

NOTE: This precedent manual was last updated in 2005. Please query the Federal acknowledgment decision documents on the Indian Affairs website for more recent material. These documents are text-searchable; therefore, updating this manual is no longer necessary.

## ACKNOWLEDGMENT PRECEDENT MANUAL

compiled by

Office of Federal Acknowledgment  
U.S. Department of the Interior

NOTE: This document is a working draft. As a work in progress, it will continually change.

**DRAFT**

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# Acknowledgment Precedent Manual

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## Introduction

This document is a reference work designed to help researchers identify and find relevant acknowledgment precedent. This manual consists of brief excerpts from past findings on petitions for Federal acknowledgment. For a full understanding of how the regulations have been interpreted or how evidence has been dealt with under the regulatory criteria, researchers should consult the complete “Summary Under the Criteria” for the Proposed Finding or Final Determination cited for each excerpt.

Regulations to govern the administrative process by which the executive branch of the Federal Government considers petitions from groups seeking to be acknowledged as Indian tribes with a government-to-government relationship with the United States were originally published in the *Federal Register* on September 5, 1978 (43 F.R. 39361). Revised acknowledgment regulations were published in the *Federal Register* on February 25, 1994 (59 F.R. 9293).

The acknowledgment regulations originally were codified in the *Code of Federal Regulations* as Title 25, Part 54 (25 C.F.R. Part 54). They were reassigned as Part 83 of Title 25 (25 C.F.R. Part 83) of the *Code of Federal Regulations* on March 30, 1982 (47 F.R. 13327).

Groups which seek Federal acknowledgment have the burden of proof of demonstrating that they meet the seven mandatory criteria for acknowledgment set forth in section 83.7 of the regulations. Petitioning groups submit a “letter of intent” to petition followed by a “documented petition.”

The staff of the Office of Federal Acknowledgment of the Office of the Assistant Secretary - Indian Affairs (previously the Branch of Acknowledgment and Research (BAR) of the Bureau of Indian Affairs) evaluates the evidence submitted by the petitioner and third parties, and any additional evidence discovered by its own research. The OFA staff may prepare a report that describes and analyzes that evidence, and has done so in a variety of formats in the past. The OFA prepares a recommended finding on a petition.

The Assistant Secretary - Indian Affairs of the Department of the Interior makes the acknowledgment decisions. The Assistant Secretary first makes a Proposed Finding (PF) on the merits of the petition and publishes a notice of that finding in the *Federal Register*. After a public comment period, the Assistant Secretary makes a Final Determination (FD) on the petition and publishes a notice of that determination in the *Federal Register*.

**Organization:**

The text in this manual is arranged according to the following hierarchy:

**Section (centered)****SUB-SECTION****Header**Sub-header*Topic*

## item

**Abbreviations:**

AS-IA	Assistant Secretary - Indian Affairs
ATR	Anthropological Technical Report
BAR	Branch of Acknowledgment and Research
BFA	Branch of Federal Acknowledgment
BIA	Bureau of Indian Affairs
C.F.R.	<i>Code of Federal Regulations</i>
D&A	“Description and Analysis” report
FD	Final Determination
F.R.	<i>Federal Register</i>
GTR	Genealogical Technical Report
HTR	Historical Technical Report
IBIA	Interior Board of Indian Appeals
OFA	Office of Federal Acknowledgment
p.	page
PF	Proposed Finding
RFD	Reconsidered Final Determination
TR	Technical Report
¶	paragraph

## Table of Acknowledgment Petitions

PETITIONER	#	Ack.	PF	FD	RFD	Sec. Criteria:								PF	FD	IBIA	SOI	RFD	Effective
						83.8	(a)	(b)	(c)	(d)	(e)	(f)	(g)	F.R. Date	F.R. Date	Date	Date	F.R. Date	Date
Grand Traverse Band	3	Yes	Y	Y		NA	+	+	+	+	+	+	+	1979.10.18	1980.03.25	NA	NA	NA	1980.05.27
Jamestown Clallam	19	Yes	Y	Y		NA	+	+	+	+	+	+	+	1980.05.30	1980.12.12	NA	NA	NA	1981.02.10
Tunica-Biloxi	1	Yes	Y	Y		NA	+	+	+	+	+	+	+	1980.12.23	1981.07.27	NA	NA	NA	1981.09.25
Lower Muskogee Creek	8	No	N	N		NA	o	o	o	+	o	+	+	1981.02.10	1981.10.21	NA	NA	NA	1981.12.21
Creeks East of the Mississippi	10	No	NA	N		NA	o	o	o	+	o	+	+	See #8	1982.04.06	NA	NA	NA	1981.12.21
Munsee-Thames Delaware	26	No	N	N		NA	o	o	o	+	o	+	+	1982.03.12	1982.11.04	NA	NA	NA	1983.01.03
Death Valley Shoshone	51	Yes	Y	Y		NA	+	+	+	+	+	+	+	1982.03.12	1982.11.04	NA	NA	NA	1983.01.03
Narragansett	59	Yes	Y	Y		NA	+	+	+	+	+	+	+	1982.08.13	1983.02.10	NA	NA	NA	1983.04.11
Poarch Band of Creeks	13	Yes	Y	Y		NA	+	+	+	+	+	+	+	1984.01.09	1984.06.11	NA	NA	NA	1984.08.10
Principal Creek	7	No	N	N		NA	o	o	o	+	+	+	+	1984.06.20	1985.04.11	NA	NA	NA	1985.06.10
Kaweah	70a	No	N	N		NA	o	o	o	+	o	o	+	1984.07.16	1985.04.11	NA	NA	NA	1985.06.10
United Lumbee	70	No	N	N		NA	o	o	o	+	o	o	+	1984.04.12	1985.05.02	NA	NA	NA	1985.07.02
Southeastern Cherokee	29	No	N	N		NA	o	o	o	+	o	+	+	1985.04.01	1985.09.26	NA	NA	NA	1985.11.25
Northwest Cherokee Band	29a	No	N	N		NA	o	o	o	+	o	+	+	1985.04.01	1985.09.26	NA	NA	NA	1985.11.25
Red Clay Inter-Tribal Band	29b	No	N	N		NA	o	o	o	+	o	+	+	1985.04.01	1985.09.26	NA	NA	NA	1985.11.25
Tchinouk	52	No	N	N		NA	o	o	o	+	+	+	o	1985.06.12	1986.01.16	NA	NA	NA	1986.03.17
Wampanoag of Gay Head	76	Yes	N	Y		NA	+	+	+	+	+	+	+	1986.06.30	1987.02.10	NA	NA	NA	1987.04.11
MaChis Creek	87	No	N	N		NA	o	o	o	+	o	+	+	1987.09.10	1988.06.23	NA	NA	NA	1988.08.22
San Juan Southern Paiute	71	Yes	Y	Y		NA	+	+	+	+	+	+	+	1987.08.11	1989.12.15	NA	NA	NA	1990.03.28
Miami of Indiana	66	No	N	N		NA	+	o	o	+	+	+	+	1990.07.19	1992.06.18	NA	NA	NA	1992.08.17
Mohegan	38	Yes	N	Y		NA	+	+	+	+	+	+	+	1989.11.09	1994.03.15	NA	NA	NA	1994.05.14
Jena Band of Choctaw	45	Yes	Y	Y		no	+	+	+	+	+	+	+	1994.10.31	1995.05.31	none	none	none	1995.08.29
Huron Potawatomi	9	Yes	Y	Y		yes	+	+	+	+	+	+	+	1995.05.31	1995.12.21	none	none	none	1996.03.17
Samish	14	Yes	N	Y		NA	+	+	+	+	+	+	+	1982.11.04	1996.04.09 [1]	NA	NA	NA	1996.04.26
Ramapough	58	No	N	N	N	no	+	o	o	+	o	+	+	1993.12.08	1996.02.06	1997.07.18	1997.09.29	1998.01.07	1998.01.07
Match-e-be-nash-she-wish	9a	Yes	Y	Y		yes	+	+	+	+	+	+	+	1997.07.16	1998.10.23	1999.05.21	1999.08.23	NA	1999.08.23
Snoqualmie	20	Yes	Y	Y		yes	+	+	+	+	+	+	+	1993.05.06	1997.08.29	1999.07.01	1999.10.06	NA	1999.10.06
MOWA Band of Choctaw	86	No	N	N		nd	nd	nd	nd	nd	o	nd	nd	1995.01.05	1997.12.24	1999.08.04	1999.11.26	NA	1999.11.26
Yuchi	121	No	N	N		nd	nd	nd	nd	nd	nd	o	nd	1995.10.24	1999.12.22	none	none	none	2000.03.21
Cowlitz	16	Yes	Y	Y	Y	yes	+	+	+	+	+	+	+	1997.02.27	2000.02.18	2001.05.29	2001.09.04	2002.01.04	2002.01.04
Duwamish	25	No	N	N		NA	o	o	o	+	+	+	+	1996.06.28	2001.10.01	2002.01.04	2002.05.08	NA	2002.05.08
Chinook	57	No	N	Y	N	yes	o	o	o	+	+	+	+	1997.08.22	2001.01.09	2001.08.01	2001.11.06	2002.07.12	2002.07.12
Muwekma	111	No	N	N		yes	o	o	o	+	+	+	+	2001.08.03	2002.09.17	none	none	none	2002.12.16
Snohomish	21	No	N	N		no	o	o	o	+	o	+	+	1983.04.11	2003.12.10	none	none	none	2004.03.09
Golden Hill Paugussett	81	No	N	N		no	o	o	o	+	o	+	+	2003.01.29	2004.06.21 [2]	2004.10.18	2005.03.18	NA	2005.03.18
Eastern Pequot	35	No	Y	Y	N	no	+	o	o	+	+	+	+	2000.03.31	2002.07.01 (v)	2005.05.12	NA	2005.10.14	2005.10.14
Paucatuck Eastern Pequot	113	No	Y	Y	N	no	+	o	o	+	+	+	+	2000.03.31	2002.07.01 (v)	2005.05.12	NA	2005.10.14	2005.10.14
Schaghticoke	79	No	N	Y	N	no	+	o	o	+	+	+	+	2002.12.11	2004.02.05 (v)	2005.05.12	NA	2005.10.14	2005.10.14
Burt Lake Band	101	No	N	N		yes	+	o	o	+	o	+	+	2004.04.15	2006.10.02	none	none	none	2007.01.03
Mashpee	15	Yes	Y	Y		no	+	+	+	+	+	+	+	2006.04.06	2007.02.22	none	none	none	2007.05.23
Abenaki	68	No	N	N		no	o	o	o	+	o	+	+	2005.11.17	2007.07.02	2007.10.10	none	none	2007.10.10
Nipmuc (Hassanamisco)	69a	No	N	N		no	o	o	o	+	o	+	+	2001.10.01	2004.06.25	2007.09.04	2008.01.28	none	2008.01.28
Nipmuck (Webster/Dudley)	69b	No	N	N		no	o	o	o	+	+	+	+	2001.10.01	2004.06.25	2007.09.04	2008.01.28	none	2008.01.28

KEY:

PF: Proposed Finding

FD: Final Determination

RFD: Reconsidered FD

(a): criterion (a), etc.  
83.8: prior Federal ack.  
F.R.: Federal Register

+: met the criterion  
o: failed the criterion.  
nd: not decided



PETITIONER	#	Ack.	PF	FD	RFD	Sec. 83.8	Criteria:	(a)	(b)	(c)	(d)	(e)	(f)	(g)	PF F.R. Date	FD F.R. Date	IBIA Date	SOI Date	RFD F.R. Date	Effective Date
Steilacoom	11	No	N	N		no	o	o	o	+	o	+	+		2000.02.07	2008.03.19	none	none	none	2008.06.17
Shinnecock	4	Yes	Y	Y		no	+	+	+	+	+	+	+		2009.12.21	2010.06.18	2010.10.01	none	none	2010.10.01
Juaneno Band	84b	No	N	N		no	o	o	o	+	o	+	+		2007.12.03	2011.03.21	none	none	none	2011.06.20
Central Band of Cherokee	227	No	N	N		no	nd	nd	nd	nd	o	nd	nd		2010.08.18	2012.03.30	2012.07.24	none	none	2012.07.24
Brothertown	67	No	N	N		yes	nd	nd	nd	nd	nd	nd	o		2009.08.24	2012.09.12	none	none	none	2012.12.11
Little Shell Band (Montana)	31	No	Y	N		no	o	o	o	+	+	+	+		2000.07.21	2009.11.03	pending			
Juaneno Band, Acjachemen	84a	No	N	N		no	o	o	o	+	o	+	+		2007.12.03	2011.03.21	pending			
Choctaw Nation of Florida	288	No	N	N		no	nd	nd	nd	nd	o	nd	nd		2010.07.12	2011.04.27	pending			
Houma	56		N			no	+	o	o	+	o	+	+		1994.12.22					
BCCM	56a		N			no	+	o	o	o	o	+	+		2008.05.30					
PACIT	56b		N			no	+	o	o	+	o	+	+		2008.05.30					
Tolowa	85		N			no	nd	o	nd	nd	nd	nd	nd		2010.11.24					
Piro/Manso/Tiwa	5														pending					
Meherrin	119b														pending					
Southern Sierra Miwuk	82														pending					
Muscogee (Florida)	32														pending					
Pamunkey Indian Tribe	323														pending					

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## Table Notes

- [1] The Samish petitioner originally was denied acknowledgment for failing to meet criteria (a), (b), (c), and (e), while meeting criteria (d), (f), and (g). The first FD was published in the F.R. on 2/5/1987. The first FD was vacated by a Federal court in *Greene v. U.S.* (1992). An administrative law judge issued a recommended decision dated 8/31/1995.
- [2] The Golden Hill Paugussett petitioner originally was denied acknowledgment on an expedited basis (§83.10(e)) for failing to meet criterion (e). The PF was published in the F.R. on 6/8/1995; the FD was published in the F.R. on 9/26/1996; the IBIA issued its decision on 9/8/1998; it was referred by the Secretary of the Interior on 12/22/1998; and the acting Assistant Secretary vacated the FD and ordered a reconsideration on all seven criteria by a letter dated 5/24/1999.
- [3] The two Pequot petitioners were acknowledged together as one entity in the vacated FD.
- [4] The Schaghticoke petitioner was acknowledged in the vacated FD.
- [5] The BCCM and PACIT petitioners received an “amended proposed finding” of the earlier UHN (#56) proposed finding.
- [a] The date of the finding as given in the *Federal Register* notice.
- [b] The *Federal Register* notice gave no date of the finding.
- [c] The *Federal Register* notice gave no date of the finding; this is the date of the staff memorandum.
- [d] The date of the reconsideration; no *Federal Register* notice of this reconsideration was published.
- (v) A vacated decision.

