CA**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; receipt of application.

**SUMMARY:** This notice advises the public that the Sacramento River Conservation Area Forum (Applicant) has applied to