## **Table of Acknowledgment Findings**

Case	Date	F.R. Date	PETITIONER	#	Dec.	Ack.	83.8	(a)	(b)	(c)	(d)	(e)	(f)	(g)	F.R.
1	1979.10.05 [a]	1979.10.18	Grand Traverse Band	3	PF	Y	NA	+	+	+	+	+	+	+	44:60171
2	1980.03.25 [b]	1980.03.25	Grand Traverse Band	3	FD	Y	NA	+	+	+	+	+	+	+	45:19321
3	1980.05.16 [a]	1980.05.30	Jamestown Clallam	19	PF	Y	NA	+	+	+	+	+	+	+	45:36525
4	1980.12.01 [a]	1980.12.12	Jamestown Clallam	19	FD	Y	NA	+	+	+	+	+	+	+	45:81890
5	1980.12.05 [a]	1980.12.23	Tunica-Biloxi	1	PF	Y	NA	+	+	+	+	+	+	+	45:84872
6	1981.01.29 [c]	1981.02.10	Lower Muskogee Creek	8	PF	N	NA	o	o	o	+	o	+	+	46:11718
7	1981.07.23 [a]	1981.07.27	Tunica-Biloxi	1	FD	Y	NA	+	+	+	+	+	+	+	46:38411
8	1981.10.08 [a]	1981.10.21	Lower Muskogee Creek	8	FD	N	NA	o	o	o	+	o	+	+	46:51652
9	1982.02.25 [a]	1982.03.12	Munsee-Thames Delaware	26	PF	N	NA	o	o	o	+	o	+	+	47:10912
10	1982.03.02 [a]	1982.03.12	Death Valley Shoshone	51	PF	Y	NA	+	+	+	+	+	+	+	47:10912
11	1982.03.23 [a]	1982.04.06	Creeks East of the Mississippi	10	FD	N	NA	o	o	o	+	o	+	+	47:14783
12	1982.08.03 [a]	1982.08.13	Narragansett	59	PF	Y	NA	+	+	+	+	+	+	+	47:35347
13	1982.09.22 [a]	1982.11.04	Munsee-Thames Delaware	26	FD	N	NA	o	o	o	+	o	+	+	47:50109
14	1982.10.06 [a]	1982.11.04	Death Valley Shoshone	51	FD	Y	NA	+	+	+	+	+	+	+	47:50109
15	1982.10.29 [a]	1982.11.04	Samish	14	PF	N	NA	+	o	o	+	o	+	+	47:50110
16	1983.02.02 [a]	1983.02.10	Narragansett	59	FD	Y	NA	+	+	+	+	+	+	+	48:6177
17	1983.03.30 [a]	1983.04.11	Snohomish	21	PF	N	NA	o	o	o	+	o	+	+	48:15540
18	1983.12.30 [a]	1984.01.09	Poarch Band of Creeks	13	PF	Y	NA	+	+	+	+	+	+	+	49:1141
19	1984.03.28 [c]	1984.04.12	United Lumbee	70	PF	N	NA	o	o	o	+	o	o	+	49:14590
20	1984.06.04 [a]	1984.06.11	Poarch Band of Creeks	13	FD	Y	NA	+	+	+	+	+	+	+	49:24083
21	1984.06.12 [a]	1984.06.20	Principal Creek	7	PF	N	NA	o	o	o	+	+	+	+	49:25311
22	1984.06.13 [c]	1984.07.16	Kaweah	70a	PF	N	NA	o	o	o	+	o	o	+	49:28770
23	1985.03.26 [a]	1985.04.01	Southeastern Cherokee	29	PF	N	NA	o	o	o	+	o	+	+	50:12872
24	1985.03.26 [a]	1985.04.01	Northwest Cherokee Band	29a	PF	N	NA	o	o	o	+	o	+	+	50:12872
25	1985.03.26 [a]	1985.04.01	Red Clay Inter-Tribal Band	29b	PF	N	NA	o	o	o	+	o	+	+	50:12872
26	1985.04.01 [a]	1985.04.11	Kaweah	70a	FD	N	NA	o	o	o	+	o	o	+	50:14302
27	1985.04.11 [b]	1985.04.11	Principal Creek	7	FD	N	NA	o	o	o	+	+	+	+	50:14302
28	1985.04.19 [a]	1985.05.02	United Lumbee	70	FD	N	NA	o	o	o	+	o	o	+	50:18746
29	1985.05.30	1985.06.12	Tchinouk	52	PF	N	NA	o	o	o	+	+	+	o	50:24709
30	1985.09.16 [a]	1985.09.26	Southeastern Cherokee	29	FD	N	NA	o	o	o	+	o	+	+	50:39047
31	1985.09.16 [a]	1985.09.26	Northwest Cherokee Band	29a	FD	N	NA	o	o	o	+	o	+	+	50:39047
32	1985.09.16 [a]	1985.09.26	Red Clay Inter-Tribal Band	29b	FD	N	NA	o	o	o	+	o	+	+	50:39047
33	1986.01.06 [a]	1986.01.16	Tchinouk	52	FD	N	NA	o	o	o	+	+	+	o	51:2437
34	1986.06.25 [c]	1986.06.30	Wampanoag of Gay Head	76	PF	N	NA	+	o	o	+	+	+	+	51:23604
35	1987.01.30	1987.02.05	Samish	14	FD(v)	N	NA	+	o	o	+	o	+	+	52:3709
36	1987.01.27 [c]	1987.02.10	Wampanoag of Gay Head	76	FD	Y	NA	+	+	+	+	+	+	+	52:4193
37	1987.08.05	1987.08.11	San Juan Southern Paiute	71	PF	Y	NA	+	+	+	+	+	+	+	52:29735
38	1987.08.27	1987.09.10	MaChis Creek	87	PF	N	NA	o	o	o	+	o	+	+	52:34319
39	1988.06.13 [a]	1988.06.23	MaChis Creek	87	FD	N	NA	o	o	o	+	o	+	+	53:23694

## KEY:

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o: failed the criterion.

nd: not decided .

Case	Date	F.R. Date	PETITIONER	#	Dec.	Ack.	83.8	(a)	(b)	(c)	(d)	(e)	(f)	(g)	F.R.
40	1989.10.30	1989.11.09	Mohegan	38	PF	N	NA	+	o	o	+	+	+	+	54:47136
41	1989.12.11 [a]	1989.12.15	San Juan Southern Paiute	71	FD	Y	NA	+	+	+	+	+	+	+	54:51502
42	1990.07.12	1990.07.19	Miami of Indiana	66	PF	N	NA	+	o	o	+	+	+	+	55:29423
43	1992.06.09	1992.06.18	Miami of Indiana	66	FD	N	NA	+	o	o	+	+	+	+	57:27312
44	1993.04.26	1993.05.06	Snoqualmie	20	PF	Y	NA	+	+	+	+	+	+	+	58:27162
45	1993.12.02	1993.12.08	Ramapough	58	PF	N	NA	o	o	o	+	o	+	+	58:64662
46	1994.03.07	1994.03.15	Mohegan	38	FD	Y	NA	+	+	+	+	+	+	+	59:12140
47	1994.09.27	1994.10.31	Jena Band of Choctaw	45	PF	Y	no	+	+	+	+	+	+	+	59:54496
48	1994.12.13	1994.12.22	Houma	56	PF	N	no	+	o	o	+	o	+	+	59:66118
49	1994.12.16	1995.01.05	MOWA Band of Choctaw	86	PF	N	nd	nd	nd	nd	nd	o	nd	nd	60:1874
50	1995.05.10	1995.05.31	Huron Potawatomi	9	PF	Y	yes	+	+	+	+	+	+	+	60:28426
51	1995.05.18 [a]	1995.05.31	Jena Band of Choctaw	45	FD	Y	no	+	+	+	+	+	+	+	60:28480
52	1995.05.24 [a]	1995.06.08	Golden Hill Paugussett (1st)	81	PF	N	nd	nd	nd	nd	nd	o	nd	nd	60:30430
53	1995.07.11	1995.10.24	Yuchi	121	PF	N	nd	nd	nd	nd	nd	nd	o	nd	60:54506
54	1995.12.21 [b]	1995.12.21	Huron Potawatomi	9	FD	Y	yes	+	+	+	+	+	+	+	60:66315
55	1996.01.18	1996.02.06	Ramapough	58	FD	N	no	+	o	o	+	o	+	+	61:4476
56	1995.11.08	1996.04.09	Samish	14	FD [1]	Y	NA	+	+	+	+	+	+	+	61:15825
57	1996.06.18	1996.06.28	Duwamish	25	PF	N	NA	o	o	o	+	+	+	+	61:33762
58	1996.09.17	1996.09.26	Golden Hill Paugussett (1st)	81	FD(v)	N	nd	nd	nd	nd	nd	o	nd	nd	61:50501
59	1997.02.12	1997.02.27	Cowlitz	16	PF	Y	yes	+	+	+	+	+	+	+	62:8983
60	1997.06.23	1997.07.16	Match-e-be-nash-she-wish	9a	PF	Y	yes	+	+	+	+	+	+	+	62:38113
61	1997.08.11	1997.08.22	Chinook	57	PF	N	NA	o	o	o	+	+	+	+	62:44714
62	1997.08.22	1997.08.29	Snoqualmie	20	FD	Y	yes	+	+	+	+	+	+	+	62:45864
63	1997.12.16	1997.12.24	MOWA Band of Choctaw	86	FD	N	nd	nd	nd	nd	nd	o	nd	nd	62:67398
64	1997.11.07	1998.01.07	Ramapough	58	RFD	N	no	NA	o	NA	NA	NA	NA	NA	63:888
65	1998.10.14	1998.10.23	Match-e-be-nash-she-wish	9a	FD	Y	yes	+	+	+	+	+	+	+	63:56936
66	1999.05.24	1999.05.24 [c]	Golden Hill Paugussett (1st)	81	RFD	NA	nd	nd	nd	nd	nd	nd	nd	nd	memo
67	1999.12.15	1999.12.22	Yuchi	121	FD	N	nd	nd	nd	nd	nd	nd	o	nd	64:71814
68	2000.01.14	2000.02.07	Steilacoom	11	PF	N	no	o	o	o	+	o	+	+	65:5880
69	2000.02.14	2000.02.18	Cowlitz	16	FD	Y	yes	+	+	+	+	+	+	+	65:8436
70	2000.03.24	2000.03.31	Paucatuck Eastern Pequot	113	PF	Y	no	+	+	+	+	+	+	+	65:17294
71	2000.03.24	2000.03.31	Eastern Pequot	35	PF	Y	no	+	+	+	+	+	+	+	65:17299
72	2000.07.14	2000.07.21	Little Shell Band (Montana)	31	PF	Y	no	+	+	+	+	+	+	+	65:45394
73	2001.01.03	2001.01.09	Chinook	57	FD	Y	yes	+	+	+	+	+	+	+	66:1690
74	2001.07.30	2001.08.03	Muwekma	11	PF	N	yes	o	o	o	+	+	+	+	66:40712
75	2001.09.25	2001.10.01	Duwamish	25	FD	N	NA	o	o	o	+	+	+	+	66:49966
76	2001.09.25	2001.10.01	Nipmuc (Hassanamisco)	69a	PF	N	no	o	o	o	+	o	+	+	66:49967
77	2001.09.25	2001.10.01	Nipmuck (Webster/Dudley)	69b	PF	N	no	o	o	o	+	+	+	+	66:49970
78	2001.12.31	2002.01.04	Cowlitz	16	RFD	Y	yes	+	+	+	+	+	+	+	67:607

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83.8: prior Federal ack.

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Case	Date	F.R. Date	PETITIONER	#	Dec.	Ack.	83.8	(a)	(b)	(c)	(d)	(e)	(f)	(g)	F.R.
79	2002.06.24	2002.07.01	Eastern Pequot	35	FD(v)	Y [3]	no	+	+	+	+	+	+	+	67:44234
80	2002.06.24	2002.07.01	Paucatuck Eastern Pequot	113	FD(v)	Y [3]	no	+	+	+	+	+	+	+	67:44234
81	2002.07.05	2002.07.12	Chinook	57	RFD	N	yes	o	o	o	+	+	+	+	67:46204
82	2002.09.09	2002.09.17	Muwekma	111	FD	N	yes	o	o	o	+	+	+	+	67:58631
83	2002.12.05	2002.12.11	Schaghticoke	79	PF	N	no	+	o	o	+	+	+	+	67:76184
84	2003.01.21	2003.01.29	Golden Hill Paugussett (2nd)	81	PF	N	no	+	o	o	+	o	+	+	68:4507
85	2003.12.01	2003.12.10	Snohomish	21	FD	N	no	o	o	o	+	o	+	+	68:68942
86	2004.01.29	2004.02.05	Schaghticoke	79	FD(v)	Y [4]	no	+	+	+	+	+	+	+	69:5570
87	2004.03.25	2004.04.15	Burt Lake Band	101	PF	N	no	o	o	o	+	o	+	+	69:20027
88	2004.06.14	2004.06.21	Golden Hill Paugussett (2nd)	81	FD [2]	N	no	o	o	o	+	o	+	+	69:34388
89	2004.06.18	2004.06.25	Nipmuck (Webster/Dudley)	69b	FD	N	no	o	o	o	+	+	+	+	69:35664
90	2004.06.18	2004.06.25	Nipmuc (Hassanamisco)	69a	FD	N	no	o	o	o	+	o	+	+	69:35667
91	2005.10.11	2005.10.14	Eastern Pequot	35	RFD	N	no	+	o	o	+	+	+	+	70:60099
92	2005.10.11	2005.10.14	Paucatuck Eastern Pequot	113	RFD	N	no	+	o	o	+	+	+	+	70:60099
93	2005.10.11	2005.10.14	Schaghticoke	79	RFD	N	no	+	o	o	+	+	+	+	70:60101
94	2005.11.09	2005.11.17	Abenaki	68	PF	N	no	o	o	o	+	o	+	+	70:69776
95	2006.03.31	2006.04.06	Mashpee	15	PF	Y	no	+	+	+	+	+	+	+	71:17488
96	2006.09.21	2006.10.02	Burt Lake Band	101	FD	N	yes	+	o	o	+	o	+	+	71:57995
97	2007.02.15	2007.02.22	Mashpee	15	FD	Y	no	+	+	+	+	+	+	+	72:8007
98	2007.06.22	2007.07.02	Abenaki	68	FD	N	no	o	o	o	+	o	+	+	72:36022
99	2007.11.26	2007.12.03	Juaneno Band, Acjachemen	84a	PF	N	no	o	o	o	+	o	+	+	72:67948
100	2007.11.26	2007.12.03	Juaneno Band	84b	PF	N	no	o	o	o	+	o	+	+	72:67951
101	2008.03.12	2008.03.19	Steilacoom	11	FD	N	no	o	o	o	+	o	+	+	73:14833
102	2008.05.22	2008.05.30	BCCM	56a	PF [5]	N	no	+	o	o	o	o	+	+	73:31140
103	2008.05.22	2008.05.30	PACIT	56b	PF [5]	N	no	+	o	o	o	+	o	+	73:31142
104	2009.08.17	2009.08.24	Brothertown	67	PF	N	yes	o	o	o	+	o	+	o	74:42683
105	2009.10.27	2009.11.03	Little Shell Band (Montana)	31	FD	N	no	o	o	o	+	+	+	+	74:56861
106	2009.12.14	2009.12.21	Shinnecock	4	PF	Y	no	+	+	+	+	+	+	+	74:67895
107	2010.06.13	2010.06.18	Shinnecock	4	FD	Y	no	+	+	+	+	+	+	+	75:34760
108	2010.07.02	2010.07.12	Choctaw Nation of Florida	288	PF	N	no	nd	nd	nd	nd	o	nd	nd	75:39703
109	2010.08.06	2010.08.18	Central Band of Cherokee	227	PF	N	no	nd	nd	nd	nd	o	nd	nd	75:51105
110	2010.11.18	2010.11.24	Tolowa	85	PF	N	no	nd	o	nd	nd	nd	nd	nd	75:71732
111	2011.03.15	2011.03.21	Juaneno Band, Acjachemen	84a	FD	N	no	o	o	o	+	o	+	+	76:15337
112	2011.03.15	2011.03.21	Juaneno Band	84b	FD	N	no	o	o	o	+	o	+	+	76:15335
113	2011.04.21	2011.04.27	Choctaw Nation of Florida	288	FD	N	no	nd	nd	nd	nd	o	nd	nd	76:23621
114	2012.03.23	2012.03.30	Central Band of Cherokee	227	FD	N	no	nd	nd	nd	nd	o	nd	nd	77:19315
115	2012.09.04	2012.09.12	Brothertown	67	FD	N	yes	nd	nd	nd	nd	nd	nd	o	77:56230

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## Criterion 83.7(a)

### The text of criterion 83.7(a):

“(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group’s character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group’s Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members.

(1) Identification as an Indian entity by Federal authorities. (2) Relationships with State governments based on identification of the group as Indian. (3) Dealings with a county, parish, or other local government in a relationship based on the group’s Indian identity. (4) Identification as an Indian entity by anthropologists, historians, and/or other scholars. (5) Identification as an Indian entity in newspapers and books. (6) Identification as an Indian entity in relationships with Indian tribes or with national, regional, or state Indian organizations.” (59 F.R. 9293)

### The text of section 83.8(d):

“To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that:

(1) The group meets the requirements of the criterion in § 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity. . . .

(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d)(1) and (3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in § 83.7(a) through (c) from last Federal acknowledgment until the present.” (59 F.R. 9293)

### The text of criterion (a) from 1978 to 1994:

“(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as ‘American Indian,’ or ‘aboriginal.’ A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of tribal activity during various years. Evidence to be relied upon in determining the group’s substantially continuous Indian identity shall include one or more of the following: (1) Repeated identification by Federal authorities; (2)

Longstanding relationships with State governments based on identification of the group as Indian; (3) Repeated dealings with a county, parish, or other local government in a relationship based on the group's Indian identity; (4) Identification as an Indian entity by records in courthouses, churches, or schools; (5) Identification as an Indian entity by anthropologists, historians, or other scholars; (6) Repeated identification as an Indian entity in newspapers and books; (7) Repeated identification and dealings as an Indian entity with recognized Indian tribes or national Indian organizations.” (43 F.R. 39361)

### **Compilation of precedents:**

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- Provide examples of evidence cited as capable of meeting the criterion in part;
- Provide examples of evidence cited as not meeting the criterion.

### **CRITERION:**

#### **Identified as “an American Indian entity”:**

##### Identification as an “entity”:

- “References to individual Indian descendants or Indian families or an Indian cemetery, or accounts of the military service of individual Indians do not meet the requirement that identifications must have been of ‘an American Indian entity’.” (Burt Lake Band PF 2004, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The demonstration needed to meet criterion (a) . . . is not that individual Indian descendants were known to be alive at a certain time, but that outsiders who had contact with them described them as an Indian group or entity.” (Muwekma FD 2002, 15)



- “The identification of individuals as Indians is not sufficient to meet the criterion, which requires the identification of an Indian entity.” (Muwekma FD 2002, 29)
- “Letters and reports . . . referred to ‘Ohlone descendants,’ an Indian ‘family,’ or to Ohlone or ‘Muwekma families,’ but not to a larger Indian entity.” (Muwekma FD 2002, 42)
- “The revised [1994] regulations . . . clarified that the identifications must be of an ‘Indian entity’.” (Chinook RFD 2002, 64)
- Some of the petitioner’s exhibits “referred to individuals, rather than to a group as required by the regulations. . . . The petitioner has provided . . . evidence that some individuals were identified as Chinook descendants. However, those identifications of individuals were not identifications of a Chinook Indian entity.” (Chinook RFD 2002, 65)
- “All of the examples since 1985 listed above have been accepted as evidence of the external identification of the petitioning group as an Indian entity. . . . All of these identifications were of a collective entity, rather than of individual descendants. All were identifications of an entity which was described as existing in the present, not in the past. All were made by observers who were not affiliated with the petitioning group. These types of identifications meet the requirements of the criterion.” (Muwekma PF 2001, 17-18)
- “This proposed finding also accepts as a reasonable likelihood that references to the petitioner’s individual ancestors as Indians and references to portions of their ancestors as residents of Indian settlements before the 1930’s are consistent with the identifications of these and other ancestors of the petitioner as Indian groups after 1935.” [p.6] ¶ “The more flexible interpretation of the available documentation, including limited evidence that the petitioner’s ancestors were identified between 1900 and 1935 by external observers as Indians, permits a proposed finding that the petitioner meets criterion (a). In order to have this proposed finding affirmed in the final determination, it would be in the petitioner’s interest to provide during the comment period further evidence that external observers identified it as an Indian entity at various times between 1900 and 1935.” [p.10] (Little Shell PF 2000, 6, 10).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The regulations require only an external identification of the petitioner as a collective Indian entity, and identifications of the petitioner and its organization as a ‘group’ meets the requirement.” (Little Shell PF 2000, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- External identifications “of the component Cowlitz settlements which were part of the Cowlitz Tribal Organization and its successors, were frequent. However, . . . few of these external observers referred to the whole of which the components were a part.” [p.13] ¶ “. . . the evidence pertaining to criterion 83.7(a) must be evaluated in the light of the impact of prior Federal policies as they affected the petitioner’s predecessor bands. . . . evidence pertaining to the individual settlements has been judged as contributing, in the aggregate, to the identification of the Cowlitz as an ‘American Indian entity’ under criterion 83.7(a).” [p.15] (Cowlitz PF 1997, 13, 15). *Note: See also the comments on the “paucity of descriptions of the full entity” and consideration of “historical context” (PF 1997, 19).*
- “Criterion (a) requires identification of an Indian entity, not just Indian individuals.” (Duwamish PF 1996, 4)
- “We do not, however, find the ALJ [administrative law judge]’s finding [number] 130 to be relevant to criterion (a) because it deals with the identification of individuals, while criterion (a) requires external identification of the *group’s* Indian identity.” (Samish FD 1995, 4)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

*See: Grand Traverse Band PF 1979, 4; Jamestown Clallam PF 1980, 2; Tunica-Biloxi PF 1980, 2; Lower Muskogee Creek FD 1981, 5; Death Valley Shoshone PF 1982, 3; Poarch Band of Creeks PF 1983, 2-3; Principal Creek PF 1984, 2; Tchinouk PF 1985, 7-8; Wampanoag of Gay Head PF 1986, 1-2; MaChis Creek PF 1987, 2. See also: Jena Choctaw PF 1994, 2; Houma PF 1994, 2-3; Huron Potawatomi PF 1995, 5-6.*

Identification as an “Indian” entity:

- “Identifications of the petitioner or its organization as a ‘Métis’ entity would be acceptable evidence to meet this criterion, because evidence of a group as consisting of people of ‘mixed-blood’ Indian ancestry would be an identification of an Indian entity.” (Little Shell PF 2000, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The sources “did consistently identify the RMP [Ramapo Mountain People] as a mixed tri-racial isolate group to which tradition attributed a certain amount of American Indian ancestry.” [p.18] ¶ Identification “of the existence of a distinct tri-racial entity which is generally believed to have included an Indian component in its originating population shall be regarded as minimal evidence for identification of the existence of an American Indian entity. . . .” [p.20] (Ramapough FD 1996, 18, 20)

- The evidence “indicates that outsiders had a perception that the people living along parts of Bayou Terrebonne, and sharing particular surnames, were a distinguishable American Indian entity.” (Houma PF 1994, 3). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Identification as a “tribe” or identification by a specific group name:

- The petitioner says that when it “has employed the term ‘Muwekma’ to refer to its members or ancestors at various historical times, it has meant that term to be the equivalent of all these other identifiers [i.e., historical names].” ¶ “The problem . . . is not that the *petitioner* has adopted this name recently, but that the petition implied that *external observers* had used the term ‘Muwekma’ historically, when they had not. The Proposed Finding merely clarified that factual issue by noting that ‘Muwekma’ was not in historical use as a group name and had not been continuously used by outside observers. The Proposed Finding did not make the use of the name ‘Muwekma,’ or ‘Verona Band,’ a requirement for an acceptable historical identification. Acknowledgment precedent is clear on the point that historical identifications of the petitioning group do not have to use the petitioner’s current or preferred name. They do, however, have to be identifications of the petitioning group or a predecessor entity.” (Muwekma FD 2002, 10; see also, 42)
- “The requirements of this criterion are satisfied since 1985 by evidence of the identification of the petitioner as a specific Indian group, even though other Ohlone groups also were identified during those years.” (Muwekma PF 2001, 18)
- The criterion “does not require the identification, in this case, to have been as ‘Little Shell’ or as ‘Chippewa’.” (Little Shell PF 2000, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- A third party “disputed the evidence used to demonstrate Cowlitz met criterion 83.7(a) in the proposed finding. However, they confused the concepts of ‘recognition’ and ‘identification.’ ‘Recognition’ refers to an actual government-to-government relationship between an Indian tribe and the Federal Government, and ‘identification,’ as required under 83.7(a)[,] refers to naming the petitioner as an Indian entity. . . .” (Cowlitz FD 2000, 8-9)
- “Identification as a ‘tribe’ is not required under criterion 83.7(a), which specifies only identification as an ‘entity.’” ¶ “The [petitioner’s historical] entity was a community of long standing, whether called the Bradley Indians, the Allegan Indians, or by other names. . . .” (Match-e-be-nash-she-wish Band FD 1998, 8)
- A third party “asserted that the STO [petitioner] had not met the requirements . . . for criterion 83.7(a) because it was not continuously identified as a tribal entity. This is

an incorrect interpretation of this criterion, which serves to establish identification as an Indian group, but does not determine the tribal character of that group.” (Snoqualmie FD 1997, 4)

- Criterion (a) “does not, however, require identification of the [Indian] entity as being a tribe.” (Duwamish PF 1996, 4)
- “Criterion 83.7(a) serves to establish the identification of the petitioner *as an American Indian entity* . . . but does not determine the tribal character of the group. . . . Criterion 83.7(a) does not require identification as a specific tribe. . . .” (Houma PF 1994, 2). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Historical identification by the specific tribal name currently used by a petitioner is not required by the regulations.” (San Juan Paiute FD 1989, 5)

Identification of the petitioner:

- “Vague references to Michigan Indians, North Michigan Indians, and Indians from Harbor Springs or Petoskey or near Cross Village, or to a proposed Indian colony at Cross Village do not meet the requirement that identifications must have been of the petitioning group.” (Burt Lake Band PF 2004, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The oral history evidence that participants in activities involving the [Ohlone Indian] cemetery and the AIHS [American Indian Historical Society] were members and ancestors of members of the petitioning group establishes a reasonable likelihood that the AIHS’s identification of an ‘Ohlone Band’ in 1965, the ‘people of the Ohlone Tribe’ in 1966, and a ‘Native group’ in 1971 were identifications of the petitioning group.” (Muwekma FD 2002, 31; see also, 34-35, 41)
- “The mere use of the word ‘Ohlone’ in any context cannot be taken as a reference to the petitioner.” (Muwekma PF 2001, 15)
- Some of the evidence submitted by the petitioner has “not been accepted as evidence of the external identification of the petitioning group as an Indian entity. Examples include . . . references to presentations by the petitioner’s chairwoman when she was identified only as an individual activist.” (Muwekma PF 2001, 18)
- “Since 1949, the petitioner has been consistently identified by various external sources as the Little Shell band or as the Landless Indians of Montana. In contrast to earlier general references to ‘homeless’ or ‘landless’ Indians in Montana, after 1949 observers used ‘Landless Indians of Montana’ as a proper noun and the formal name of a specific organization. In these instances, external observers made an explicit

identification of the petitioner's organization as an Indian entity." (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Identification of an entity different from the petitioner:

- “. . . the composition of the 1926 Snohomish claims organization . . . was markedly different from the 1950 Snohomish organization. . . . Therefore, identifications in the 1920's, and in the 1930's, of the 1926 Snohomish claims organization do not qualify as an identification of an STI [petitioner] entity.” [p.20] ¶ “The 1926 Snohomish claims organization was identified until 1935 as [a] claims group, but these identifications are not identifications of a predecessor of the petitioner.” [p.22] (Snohomish FD 2003, 20, 22)
- “. . . because the Proposed Finding viewed the AIHS [American Indian Historical Society] as a legitimate, intertribal, national organization, it did not consider the actions of the AIHS and its director as the actions of the petitioner, or identifications of the AIHS as identifications of the petitioning group.” (Muwekma FD 2002, 30)
- “The Ohlone Indian Tribe, Inc., was the organization that cared for the Ohlone Indian Cemetery. . . . [T]he petitioner presents itself as having been an entity distinct from, and larger than, the Ohlone Indian Tribe, Inc.” ¶ “There is no available evidence indicating that the Ohlone Indian Tribe, Inc., had any members other than the three Galvan siblings. Nor is there any available evidence indicating that the petitioning group decided to form the incorporated entity or acted by utilizing it. The evidence does not show that the petitioner's current organization evolved from the Ohlone Indian Tribe, Inc. That incorporated entity continues to exist as an entity separate from the petitioner. For these reasons, this Final Determination does not find an identification of the Ohlone Indian Tribe, Inc., to be an identification of the petitioner.” (Muwekma FD 2002, 34; see also, 35, 41)
- “The petitioner submitted a large number of documents from the 1920's and 1930's relating to the Quinault reservation and to individual members of the Quinault tribe or allottees on the Quinault reservation who had Chinook ancestry. However, an identification of a Quinault tribe or of Quinault members was not an identification of the petitioner as an Indian entity that was separate and distinct from Quinault.” ¶ “The petitioner submitted documentation from 1930 to 1939 about the census roll of the Quinault Reservation. This documentation about the Quinault census identifies a federally recognized tribe rather than the petitioner.” (Chinook RFD 2002, 69; see also, 65)
- “The petitioner submitted . . . letters by the local Indian superintendent between 1927 and 1930 which related to disputes over fishing rights in the Columbia River. . . . These disputes led to litigation that centered on the alleged rights to fish in the

Columbia River of a fishing crew of Quinault members led by George Charley, a member at Quinault and resident of the Shoalwater Bay Reservation who sometimes was referred to as the chief of the Shoalwater Bay Indians.” ¶ “[Superintendent] Sams said that Charley and members of his family were all born and reared at Georgetown [Shoalwater] Reservation and allotted on Quinault Reservation, and were considered ‘duly enrolled members’ of the Quinault Tribe. Although Sams sometimes referred to plaintiff George Charley and his crew as ‘Chinook Indians,’ the context of these letters makes it clear that Sams asserted fishing rights on behalf of members of the Quinault and Shoalwater Bay Reservations.” (Chinook RFD 2002, 70)

- “The 1916 [newspaper] article both identified a contemporary group led by Satiacum and identified it as an entity other than the ‘disbanded’ historical Duwamish tribe. . . . The PF concluded that only a portion of the [Duwamish] petitioner’s ancestors belonged to Satiacum’s group in 1915 and that the petitioner had not shown that it had evolved from Satiacum’s group. Thus, this identification of an Indian entity has not been shown to be an identification of the petitioner.” (Duwamish FD 2001, 14; see also, 16)
- “Part of the petitioning group, namely the Hassanamisco Reservation and the Cisco family, has been identified as an Indian entity on a substantially continuous basis since 1900. However, the petitioner asserts that it is, and has been, more than Hassanamisco alone. . . . The record contains no external identifications as an Indian entity of any portions of the current petitioner’s antecedent groups other than Hassanamisco and Chaubunagungamaug from 1900 to 1990. The record contains external identifications as an Indian entity of an associated Hassanamisco and Chaubunagungamaug entity only since 1980, nor were there external identifications encompassing or including . . . any wider Nipmuc group until after 1990. Therefore, petitioner #69A as a whole has not been identified on a substantially continuous basis as an American Indian entity from 1900 to the present.” (Nipmuc #69a PF 2001, 90).
- “When observers identified these treaty-reservation Indians as the ‘Duwamish and allied tribes,’ or as ‘Duwamish,’ they . . . were not describing a group of individuals of Duwamish descent as an Indian entity separate from the treaty reserves.” (Duwamish PF 1996, 3)
- “. . . the [Snohomish] petitioner, and the ancestors of the current membership, are distinct from the historic Snohomish tribe based on the Tulalip Reservation. Thus identifications of the historic tribe in Bureau and other documents in different historical periods do not constitute identification of the petitioner. . . .” (Snohomish PF 1983, 9). *Note: See also the FD:*

“The evidence shows that the petitioner and its ancestors were not part of the historical Snohomish tribe on the Tulalip reservation. Therefore, identifications of the Snohomish reservation tribe . . . do not qualify as identifications of an entity of the petitioning group’s ancestors.” (Snohomish FD 2003, 22). *Note: The FD found that “the petitioner’s ancestors, with only minor exceptions, were not enrolled on the Tulalip reservation census records. . . .” (FD 2003, 17). Note: See also the discussion of documentation pertaining to Tulalip reservation Indians (FD 2003, 18, 19, 20, 21), the reservation-based “Snohomish Tribal Committee” formed in 1923 (FD 2003, 19), the Tulalip reservation business council (FD 2003, 20), and the Tulalip Tribes organization under the IRA (FD 2003, 21).*

- The petitioner claims that it “has been recognized as an Indian Tribe in Florida Statute F.S. 1979, Chapter 285. . . . The cited chapter of the Florida Statutes, in mentioning ‘Muskogee or Cow Creek,’ is clearly referring to bands of the Seminole Tribe of Florida. The statute does not pertain to the LMC [petitioner] as a group.” (Lower Muskogee Creek FD 1981, 4).

Identification of separate entities that amalgamated to form the petitioner:

- “[Before 1910] . . . the government’s identification of the two bands [Upper Cowlitz and Lower Cowlitz] were accepted as evidence to meet [criterion] (a). After 1878, the government had continued to identify both the Upper and Lower Cowlitz, but increasingly between 1880 and 1910 identified them together as an amalgamated entity. After 1910, most identifications refer to the single Cowlitz entity. Identification of the separate tribes before the amalgamation and during the process of amalgamation are acceptable under the regulations. Therefore, the separate identifications of the Upper and Lower Cowlitz entities between 1855 and 1910 provide evidence that the petitioner meets [criterion] (a).” (Cowlitz FD 2000, 9)

Identification of the petitioner that was an inaccurate description of the petitioner:

- “The regulations do not require any inquiry regarding the basis on which an identification was made; they require only that the petitioner has been identified by an external source.” (Muwekma PF 2001, 18)
- “. . . criterion 83.7(a) does not require that external identifications of the petitioning group have been factually correct. . . .” (Ramapough FD 1996, 19; see also, 12).  
*Note: The FD provided an explanation of this interpretation:*

“Criterion 83.7(a) is designed to elicit a sense of the *opinion about the group* which was being expressed by external observers. The observers did not need to be knowledgeable.” ¶ “Therefore, the ‘facts’ to be analyzed under criterion 83.7(a) are . . . what the observer said – not whether the observer was correct. Does the opinion

being expressed amount to identification of the petitioner's antecedent group as an Indian entity?" (Ramapough FD 1996, 13)

- "Thus Swanton's and Speck's specific identification of the petitioner's ancestors as Houma Indians, while historically and genealogically inaccurate, . . . their research, and the research of those who followed them, provides evidence that the petitioner has been consistently identified by external sources as an American Indian entity since the early 1900's to the present." (Houma PF 1994, 6). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**Identified on a "substantially continuous" basis:**

- "All of the documents cited above as examples of an identification of a contemporaneous Indian entity meet two of the three conditions of the criterion for acceptable identifications: they were made by observers who were not part of the petitioning group, and they identified an Indian entity. Whether these documents meet the third condition, that the document identifies the petitioning group, requires additional analysis. While it is necessary for an acceptable identification to satisfy these three conditions, the existence of such an individual identification or of some isolated identifications is not sufficient to meet the requirements of the criterion. For the petitioner to meet the requirements of criterion (a), acceptable identifications must be part of a series of identifications which constitute 'substantially continuous' identification of the petitioning group since 1900." (Burt Lake Band PF 2004, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ". . . this Reconsidered Final Determination does not rely upon any presumption that the Chinook petitioner was identified as an Indian entity on the basis of previous Federal acknowledgment continuing after the date of such acknowledgment. . . . The evidence in the record will be weighed without making such a presumption." (Chinook RFD 2002, 65)
- "Identifications of the petitioner as an Indian group or entity have been accepted in this case for periods of time when such identifications were made infrequently, such as the 1930's and 1940's, because such identifications were made for each decade since the mid-1930's without any lengthy periods in which such identifications were lacking." (Little Shell PF 2000, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The petitioner "claims that three separate states . . . 'recognize' the LMC [petitioner] as a corporate entity and that such recognition establishes the covert existence of the group over a long period of history." ¶ ". . . [T]he simple filing of corporate papers



and the payment of the appropriate fee does not establish the historical continuity of a group. . . .” (Lower Muskogee Creek FD 1981, 3).

Evidence that has MET the criterion:

- ▲ “This proposed finding also accepts as a reasonable likelihood that references to the petitioner’s individual ancestors as Indians and references to portions of their ancestors as residents of Indian settlements before the 1930’s are consistent with the identifications of these and other ancestors of the petitioner as Indian groups after 1935. This conclusion departs from prior decisions for meeting criterion (a), which required evidence of a specific identification of the petitioner as an Indian entity during each decade. The Department believes that, absent strong proof to the contrary, it is fair to infer a continuity of identification from the evidence presented. . . .” (Little Shell PF 2000, 6). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The STO [petitioner] since 1953 has been identified in a variety of Federal records as well as other sources as the same entity as the group known as ‘Jerry Kanim’s Band,’ as it existed before 1953.” (Snoqualmie FD 1997, 4). *Note: 1953 was the date of last Federal acknowledgment.*
- ▲ “The MBPI [petitioner] and its predecessor settlements in Allegan County, Michigan, have consistently, since the latest date of unambiguous prior Federal acknowledgment in 1870, been identified . . . as an Indian group, specifically as a Potawatomi group or combined Potawatomi/Ottawa group. . . .” (Match-e-be-nash-she-wish Band PF 1997, 5)
- ▲ The evidence “showed that non-Cowlitz and non-Indian sources regularly identified the petitioner’s ancestors as members of an entity known as the Cowlitz Indians or Cowlitz Tribe. . . .” ¶ “The combination of the various forms of evidence, taken in historical context, provide adequate external identification of the Cowlitz as an American Indian entity from 1855 until the present.” (Cowlitz PF 1997, 19). *Note: The petitioner had previous Federal acknowledgment prior to 1900.*
- ▲ “The RMP [Ramapo Mountain People] , the group which included ancestors of the RMI [petitioner], was described from 1900 until 1978 as an isolated community of mixed-race origins . . . one of whose components was perceived to be Indian in origin.” ¶ Such an identification “shall be regarded as minimal evidence for identification of the existence of an American Indian entity. . . .” (Ramapough FD 1996, 20). *Note: See also the PF:*

“Only since the organizing as the Ramapough Mountain Indians, Inc. in 1978, has the petitioner been identified as an American Indian entity.” (Ramapough PF 1993, 5)

- ▲ “The HPI [petitioner], or Nottawaseppi Huron Band of Potawatomi, have consistently been identified . . . as an Indian group, specifically as a Potawatomi group . . . from the reestablishment of the community in 1842 . . . until the present day.” (Huron Potawatomi PF 1995, 8). *Note: The petitioner had previous Federal acknowledgment prior to 1900. Note: See also the F.R. notice for the PF:*

“From the date of its reestablishment (1842) until the present, the petitioner’s community has consistently been identified as a settlement of Michigan Potawatomi. . . . No ethnicity for the community other than Potawatomi has been suggested by any scholar or observer.” (Huron Potawatomi PF 1995, 60 F.R. 28426)

- ▲ “Based on . . . evidence that external sources identified the petitioner as an American Indian entity from 1900 to the present, we conclude that the petitioner meets criterion 83.7(a).” (Houma PF 1994, 6)
- ▲ “Records from each decade since 1900 confirm the existence of an American Indian entity near Jena, Louisiana.” (Jena Choctaw PF 1994, 2)

*Findings prior to the 1994 regulations:*

- ▲ “Documentary sources have identified a body of Indians called the Miami from their first sustained contact with French fur traders and missionaries in the 1650’s to the present.” [p.1] ¶ “The petitioner has been identified as being an American Indian entity from historical times until the present on a substantially continuous basis. . . .” [p.3] (Miami PF 1990, 1, 3)
- ▲ “The Gay Head Wampanoags have been identified as being an American Indian group from historical times until the present. . . .” (Wampanoag of Gay Head PF 1986, 2). *See also: Mohegan PF 1989, 2, and FD 1994, 9.*
- ▲ “The presently petitioning organization, formed in 1951 . . . has been identified as a Samish entity. . . .” ¶ “. . . the Samish group which was considered signatory to the Point Elliott Treaty was identified as a tribe . . . until no later than 1900.” ¶ “Limited evidence of identification of a Samish entity was found for 1900 to 1920, but it is believed further research would produce additional evidence of identification. . . . No identifications of a Samish entity were found between 1935 and 1950.” (Samish PF 1982, 11). *Note: See also, FD 1996, 4.*
- ▲ “The primary identification of the Narragansetts as a group of Indians has come through the state, and formerly the colony, of Rhode Island, by virtue of the group’s status until 1880 as a state-recognized tribe. . . .” [p.7] ¶ “After detribalization and

until the present, the group has continued to be identified as an Indian entity. . . .”  
[p.8] (Narragansett PF 1982, 7, 8)

- ▲ “. . . the Death Valley Timbi-Sha Shoshone Band of Indians has been identified as an American Indian tribe from historical times until the present. . . .” (Death Valley Shoshone PF 1982, 4). *See also: Poarch Band of Creeks PF 1983, 3; San Juan Paiute PF 1987, vi.*
- ▲ “The Clallam Tribe has been identified as Indian and the Jamestown community as a specific Indian community from historical times until the present on a substantially continuous basis until the present by several sources.” (Jamestown Clallam PF 1980, 2). *See also: Tunica-Biloxi PF 1980, 2.*
- ▲ “The present Grand Traverse Band of Ottawa and Chippewa and their antecedents have been identified as American Indian since their earliest contact with non-Indians in the 17th century” (Grand Traverse Band PF 1979, 4)

Evidence that has NOT met the criterion:

- ▼ “If historical identifications of a Burt Lake Indian entity are rejected as identifications of the current petitioner, because a historical entity containing no Vincent descendants is significantly different from the current entity consisting predominantly of Vincent descendants, then the petitioner has not been identified on a substantially continuous basis. The petitioner has not been continuously identified as an entity consisting of both Burt Lake band descendants and Vincent descendants, because such an entity was not identified prior to 1984. The petitioner has not been continuously identified as two separate Indian entities, which later amalgamated, because Vincent descendants were not part of any group continuously identified as an Indian entity prior to 1984. Alternatively, if historical identifications of a historical Burt Lake settlement or group are accepted as identifications of the current petitioner, because a substantial portion of the current petitioning group has connections to that historical settlement, then the petitioner has not been identified on a substantially continuous basis because of the lack of such identifications between 1917 and 1931 and between 1956 and 1978.” (Burt Lake Band PF 2004, 36; see also, 29-30, 34-35).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “Because the petitioning group was not identified as an Indian entity for a period of almost four decades after 1927, and for only a 6-year period during the 55 years between 1927 and 1982, it has not been identified as an Indian entity on a ‘substantially continuous’ basis since 1927. Therefore, the petitioner does not meet the requirements of criterion 83.7(a) as modified by sections 83.8(d)(1) or 83.8(d)(5).” (Muwekma FD 2002, 45; see also, 42). *Note: Under section 83.8, the petitioner was evaluated since 1927.*

- ▼ “The petitioner has provided examples to show that some of its ancestors were identified in 1925 and 1927, and again in 1951 and the following years, as a group or groups bringing claims on behalf of a historical Chinook tribe. . . .” ¶ “A few identifications during a three-year period of the three-quarters of a century between 1873 and 1951 does not constitute ‘substantially continuous’ identification. The evidence is insufficient to show that the petitioner meets the requirements of this criterion between 1873 and 1951.” (Chinook RFD 2002, 73). *Note: Under section 83.8, the petitioner was evaluated since 1873.*
- ▼ The PF “concluded that external identifications of the petitioner ‘have been found only for the years since 1939.’ The PF noted that a historical Duwamish tribe had been identified by outside observers in the 1850’s and by the Federal Government in 1855 treaty negotiations. In addition, two traditional Duwamish villages were identified by external observers as late as 1900.” ¶ “The identifications made of the petitioner since 1939 did not portray it as having maintained continuous existence from the treaty tribe of 1855 or from the Duwamish villages of about 1900. . . . Most importantly, a lack of identifications between 1855 and 1939, or between 1900 and 1939, meant that the petitioner had not been identified on a ‘substantially continuous’ basis ‘from historical times until the present.’” [p.10] ¶ “The available evidence does not show that the petitioner was identified by external observers on a substantially continuous basis prior to 1939. Therefore, the petitioner does not meet the requirements of criterion 83.7(a).” [p.17] (Duwamish FD 2001, 10, 17). *Note: At the petitioner’s request, it was evaluated under the 1978 regulations (FD 2001, 1).*
- ▼ “Only since 1974 have there been regular external identifications of the STI [petitioner] as a currently-existing Indian entity.” ¶ “Therefore, the petitioner does not meet criterion 83.7(a).” (Steilacoom PF 2000, 7). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The MaChis Lower Alabama Creek Indian Tribe has only been identified as Indian and as Creek since its incorporation as a non-profit organization in 1982. . . . [and] does not meet criterion 25 CFR 83.7(a).” (MaChis Creek PF 1987, 2)
- ▼ “The Tchinouk Indians have been identified as a group of Chinook descendants only recently, with some identification after 1957 and most after 1974, when they organized. The Tchinouk Indians . . . have therefore not met the criterion in 25 CFR 83.7(a).” (Tchinouk PF 1985, 8)
- ▼ “The SECC [petitioner] and the historical record as a whole have failed to show than any Cherokee groups existed as a tribe in south central Georgia from 1839 to 1976, or that any such group was identified on a continuous basis as ‘American Indian’ or ‘aboriginal’ during that time.” (Southeastern Cherokee PF 1985, 4)

- ▼ “There is no evidence that the group was ever identified as having been an American Indian entity by recognized Indian tribes, governmental agencies, scholars or other sources.” (Kaweah PF 1984, 1)
- ▼ “The Principal Creek Indian Nation East of the Mississippi (PCN) has only been identified as Indian and as Creek since its organization in 1969. . . . [and] does not meet the criterion in 25 CFR 83.7(a) of the acknowledgment regulations.” (Principal Creek PF 1984, 2)
- ▼ “Because of the group’s failure to show that an antecedent group existed which could be identified as Indian we conclude the ULN [petitioner] fails to meet the criteria in 83.7(a).” (United Lumbee PF 1984, 1)
- ▼ “The petitioner has only been identified as a Snohomish group since 1950 when it was formed. . . . [and] has not been historically identified . . . on a substantially continuous basis and therefore does not meet the requirements of criterion a.” (Snohomish PF 1983, 10). *Note: See also, FD 2003, 18, 22.*
- ▼ “Because of the group’s failure to show that the MTD [petitioner] was identified as Delaware or that an antecedent group existed which could be so identified, we conclude the MTD fails to meet” criterion (a) (Munsee-Delaware PF 1982, 3)
- ▼ “. . . there is no evidence that the group was identified on a prolonged and repeated basis by recognized Indian tribes, governmental agencies, scholars or others . . . as having been an Indian entity. . . . We conclude the petitioner has not been identified from historical times until the present on a substantially continuous basis as American Indian or aboriginal and[,] therefore, does not meet” criterion (a). (Lower Muskogee Creek PF 1981, 2)

**“the group’s character as an Indian entity has from time to time been denied”:**

- “While denials of the existence of an Indian community do not prevent the petitioner from meeting the requirements of the criterion, neither do they provide evidence to demonstrate that the petitioner has been identified.” (Burt Lake Band PF 2004, 34).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “While a denial of the acknowledgment of an Indian entity, and a failure to identify one, do not prevent the petitioner from meeting the requirements of the criterion, they do not function as affirmative evidence of an identification of an Indian entity.” (Muwekma FD 2002, 36)

- “The materials submitted with the Navajo response in support of its contention that the Paiutes were not distinct were of a general and recent nature and were inconsistent with the large, detailed body of materials used for the proposed finding and this final determination.” (San Juan Paiute FD 1989, 4-5)

**“identification by other than the petitioner itself or its members”:**

- “Testimony by the chairman of the petitioner, inquiries by group members, or statements by attorneys acting as spokespersons for a group do not meet the requirement that identifications must have been made ‘by other than the petitioner itself or its members’.” (Burt Lake Band PF 2004, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “An identification sufficient to meet criterion (a) must have been made by an external observer. Therefore, knowledge of a document’s author is important. . . . The ‘Plan for the Mission San Jose’ [ca. 1965-1971], however, bears neither a signature nor letterhead, so the author of this document is unknown. . . . If the author was [Philip] Galvan, who considered himself to be a part of the group identified by the plan, then this document would not meet a requirement of the criterion because it would not be an identification by an external observer. . . . The lack of evidence of the authorship of this document prevents its effective use as evidence relevant to this criterion.” (Muwekma FD 2002, 32-33)
- In a 1995 article, “[anthropologist Kenneth] Tollefson discussed the ‘cultural symbols’ used by the Duwamish to maintain their sense of identity against outsiders. Because it focused on the *internal* values rather than the *external* identification of an ethnic group, this article is irrelevant to the requirements of criterion (a). . . . [In a 1996 article], Tollefson reported the results of a survey of members of the petitioner. Because the results of the survey dealt with the values and activities of members rather than with the external identification of the petitioner, this information is irrelevant to the requirements of criterion (a).” (Duwamish FD 2001, 13)

Evidence that has NOT met the criterion:

- ▼ “References to a 1917 organization called the ‘Snohomish Tribe of Indians,’ which contained some of the [petitioning] group’s ancestors, occurred only in that year. . . . The only available identifications of this organization as an Indian entity came from members of the organization or a lawyer hired to be their spokesperson.” (Snohomish FD 2003, 22).
- ▼ The petitioner “cites documents created by the petitioner’s own members, their ancestors, or their relatives between 1965 and 1971, minutes recorded by members or

their ancestors of a meeting in 1982, and letters written by the petitioner's leader in 1981 and 1985 or by advocates on her behalf in 1983-1985. The regulations, however, require 'evidence of identification by other than the petitioner itself or its members' to satisfy criterion (a)." (Muwekma FD 2002, 30). *Note: The specific documents are described in the FD; for a summation, see FD 2002, 35, 38-39.*

- ▼ Some of the evidence submitted by the petitioner has "not been accepted as evidence of the external identification of the petitioning group as an Indian entity. Examples include self-identification, as in a form submitted to the Native American Heritage Commission by the petitioner [in 1987]. . . ." (Muwekma PF 2001, 18). *Note: See also the PF "Description":*

"Since this information was provided by the petitioner's researcher, at its request, it was not an observation by an external observer." (Muwekma PF 2001, D&A 15)

- ▼ "Some of the [third party] comments which mentioned the 'identity' of the petitioner referred to the petitioner's own self-identification, not to identification by external sources under 83.7(a)." (Match-e-be-nash-she-wish Band FD 1998, 7-8)

### **EVIDENCE UNDER 83.7(a):**

*Note:* The 1994 regulations reduced the evidentiary burden on petitioners by requiring them to demonstrate that they meet the requirements of criterion 83.7(a) only since 1900. Therefore, in general, examples of evidence prior to 1900 are not included here, with the exception of examples of evidence cited for petitioners evaluated under section 83.8 with a last date of Federal acknowledgment prior to 1900.

### **"Evidence to be relied upon . . . may include one or a combination of the following":**

- The petitioner notes that "prior petitioners have utilized evidence from certain sources to demonstrate that they meet the requirements of this criterion. The petitioner implies that evidence it has submitted from similar sources should meet the criterion based on these precedents. It is not the source of the evidence or the type of evidence that is crucial to satisfying the criterion, however, but the content of that evidence." (Muwekma FD 2002, 44)
- "The [revised] 1994 regulations reduced the evidentiary burden, by limiting the chronological period to be documented, without changing the requirement." (Chinook RFD 2002, 64)

- “The requirements of criterion 83.7(a) have not been met by the petitioner’s unsupported assertions about external identification. . . .” (Muwekma PF 2001, 14)
- “Criterion 83.7(a) does not require that the petitioner was consistently identified as an Indian entity by all of the six types of possible evidence listed. . . . Identification by any one type of the possible evidence throughout the time period since 1900, or by a combination of the different types of evidence at various points during the time period since 1900, is adequate for the petitioner to meet criterion 83.7(a).” (Ramapough FD 1996, 12)

**(a)(1) Identification as an Indian entity by Federal authorities:**

**(a)(1) Bureau of Indian Affairs and Department of the Interior:**

Evidence that has been ACCEPTED as an identification:

- ▲ “The group petitioned the Bureau in 1976 for status as a ‘community of half-bloods’ under section 19 of the Indian Reorganization Act, and was determined eligible by Departmental officials in 1977. . . . Bureau services have been provided to individual members of the group through the Sacramento Area Office since 1977.” (Death Valley Shoshone PF 1982, 4)
- ▲ “. . . BIA official Harter described the band in 1973.” (San Juan Paiute PF 1987, v)
- ▲ “. . . the PF said: ‘Both Congress and the BIA identified this organization [Duwamish Tribal Organization] as an Indian entity in 1953’. . . . Other evidence showed that the BIA dealt with an organization of Duwamish descendants in 1953 only for limited, specific purposes.” (Duwamish FD 2001, 14-15). *Note: See also, PF 1996, 3. Note: The HTR noted a BIA superintendent’s reference to a “Duwamish Tribal Council” in his 1953 response to a congressional questionnaire (PF 1996, HTR 67-68).*
- ▲ “. . . meeting minutes of September 22, 1951. . . . showed that the [BIA] superintendent had identified a Chinook group in the process of helping it obtain the required approval by the Commissioner of Indian Affairs of its contract with an attorney in order to present its case to the Indian Claims Commission.” (Chinook RFD 2002, 72). *Note: See also, PF 1997, 7.*
- ▲ “Although the local BIA agency has dealt with the Samish organization [since 1951] primarily in connection with the Samish claim, from time to time it has dealt with them as a representative of Samish interests in some other matters. . . . They were classified as a non-reservation group and as unrecognized, but were occasionally consulted with or provided limited assistance.” (Samish PF 1982, 9)



- ▲ “Federal identifications . . . have been made by the Billings Area Director of the BIA in 1950 and a BIA research report in 1980 on the potential recipients of an Indian Claims Commission award. . . . The Indian Health Service (IHS) identified the Little Shell band in 1988 and 1994 in directives concerning how to provide IHS services.” (Little Shell PF 2000, 9-10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The regional director of the Bureau of Indian Affairs at Billings in 1949 identified [Joseph] Dussome as the leader of ‘the predominant group’ of the state’s unenrolled Indians.” (Little Shell PF 2000, 8). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ By 1944, “The Snoqualmie were considered to be a public domain tribe. . . .” (Snoqualmie PF 1993, 4). *Note: For the FD, the petitioner was evaluated, under section 83.8, since 1953.*
- ▲ “The Bureau of Indian Affairs has dealt with the Duwamish Tribal Organization since at least 1939, when the BIA was approached by the group to obtain approval of a contract with an attorney to assist its claims efforts.” (Duwamish PF 1996, 3). *Note: The HTR noted the 1939 request by the Duwamish Tribal Organization and cited the BIA superintendent’s 1940 correspondence and the assistant commissioner’s approval of a contract with an attorney in 1940 as evidence that the BIA had begun to deal with Duwamish descendants as a group (PF 1996, HTR 58-59).*
- ▲ “The BIA’s Holst Report on Indians in the Lower Peninsula of Michigan provided a summary description of the ‘Bradley group consisting of 23 families’ in 1939.” (Match-e-be-nash-she-wish Band PF 1997, 4)
- ▲ “Although considering them ‘non-ward Indians’ in the 1930’s, the BIA. . . . helped organize a council for them in 1937 and entered into an agreement with them for the use of trust funds for rehabilitation. . . . An interagency agreement between the BIA and the Park Service did set aside 40 acres for a village site for the group at Furnace Creek. . . .” (Death Valley Shoshone PF 1982, 3)
- ▲ An “explicit identification of a portion of the petitioner’s ancestors as an Indian entity . . . was made by the Office of Indian Affairs in 1935. In that year, the Indian Office informed Joseph Dussome that it hoped to include the ‘group’ to which he belonged in the benefits of its land purchase program under the Indian Reorganization Act. By 1937, the Indian Office identified a ‘group of non-wards’ represented by Dussome as a group which should be consulted in the Roe Cloud Roll enrollment process. . . .” (Little Shell PF 2000, 8). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ “A Mohegan group was identified in administrative studies conducted for the Bureau of Indian Affairs by Gladys Tantaquidgeon in 1934 and by Theodore Taylor in 1972.” (Mohegan PF 1989, 2)
- ▲ “A BIA official . . . attended the 1934 meeting at which the corporation charter was adopted. Her report identified the group as a group of Narragansett Indians.” (Narragansett PF 1982, 8)
- ▲ “Efforts were made in the 1930's to organize Jamestown [Clallam] under the Indian Reorganization Act, based on a solicitor's opinion that they were a recognized tribe.” (Jamestown Clallam PF 1980, 2)
- ▲ “Reports compiled during the 1930's by researchers sent by the Bureau of Indian Affairs (Nash Report; Underhill Report) accepted the community as mixed-blood Indian, but no Federal assistance was provided.” ¶ “In the 1930's, Assistant Commissioner - Indian Affairs Scattergood . . . indicated that the UHN [petitioner] ancestral group lacked tribal status. . . . While denying their status as an Indian tribe, Scattergood did nonetheless identify the petitioner's ancestors as an American Indian entity.” (Houma PF 1994, 3). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . between 1921 and 1924, the Indian Affairs office probably dealt with the group, or its representative . . ., as Samish in that period as part of its work with representative groups to formulate treaty claims. The identification was as a group representing Samish interests as far as proposed legislation to settle treaty claims, but not as a tribe.” ¶ “The Samish organization formed in 1926 was dealt with as being representative of Samish interests between 1926 and 1935 in connection with the *Duwamish* [claims] case. . . .” (Samish PF 1982, 8)
- ▲ “In 1919, Special Agent Charles E. Roblin identified the Cowlitz as one of only two unenrolled Washington Indian groups whom he identified as a tribe.” (Cowlitz PF 1997, 13)
- ▲ “The BIA dealt with the Cowlitz Tribal Organization in connection with its attempts . . . to submit claims to the Court of Claims, from 1915 through the mid-1930's.” (Cowlitz PF 1997, 18)
- ▲ “Special Indian agent Horace Durant wrote a brief comment in his field notes in 1908 about ‘the chiefs of the Burt Lake band.’ Durant's comment implied the contemporary existence of an Indian entity in 1908.” (Burt Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ Historical documents “which identified the group as a distinct Paiute entity. . . . included . . . Indian Agency reports between 1900 and 1925.” (San Juan Paiute FD 1989, 4; see also, 5). *Note: The PF provided specific citations (PF 1987, v).*
- ▲ “. . . Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859, when the United States Senate and the President ratified the Treaty of Point Elliott, to sometime between 1955 and 1961, when the Snoqualmie were no longer considered to be an ‘organized’ tribe under the jurisdiction of the Bureau of Indian Affairs (BIA).” (Snoqualmie PF 1993, 4). *Note: See also FD 1997, 2-3. Note: The PF was prepared prior to the provisions of section 83.8. For the FD, the petitioner was evaluated, under section 83.8, since 1953.*

*Identifications prior to 1900 (for previously acknowledged petitioners):*

- ▲ “Throughout the second half of the 19th century, there were repeated Federal (BIA) identifications of both the Lower Cowlitz Indians and the Upper Cowlitz Indians as bands or entities. . . .” (Cowlitz PF 1997, 12). *Note: The PF provided a chronological discussion of specific examples (PF 1997, 16).*
- ▲ “The petitioner’s predecessor group was consistently identified on BIA annuity rolls, censuses, and school records from . . . 1839 through the expiration of obligations under the 1855 Ottawa treaty.” (Match-e-be-nash-she-wish Band PF 1997, 3). *See also: Huron Potawatomi PF 1995, 3.*

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “Timbi-Sha [Shoshone] children attended Bureau boarding schools as early as 1911. Educational services were provided to group members by the Bureau from that point until 1959. . . . Members of the group or their ancestors, identified as Shoshone and as living in the area, were carried on BIA censuses from at least 1916 through 1940.” (Death Valley Shoshone PF 1982, 3)
- ▲ “Federal officials took a census of Ottawa and Chippewa Indians in 1908 which specifically included the Traverse Band of Indians. . . .” (Grand Traverse Band PF 1979, 4)
- ▲ “Federal records also indicate that Indians from Gay Head were . . . enrolled at the Carlisle Indian Industrial School in Pennsylvania between 1905 and 1918.” (Wampanoag of Gay Head PF 1986, 1)

Evidence that has NOT been accepted as an identification:

- ▼ In 1966, “Representative Edwards indicated to a correspondent that the BIA had informed him that ‘the Ohlone Indians are not officially recognized as an American Indian Tribe.’ In this instance, the Bureau repeated a term used by someone else in an inquiry forwarded to it. The BIA’s reply took no position as to whether or not a contemporary Ohlone Indian entity existed, and thus did not identify such an entity. The BIA stated that it did not acknowledge that such an entity was a tribe.” (Muwekma FD 2002, 36)
- ▼ “That [in the 1950's] the BIA corresponded with individuals on the [claims] payment list does not constitute identification of an Indian group or entity, for it wrote to them as individuals, not as a group.” (Muwekma FD 2002, 27)
- ▼ “. . . a 1944 letter from the Sacramento Indian Agency . . . stated: ‘There is no doubt but what these [two Guzman] children have sufficient Indian blood to admit them to a Government Boarding School.’ The Agency’s letter contained no claim of tribal membership for the Guzman children. Therefore, the available evidence suggests that the Guzmans’ attendance at the Chemawa school was based on their degree of Indian blood.” [p.26] ¶ “Indian school attendance records suggest that the petitioner’s ancestors were accepted as students because of their degree of Indian blood, and did not identify any existing Indian group.” [p.29] ¶ “. . . the admission of a student to one of the Government’s Indian schools on the basis of the student’s degree of Indian ancestry is not evidence of the identification of an Indian tribe. . . . [T]he evidence in the Muwekma case does not show that the BIA ‘confirmed the identity of the tribe’ on the student application forms. . . .” [p.44] (Muwekma FD 2002, 26, 29, 44; see also, 25). *Note: The FD discussed precedent on Indian schools (FD 2002, 44).*
- ▼ “A few documents [from the 1940's] dealt with services the Tulalip agency provided to individuals who were ancestors of the petitioning group. While many of the documents described these persons as having Snohomish or Indian ancestry, the evidence does not demonstrate that they identified an off-reservation group of STI [petitioner] ancestors.” (Snohomish FD 2003, 21)
- ▼ “Some Chinook descendants attended the Government’s Indian schools [1932, 1937], but they did so because of their degree of Indian ancestry, not because the Indian Office recognized a Chinook tribe.” (Chinook PF 1997, 6; see also, HTR 50-51).
- ▼ The petitioner’s researcher “implies that the BIA identified a ‘Chinook Indian Tribe’ by allotting its ‘members.’ The evidence shows only that Agent Roblin [ca. 1931-1933] judged the merits of individual cases of people who claimed Chinook descent and were not enrolled at Quinalt or another reservation.” (Chinook RFD 2002, 70)

- ▼ “There is precedent, as the petitioner shows, for using BIA reports and studies about a group . . . to meet this criterion. The evidence provided by the petitioner does not show that any BIA official or special agent since 1927 wrote a report or study specifically about the Muwekma petitioner, or mentioned it in periodic, regular, or annual reports. Thus, the evidence about the Muwekma petitioner is not comparable to the . . . examples the petitioner quotes.” (Muwekma FD 2002, 43). *Note: Under section 83.8, the petitioner was evaluated since 1927.*
- ▼ The petitioner submitted documentation from the late 1910's and 1920's “that dealt with the efforts of Thomas Bishop, ancestor of some petitioner members, to seek claims for a number of unenrolled and unallotted Indians around Puget Sound. In 1914, Bishop, of part Snohomish descent, founded and became president of the Northwestern Federation of American Indians (NFAI), an intertribal organization. . . . The available evidence does not demonstrate that these documents about Thomas Bishop identified an off-reservation entity of STI [petitioner] ancestors. . . . Agency officials did not describe Bishop in the available record as a member or leader of a Snohomish entity on or off the reservation.” (Snohomish FD 2003, 18; see also, 19)
- ▼ “The lists of the unenrolled Indians of Washington State produced by Agent Roblin in 1919 were discussed in the technical reports and PF. The petitioner argues that although Roblin was not instructed to identify tribes, his 1917 notice to potential enrollees was directed to members of tribes. However, the petitioner’s quotation from Roblin shows that he asked potential enrollees to show that they were either a member of a tribe *or* descended from a tribal member. Thus, contrary to the petitioner’s interpretation, individual descendants could be included on Roblin’s lists without being identified as a member of a contemporary tribe or group. Roblin’s report identified only Cowlitz and Snoqualmie entities. . . . Roblin’s list of 1919 identified individuals rather than a Duwamish group or entity. Roblin’s instructions and report do not meet the requirements of criterion 83.7(a) for the Duwamish.” (Duwamish FD 2001, 14). *Note: See also, PF 1996, 3.*
- ▼ Indian Agent “Roblin’s extensive 1916-1918 survey of off-reservation Indians and Indian descendants, which identified many individual Snohomish descendants, identified no such [local Snohomish] community.” (Snohomish PF 1983, 8)
- ▼ “No distinct off-reservation community or other group of Samish was identified by Indian Agent Charles Roblin in his survey of off-reservation Indians and claimants to Indian status between 1916 and 1918.” (Samish PF 1982, 8)
- ▼ The petitioner’s documentation “included references [in 1917] to an off-reservation claims organization known as the ‘Snohomish Tribe of Indians’. . . . The Assistant Commissioner of Indian Affairs referred to contracts entered into by ‘certain Snoqualmie and Snohomish Indians’ and to the ‘Indians who have entered into

contracts.’ The Superintendent of the Tulalip Agency referred to the attorney’s ‘alleged clients,’ to a council ‘attended by individuals,’ and to ‘signers’ of the alleged contracts. When the superintendent wrote to these Indians, he sent a letter to each individual rather than sending a letter to a group or entity. The Indians who signed the contracts with an attorney may have formed a claims group, but these letters by BIA officials [in 1917] used no language that characterized those Indians as a group or entity, and instead referred to them as individual Indians who had contracted with an attorney.” (Snohomish FD 2003, 19).

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ “Although the Federal Government never acknowledged the Chinook descendants as being a distinct tribal entity, it did recognize a few of them as being of Indian descent, and eligible for services.” ¶ “Only a few individuals appear on BIA census rolls, especially before 1940. Many descendants . . . attended Indian boarding schools, received medical and other trust services from the Federal Government, and inherited interests in allotments. Only a very few of these were identified in Federal records as being Chinooks. None were identified by the alternative spelling of Tchinouk.” (Tchinouk PF 1985, 7-8)

**(a)(1) Executive:**

Evidence that has been ACCEPTED as an identification:

- ▲ “In October 1998, the National Museum of Natural History conducted a study on various Indian remains in Oregon and Washington and identified the petitioner as one of the American Indian entities in the area.” (Snohomish FD 2003, 22)
- ▲ “Documentation submitted by the petitioner shows that it has been identified for specific purposes by . . . Federal agencies. . . . The Army Corps of Engineers [1994] has consulted with the petitioner’s chairwoman as a representative of an Ohlone group on issues under the Native American Graves Protection and Repatriation Act (NAGPRA), and the Department of Energy [1996] has identified the petitioner as a NAGPRA contact.” (Muwekma PF 2001, 17)
- ▲ “The petitioner has received grants from the ANA since the 1980’s, based on its Indian identity.” (Jena Choctaw PF 1994, 3)
- ▲ Since 1982, the petitioner “has been identified as a Creek Indian tribe [by] . . . the U.S. Department of Education. . . .” (MaChis Creek PF 1987, 2)

- ▲ “In early 1980, the Forest Service conducted a study . . . on American Indian religious practices in the Mount Baker-Snoqualmie National Forest. The petitioner was identified as one of the ‘Native American Groups’ that had a possible interest in the project.” (Snohomish FD 2003, 22)
- ▲ “The National Park Service has identified the group as Shoshones, native to the area, and has provided services and dealt with the group as an Indian community from the establishment of the [Death Valley National] Monument [in 1933] until the present.” (Death Valley Shoshone PF 1982, 4)
- ▲ “The Federal Government identified a Cheboygan band at Burt Lake as a contemporaneous Indian entity during the McGinn litigation between 1911 and 1917. The U.S. Attorney for the Eastern District of Michigan identified a ‘Cheboygan band of Indians’ when . . . he filed a complaint against McGinn in 1911. By stating that the ‘Cheboygan band of Indians is now . . . under the care, control, and guardianship of the plaintiff [U.S.] and said band is now . . . recognized by the plaintiff [U.S.] as a tribe,’ the U.S. Attorney clearly stated that he considered the Cheboygan band to be a contemporaneous Indian entity. . . . When the Secretary of the Interior offered the services of Indian Office employee J. W. Howell for the trial, he referred to ‘the rights of the Cheboygan band of Indians’ as the rights of an existing Indian entity in 1917.” (Burt Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

*Identifications prior to 1900 (for previously acknowledged petitioners):*

- ▲ “A Chinook tribe was not explicitly mentioned by the Executive Order of 1873 [that expanded the Quinault reservation], but can be considered to have been included by the reference to the other ‘fish-eating’ tribes of the Washington coast. A Federal district court interpreted the 1873 Executive Order in such a way in 1928, as did a Federal appellate court in 1981. Accepting this construction leads to the conclusion that in 1873 the Government, by implication, identified a historical Chinook tribe.” (Chinook RFD 2002, 66)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “More recently, Federal agencies such as the Department of Health and Human Services have provided project funding to the Gay Head Wampanoags based on their identification as Indians.” (Wampanoag of Gay Head PF 1986, 2)
- ▲ Since 1980, “the RMI [petitioner] . . . have received Indian Education funding from the Federal government.” (Ramapough PF 1993, 5)

- ▲ “The Public Health Service in 1971 informed the organization that its members were eligible for services from the Indian Health Service.” (Samish PF 1982, 9)
- ▲ “Forester Zeh of the USDA [Department of Agriculture] mentioned the San Juan Paiutes in 1931.” (San Juan Paiute PF 1987, v)

**(a)(1) Congress:**

Evidence that has been ACCEPTED as an identification:

- ▲ “Two members of Congress identified a Burt Lake band in 1995 and 1997 as an existing Indian entity. . . . in the process of supporting legislation to ‘reaffirm’ its status as a recognized Indian tribe. . . . In his [1995] testimony, [Representative Bart] Stupak said, ‘the Burt Lake band continues to exist today.’ Representative Dale Kildee referred to the Burt Lake band as ‘this tribe’ during Congressional debate on a similar bill in 1997.” (Burt Lake Band PF 2004, 33-34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Documentation submitted by the petitioner shows that it has been identified for specific purposes by a congressional committee, elected Federal officials, and Federal agencies. The petitioner’s chairwoman testified in 1989 before a U.S. Senate committee as a representative of the petitioner as an unrecognized Indian group. U.S. Representative Zoe Lofgren . . . has identified the petitioner by stating her support of its petition. . . . The congressionally created Advisory Council on California Indian Policy has identified the petitioner as an unrecognized Indian organization.” (Muwekma PF 2001, 17)
- ▲ “The entire Alabama congressional delegation has expressed their interest and support on several occasions.” (Poarch Band of Creeks PF 1983, 3)
- ▲ “Congress, in the Pembina Judgment Fund Act of 1982, identified the Little Shell Band as a potential recipient of the judgment funds awarded by the Indian Claims Commission.” (Little Shell PF 2000, 9-10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The Federal Government has enacted legislation implementing the 1978 land claims settlement with Rhode Island.” (Narragansett PF 1982, 8)
- ▲ “Both Congress and the BIA identified this organization [Duwamish Tribal Organization] as an Indian entity in 1953.” (Duwamish PF 1996, 3). *Note: The HTR discussed a report of the House Committee on Interior and Insular Affairs (House*



*Report 2503) issued in 1952 and published by the GPO in 1953 (PF 1996, HTR 66-67). Note: See also, FD 2001, 14-15.*

- ▲ “The Congress of the United States identified the San Juan Paiutes in 1906, 1907, and 1908 in three separate appropriations bills.” (San Juan Paiute PF 1987, v). *Note: See also, FD 1989, 5.*

Evidence that has NOT been accepted as an identification:

- ▼ “. . . the Final Determination improperly interpreted both the Congressional intent expressed in the Acts of 1911, 1912, and 1925, and past Departmental interpretations of those acts. Therefore, this Reconsidered Final Determination will not rely upon an analysis that the Acts of 1911, 1912, and 1925 constituted either unambiguous Federal acknowledgment of, or Congressional identification of, a contemporaneous Chinook tribal entity.” (Chinook RFD 2002, 65; see also, 15-16, 18-19, 23-24, 27, 31-32)

**(a)(1) Courts:**

Evidence that has been ACCEPTED as an identification:

- ▲ “The court records generated by this suit [in the U.S. Court of Claims] in the period 1882-1904 included numerous depositions identifying and describing the Allegan County Indian community. . . .” (Match-e-be-nash-she-wish Band PF 1997, 3)

Evidence that has NOT been accepted as an identification:

- ▼ “The Federal district court in 1928 agreed that the Chinook had lost their tribal organization.” (Chinook PF 1997, 6)
- ▼ “In its report on these claims in 1906, the Court of Claims concluded that the Lower Band of Chinook had ‘long ceased to exist’ as a band.” (Chinook PF 1997, 6)

**(a)(1) Claims rolls and Indian Claims Commission:**

- A BIA report on the Paskenta Band “pointed out . . . that all of the certifications [of degree of Indian blood by the BIA] noted that: ‘The 1972 Judgment Fund Roll is only considered as a payment list and inclusion on the payment list does not denote tribal membership. . . .’ ” (Muwekma FD 2002, 23).

Evidence that has been ACCEPTED as an identification:

- ▲ The decision “made by the Indian Claims Commission in 1964, identified the Indiana Miami as an Indian entity.” (Miami PF 1990, 2)
- ▲ “The Indian Claims Commission in 1958 concluded that the ‘newly organized’ Chinook group did not have a tribal organization recognized by the Government, but accepted its petition on behalf of Chinook descendants because it allowed any ‘identifiable group of Indians’ to enter a claim.” (Chinook PF 1997, 7)
- ▲ “The Indian Claims Commission in 1958 stated that the Samish were an ‘identifiable tribe of Indians,’ and, therefore, had standing to bring the claim for aboriginal Samish land before the Commission.” (Samish PF 1982, 9)
- ▲ “The Indian Claims Commission in 1954 accepted a ‘Little Shell’ plaintiff as an identifiable group of Indians able to bring a claim against the United States. According to the interpretation of the Court of Claims, this was not an identification of the plaintiff as a federally recognized tribe or organized group, but as a group of descendants of an ancestral entity.” (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “In the 1950's they . . . were allowed by the Court of Claims to sue [in the Indian Claims Commission] by virtue of the fact that they were an ‘identifiable group’.” (Poarch Band of Creeks PF 1983, 3)
- ▲ “Some of this identification [as a group of Snohomish since 1950] has been by the local Bureau of Indian Affairs agency, which has dealt with it primarily in terms of claims. . . .” (Snohomish PF 1983, 8)

Evidence that has NOT been accepted as an identification:

- ▼ “A descendency roll, prepared by the Michigan Agency, BIA, as the result of a 1978 decision of the Indian Claims Commission, was completed in 1984. Although it included the HPI [petitioner] population, it . . . was a Potawatomi descendency claims roll and not exclusively a description of the HPI.” (Huron Potawatomi PF 1995, 4)
- ▼ “This review of evidence relating to the claims application process under the Act of 1928 concludes that the approval of individual applications did not constitute the Government’s identification of a contemporary Indian entity. The petitioner’s arguments and evidence about an alleged relationship between the Government’s approval of claims applications and an applicant’s ‘tribal affiliation’ do not demonstrate that the Government designated a contemporary group affiliation by approving an application. Therefore, the available evidence of the application forms

that were approved after the Act of 1928, and the 1933 census roll [of the ‘Indians of California’] and later judgment rolls that included individual ancestors, is not sufficient to meet the requirements of criterion (a).” (Muwekma FD 2002, 24; see also, 15-24, 29, 44)

- ▼ “The Taggart Roll which was prepared by the BIA in 1904 as a consequence of the Potawatomi claims suit was not, *per se*, an identification of the Allegan County Indian settlement, although the members of the settlement with Potawatomi ancestry were included on it. Similarly, in 1908, . . . the group’s members were included on the BIA-compiled Durant Roll compiled for distribution of the Congressional appropriation to settle claims of Michigan’s Ottawa Indians, but this roll did not comprise an identification of the Allegan County entity as such.” (Match-e-be-nash-she-wish Band PF 1997, 4)
- ▼ The Taggart Roll [1904] “was not a census of the Pine Creek settlement, but rather a judgment roll resulting from a U.S. Court of Claims decision and pertaining to Michigan Potawatomi other than the Pokagon Band.” (Huron Potawatomi PF 1995, 3)

**(a)(1) Federal census:**

- “. . . the precedent quoted by the petitioner . . . shows that Federal census records have been used to meet this criterion when they specifically listed individuals as part of an ‘Indian colony’ or an ‘Indian village,’ that is, as an entity rather than simply as individuals.” (Muwekma FD 2002, 43)

Evidence that has been ACCEPTED as an identification:

*Identifications prior to 1900 (for previously acknowledged petitioners):*

- ▲ “The group’s settlement . . . was enumerated on the 1880 Federal census . . . as an ‘Indian Colony’.” (Match-e-be-nash-she-wish Band PF 1997, 3)
- ▲ On the 1880 Federal census, “the census taker wrote, ‘Here Ends the Indian Village, or Hamlet - of the “Patowatamies of Huron”’.” (Huron Potawatomi PF 1995, 4).  
*Note: See also references to the identification of individual Indians on censuses (PF 1995, 5).*

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “Indian descendants constituted the majority population at Gay Head on Federal census records compiled between 1870 and 1970, and on local censuses as early as 1792.” (Wampanoag of Gay Head PF 1986, 1)

Evidence that has NOT been accepted as an identification:

- ▼ The petitioner’s researcher “notes that the census enumerator in 1920 ‘identified part of the village [of Bay Center] as “Indian Town”.’ The six ‘Indian’ households listed as ‘Indian Town’ in Bay Center constituted only a small percentage (6 of 68) of all the households of Chinook and other Indian descendants . . . on the 1920 census. The six households in ‘Indian Town’ were a minority (6 of 23) of the Chinook and other Indian households . . . in Bay Center itself. Of the five families represented in these six households, only two have descendants in the petitioner’s membership. Thus, . . . the census enumerator’s reference to ‘Indian Town’ . . . was not an identification of the petitioner as a whole.” (Chinook RFD 2002, 68-69)
- ▼ The petitioner’s researcher “asserts that the 1900 census ‘confirms’ that ‘three primary Chinook communities existed.’ By this he means not that contemporary census enumerators identified such ‘communities’ in 1900, but that a modern researcher can do so.” ¶ “In 1900, the census enumerators listed some of these individuals as Indians, but did not refer to an Indian community or group. . . . Because the census listed individuals and made no explicit reference, or implied reference, to an Indian group, this census classification of some individuals as Indians does not meet the requirements of criterion (a).” (Chinook RFD 2002, 67)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ “None of the Federal census . . . records examined identified individuals ancestral to the current membership as Indian after 1850.” (Principal Creek PF 1984, 2)
- ▼ “None of the federal census records identified group ancestors as Indian. . . .” (MaChis Creek PF 1987, 2)

**(a)(2) Relationships with a State government:**Evidence that has been ACCEPTED as an identification:

- ▲ “It appears that by 1997 the Native American Heritage Commission of California had accepted the petitioner as a ‘tribal group’.” (Muwekma PF 2001, 17)

- ▲ “In 1986, the Michigan Commission on Indian Affairs indicated that . . . it had ‘formally recognized’ ten Michigan tribes, including the ‘Burt Lake band of Ottawa/Chippewa Indians’.” (Burt Lake Band PF 2004, 32). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ Since 1982, the petitioner “has been identified as a Creek Indian tribe [by] . . . the State of Alabama.” (MaChis Creek PF 1987, 2)
- ▲ “The Governor’s aide in 1981 considered new legislation to designate State land ‘for use by the Burt Lake band.’ In 1982, he referred to ‘members of the Burt Lake band of Ottawa Indians’ who attended a recent meeting. . . .” (Burt Lake Band PF 2004, 32). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Since the early 1980’s, various departments of the State government have worked closely with the Indiana Miami, such as the Department of Natural Resources’ efforts to protect Miami cemeteries. . . .” (Miami PF 1990, 2)
- ▲ “In 1980 the Indiana legislature passed a joint resolution in support of the Miami petition for Federal acknowledgment.” (Miami PF 1990, 2)
- ▲ “In 1978, a land claim against the state and private landholders was settled by an agreement setting up a joint state-tribe corporation to administer certain lands granted to the tribe. The agreement was implemented by state and Federal legislation.” (Narragansett PF 1982, 8)
- ▲ In 1976, “the Tribal Council was recognized by the Governor [of Massachusetts] as the governing body of the Gay Head Indians.” (Wampanoag of Gay Head PF 1986, 1)
- ▲ “In 1976, the Rhode Island Commission for Indian Affairs was created by executive order which specifically designated the Narragansett Tribe, Incorporated, to name the majority of the commission members.” (Narragansett PF 1982, 8)
- ▲ “The group was recognized by Concurrent Resolution of the State of Louisiana Legislature in 1975 and is a member of the Intertribal Council of Louisiana.” (Tunica-Biloxi PF 1980, 3)
- ▲ “Correspondence was received from Alabama Governor George C. Wallace as early as 1975. At that time, he stated that Alabama was ready to convey certain lands in Escambia County to the United States in trust for the petitioner.” (Poarch Band of Creeks PF 1983, 3)

- ▲ “The Tchinouk Indians have been identified as a group of Chinook descendants only recently [most after 1974]. . . . They have been identified by. . . the Oregon Commission on Indian Services. . . .” (Tchinouk PF 1985, 8).
- ▲ “The UHN [petitioner] became a member of the Louisiana Commission on Indian Affairs sometime after their formation in 1974.” (Houma PF 1994, 3). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The petitioner was identified as Indian by the state of Louisiana by resolution in 1974. . . .” (Jena Choctaw PF 1994, 3)
- ▲ “In 1974, Governor Evans of the State of Washington supported recognition of the Snohomish [petitioner], and the Snohomish were members of the Governor’s Indian Advisory Council. No official position on recognition has been expressed by the State since then.” (Snohomish PF 1983, 9)
- ▲ In 1973, the Connecticut “General Assembly created an Indian Affairs Council with Mohegan as a member.” (Mohegan PF 1989, 1). *Note: The PF also concluded that: “The State of Connecticut has . . . identified a Mohegan group consistently from 1776 to the present. However, these identifications were less frequent for the period between 1872 . . . and 1973. . . .” (PF 1989, 1).*
- ▲ “The Samish organization was included in the Washington State Governor’s Indian advisory council in 1971 and 1973.” (Samish PF 1982, 9)
- ▲ “HPI [petitioner] has been a Michigan state-recognized tribal entity since the 1970's and is a member of the Michigan Commission on Indian Affairs.” (Huron Potawatomi PF 1995, 5)
- ▲ “The State of Montana, through its agencies and officials, has identified the Little Shell group as an Indian entity since 1949. The Attorney General of Montana wrote to the Commissioner of Indian Affairs in 1949 to ‘intercede’ on behalf of a ‘group of Indians . . . known as the “Landless Indians of Montana”’ or as the Little Shell band. By including the group, since at least 1952, as a member of the Intertribal Policy Board, which advises the state government, the state has accorded the group a status similar to that of the federally recognized Indian tribes in Montana. The state legislature of Montana passed a resolution in 1955 in support of Federal legislation for economic rehabilitation of the Landless Indians of Montana. The Inter-Tribal Policy Board passed a resolution in support of recognition of the Little Shell band in 1978. The Governor of Montana in 1992 urged the Department of the Interior to recognize the Little Shell band.” (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ “. . . a 1947 report of a State investigation of a timber trespass complaint . . . referred to ‘the Indian settlement near Brutus’ as the residence of an informant.” (Burt Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ Rhode Island “State law . . . has continued recognition of the ownership of the Narragansett church and associated lot by the ‘religious society’ that has met there until the present day. This was reaffirmed by legislation in 1936.” (Narragansett PF 1982, 8)
- ▲ “The state clearly recognized the group again beginning in 1934 when, at a meeting attended by the governor, a new formal organization . . . was created through adoption of a state corporation charter.” (Narragansett PF 1982, 8)
- ▲ “The Grand Traverse Band has been identified as an entity by the State of Michigan and Leelanau County since the mid-1930’s. The county and state now provide a wide range of services including holding land in trust for the group.” (Grand Traverse Band PF 1979, 4)
- ▲ “Governor Hazen Pingree identified a ‘Cheboygan band of Indians’ in his message to the State legislature in 1901, when he urged the legislature to buy back the former State trust lands at Burt Lake. The State legislature’s Joint Resolution of 1903 . . . contained several references to this ‘band of Indians’.” (Burt Lake Band PF 2004, 30). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The Snoqualmie Indian Tribe has been identified periodically between 1889 and the present in the records of various officials, departments, and agencies of the State of Washington.” (Snoqualmie PF 1993, 5). *Note: The PF was prepared prior to the provisions of section 83.8. For the FD, the petitioner was evaluated, under section 83.8, since 1953.*
- ▲ Since 1845, the Pine Creek Reservation “has been held in trust by the Governor of Michigan on behalf of the settlement. . . .” (Huron Potawatomi PF 1995, 5)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “The RMI [petitioner] were recognized as American Indian by resolutions of the New Jersey and New York State legislatures in 1980.” (Ramapough PF 1993, 5). *Note: See also, FD 1996, 15-16.*
- ▲ “Since its own formation [in 1972] the LMC [petitioner] has been identified by some state and Federal agencies as Indian. . . .” (Lower Muskogee Creek PF 1981, 2)

- ▲ “The organization has been identified as Indian . . . by the Alabama State legislature which recognized it in 1971. . . .” (Principal Creek PF 1984, 2)
- ▲ “Inhabitants of the Gay Head peninsula have consistently been identified as Indians or people of Indian descent in the legislative and judicial records of the Commonwealth of Massachusetts from 1870 to the present.” (Wampanoag of Gay Head PF 1986, 1)

Evidence that has NOT been accepted as an identification:

- ▼ The State “[Native American Heritage] Commission’s designations [after 1983] of ‘most likely descendants’ constituted an identification of individuals rather than contemporary entities.” (Muwekma FD 2002, 41; see also, 42). *See also: PF 2001, 16, D&A 14. Note: The PF made a distinction between the periods before and after 1997, when the Commission designated tribal groups (PF 2001, 17).*
- ▼ “The State of Colorado went on record on March 13, 1979, as opposing recognition of the group.” (Munsee-Delaware PF 1982, 2)
- ▼ “. . . the petitioner cites a 1971 letter by the California Franchise Tax Board. When the State of California approved the incorporation of Ohlone Indian Tribe, Inc., . . . it judged that organization to be a *non-profit* corporation, not an *Indian* entity.” (Muwekma FD 2002, 37; see also, 42). *Note: The FD found that Ohlone Indian Tribe, Inc., was not a predecessor of the petitioner (FD 2002, 34).*
- ▼ “The petitioner claims identification by Governor Edmund Brown in 1965. Although the word ‘Ohlone’ was used in an invitation he received, the governor’s letter merely declined to attend the ceremony.” (Muwekma PF 2001, 15)
- ▼ The petitioner submitted documentation including “one document from the State government in the 1920’s describing two Indians accused of violating fishing regulations. . . None of these [documents] described a Snohomish entity. . . .” (Snohomish FD 2003, 20)

**(a)(3) Dealings with a local government based on the group’s Indian identity:**

- “. . . the petitioner presents selected text from an interview with an unidentified local resident by an unidentified interviewer, which it says was . . . later obtained and transcribed by a staff member of the East Bay Regional Park District.” ¶ “. . . mere transcription by a local government employee of statements made by someone else would not constitute identification by a local government.” (Muwekma FD 2002, 37)



- “A letter written by a faculty member of a local college does not constitute identification by a local government, . . . but only by an individual scholar.” (Muwekma FD 2002, 40)

Evidence that has been ACCEPTED as an identification:

- ▲ “The petitioner has submitted a series of resolutions by local governments which identified the petitioning group by offering it statements of support. The first of these resolutions was adopted by the Santa Clara County Board of Supervisors in 1989.” (Muwekma PF 2001, 16)
- ▲ Since 1982, the petitioner “has been identified as a Creek Indian tribe . . . by the Coffee County School District . . . [and] the Town of New Brockton. . . .” (MaChis Creek PF 1987, 2)
- ▲ “. . . a 1982 letter from the East Bay Regional Park District to the Native American Heritage Commission. . . . implied that [Rosemary] Cambra was the representative of an ‘Ohlone Tribal Council.’ This reference to a council or governing body of an Indian group constitutes an identification of a contemporary Indian entity. The identification was of a group linked to the petitioner through its current leader.” (Muwekma FD 2002, 39-40; see also, 42)
- ▲ “When the Chinook Indian Tribe decided in 1976 to petition for Federal acknowledgment, it acquired statements of support for its recognition effort from the town council of Ilwaco, the board of commissioners of Pacific County, and the governor’s Indian Advisory Council” (Chinook PF 1997, 7)
- ▲ “An identification at the local level of government consists of a letter to the Commissioner of Indian Affairs on behalf of the Landless Indians of Montana by the chairman of the Blaine County Board of Commissioners in 1969.” (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . local education officials identified the petitioner’s ancestral group as Indian in the late 1920's and 1930's.” (Jena Choctaw PF 1994, 2)
- ▲ “The Avoyelles Parish courthouse at Marksville, Louisiana, contains records relating to the political leadership of the group from 1910 until the present. Local authorities have never attempted to tax village lands whose title was quieted in an 1848 boundary dispute case.” (Tunica-Biloxi PF 1980, 2)
- ▲ “The petitioner has been viewed consistently as being a distinct tribal entity by non-Indians within the region, including various local government entities. . . .” (Snoqualmie PF 1993, 5). *Note: The PF was prepared prior to the provisions of*

*section 83.8. For the FD, the petitioner was evaluated, under section 83.8, since 1953.*

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “The organization has been identified as Indian since 1969 . . . by the town of Floral. . .” (Principal Creek PF 1984, 2)
- ▲ “From at least 1908 onward, the group was segregated in separate Indian schools, named as such. . .” (Poarch Band of Creeks PF 1983, 3)

Evidence that has NOT been accepted as an identification:

- ▼ “The petitioner contends . . . that a 1964 letter from . . . the City Manager of the City of Fremont . . . constitutes an external ‘identification of an Indian entity via “the Ohlone Indian Cemetery” by a local government official.’ A reference to a cemetery is not an identification of a contemporaneous Indian entity.” (Muwekma FD 2002, 28-29)
- ▼ The petitioner “lists county death certificates of some of its ancestors as evidence of the identification of an Indian entity by local governments. . . . No evidence indicates that an external source designated a burial location as appropriate for a group. No information on these five death records [1928-1942] indicates that any county government identified any of these individuals as part of a contemporaneous Indian entity.” (Muwekma FD 2002, 24)
- ▼ “. . . local Walton County records do not list any Creek or other Indian community in the county after 1850.” (Principal Creek PF 1984, 2)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ “In the public records of Douglas County descendants were most often identified as being white, whereas in Klamath County, they were usually identified as being Indian, although never as Chinooks or Tchinouks” (Tchinouk PF 1985, 8)

**(a)(4) Identification as an Indian entity by anthropologists, historians, or scholars:**

- “Historical references to an Indian band or settlement in the past do not constitute an identification of an Indian entity that is contemporaneous with the date of the publication.” (Burt Lake Band PF 2004, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- The petitioner “based its reply [to the PF] on an affidavit of its own researcher . . . who stated that it was his ‘professional opinion’ that the petitioner meets the criterion.” [pp.10-11] ¶ “Expert testimony is given some deference in the findings, but, as in court, is never accepted uncritically. It must always be reasonably persuasive to gain acceptance. . . . [The researcher’s] affidavit itself does not cite any examples of identification of the petitioner as an Indian group by outside observers. The petitioner does not meet criterion (a) solely on the basis of its request for deference to the opinions of its researcher.” [p.11] (Duwamish FD 2001, 10-11)

Evidence that has been ACCEPTED as an identification:

- ▲ The petitioner submitted “an affidavit [1998] of [anthropologist] Kenneth Tollefson, the petitioner’s researcher, and seven journal articles [1987-1996] written by him. . . . This affidavit . . . does add a contemporary identification dating to 1998 to the evidence for criteria 83.7(a).” ¶ “Only two of the articles are about the Duwamish, and none . . . directly address the issue of the petitioner’s identification by external observers as required under criterion 83.7(a). . . . [T]hey do not refer to any new contemporary evidence identifying the petitioner as an Indian entity before 1939, although [they] are acceptable for the identification of the petitioner from the last decade.” (Duwamish FD 2001, 16; see also, 10-13)
- ▲ “In 1990 scholar Frank W. Porter wrote a study of Federal policy on landless Indians in western Washington. . . . The article identified the petitioner as one of the landless Indian groups in western Washington in 1990. Scholar Alexandra Harmon in 1998 published *Indians in the Making*, a study of western Washington Indians and the evolution of their ethnic identity. The book’s afterward identified the contemporary petitioner in a discussion of its petition for Federal acknowledgment.” (Snohomish FD 2003, 22)
- ▲ “In a 1986 publication, George Cornell wrote that ‘the Burt Lake band is currently negotiating with Governor Blanchard’s administration’ for compensation for the State trust lands lost in 1900. A book published in 1992 by anthropologist Charles Cleland contained a footnote . . . which offered his opinion that several unrecognized ‘Indian bands’ had ‘a legitimate claim to treaty rights under the Treaty of 1836, including . . . Burt Lake’.” (Burt Lake Band PF 2004, 33). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “In 1986 Kelly and Fowler included the San Juan Paiutes as a distinct Southern Paiute band in their article on ‘Southern Paiute’ published in Volume 11 of the Smithsonian Institution’s *Handbook of North American Indians*.” (San Juan Paiute PF 1987, v)

- ▲ “Anthropologist Wayne Suttles, who conducted extensive research on Samish culture and history to early 20th century, identified the group in 1979 as the ‘biological descendants and cultural and political heirs’ of the aboriginal tribe.” (Samish PF 1982, 9)
- ▲ “Two Michigan State University faculty members and a university publication identified a Burt Lake band as an Indian entity in the late 1970's.” (Burt Lake Band PF 2004, 32). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “More ethnographic descriptions of the San Juan Paiutes came in 1961 and 1962 with the fieldwork of Shepardson and Hammond. This was followed by the identification of the band by anthropologist Nagata in 1963. . . . In 1977 anthropologist A. Turner lived with the group and described them in subsequent publications. . . . In 1985 two published articles appeared both identifying and describing the San Juan Paiutes. . . .” (San Juan Paiute PF 1987, v)
- ▲ “The Little Shell band was identified by anthropologist Verne Dusenberry, a Montana college professor, in an article published in 1958 and reprinted in 1965.” (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The group has been identified in works of various scholars. . . . by Boissevain (1952, 1959, 1969 and 1975), Gilbert (1948), Beale (1957), and Berry (1963).” (Narragansett PF 1982, 9)
- ▲ “More recent studies of the Cowlitz, such as Verne Ray (1938, 1966) and Darlene Fitzpatrick (1986) identified the existence of the ‘Cowlitz’ as an entity.” (Cowlitz PF 1997, 15). *Note: The PF contrasted these studies with pre-1934 studies.*
- ▲ “In 1941 they were visited by anthropologist Frank Speck, who published a brief ethnography of the group.” (Poarch Band of Creeks PF 1983, 3)
- ▲ “The group and its antecedents have been clearly identified as Shoshone or Panamint and as a specific group or groups by numerous scholars. . . . in the works of Julian Steward (1938, 1941), the foremost authority on Great Basin Indians, and by . . . Merriam (1969), Kroeber (1925), Driver (1937), Wallace and Wallace (1979) and Irwin (1980).” (Death Valley Shoshone PF 1982, 4)
- ▲ Historical documents “which identified the group as a distinct Paiute entity. . . . included a brief ethnographic study at Navajo Mountain in 1933. . . .” [p.4] ¶ Identification appears in “ethnographic works such as Stewart (1941-42) and Kelly (1934 and 1976).” [p.5] (San Juan Paiute FD 1989, 4, 5)

- ▲ “During the 1930's, the San Juan Paiutes were the subjects of repeated anthropological inquiry. Kelly studied the band in 1932 and described it in detail in several subsequent publications. Stewart and Collier did the same in 1938, and both described the band in detail in later writings. Van Valkenburgh . . . described the band in 1941.” (San Juan Paiute PF 1987, v)
- ▲ “In the *Archaeological Atlas of Michigan*, published in 1931, author Wilbert B. Hinsdale stated that “[o]ne of the [Indian] villages upon Burt Lake is still occupied. . . .” (Burt Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Since 1907, the ancestors of the petitioner have regularly been reported in anthropological literature as a ‘mixed-blood’ Indian group.” ¶ “From the 1940's to the present, subsequent scholars continued to identify the petitioner’s ancestors as descendants of the historical Houma Indian tribe based on the unfounded assumptions of Swanton and Speck. In spite of the inaccuracy of this identification, the petitioner has been consistently identified by external sources as an American Indian entity. Evidence for this includes identification by anthropologists and sociologists (e.g., Fred Kniffen in 1935 and 1987; William H. Gilbert, Jr., in 1946; and Ann Fischer in 1968), historians (e.g., Charles Gayarre in 1974; Kenneth Martin in 1984; Richebourg McWilliams in 1953), and others.” (Houma PF 1994, 5). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The settlement received a brief notice in Hodge’s 1907 *Handbook*.” (Match-e-be-nash-she-wish Band PF 1997, 5; Huron Potawatomi PF 1995, 7)
- ▲ “Identifications in the ethnological literature have included Prince and Speck (1903), Mooney (1907), Speck (1909 and 1928), Rouse (1947), Gilbert (1948), Swanton (1952), Schusky (1957), and Simmons (1986).” (Mohegan PF 1989, 2)
- ▲ The petitioner “is discussed and treated as a distinct group of Clallam in the scholarly works of Gunther, Barnett, Lane, and others.” (Jamestown Clallam PF 1980, 2)
- ▲ “People at or from Gay Head were . . . positively identified as being an Indian group . . . by anthropologists, historians, and other scholars. . . .” (Wampanoag of Gay Head PF 1986, 2)
- ▲ The band “has repeatedly been identified by anthropologists and historians. . . .” (Grand Traverse Band PF 1979, 4)

Evidence that has NOT been accepted as an identification:

- ▼ In a 1992 article, anthropologist Kenneth Tollefson “asserted that these [Sackman and Fowler family] ‘communities have been consistently identified as being Indian by local historical societies.’ However, Tollefson. . . did not cite a single example of an identification of these family ‘communities’ by local historical societies. Therefore, this article provides no evidence that the petitioner meets the requirements of criterion 83.7(a).” (Duwamish FD 2001, 13)
- ▼ “All scholarly discussions of the Steilacoom Indians published prior to the 1970's pertained to the pre-contact and early contact periods. No identifications of a continuing Steilacoom entity by scholars pertaining to the period between 1900 and the early 1970's were submitted by the STI [petitioner] or located by BIA researchers.” (Steilacoom PF 2000, 5). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “. . . a paper written in 1955 by anthropologists Alfred Kroeber and Robert Heizer. . . did not examine Indian populations in California in 1955, but at the time of the creation of the 1933 census roll [of the ‘Indians of California’].” [pp.27-28] ¶ “Kroeber and Heizer did not claim that Indian entities or settlements existed in 1955, or in 1933, but that historical groups . . . had surviving lineal descendants in the population of California at the time of the 1933 list. . . . Although the petitioner emphasizes the anthropologists’ use of the word ‘group,’ the context indicates that they referred to the historical groups which they used as the starting point of their analysis. Kroeber and Heizer stated as their conclusion that the 1933 census roll of California Indians showed ‘that almost every group identifiable between 1770 and 1850 is represented by some lineal descendants surviving today.’ This was a statement about the survival of individual descendants, rather than Indian groups.” ¶ “Whether individuals of Indian descent survived until 1933, or later, is not the test posed by criterion (a). Kroeber and Heizer did not describe the Mission San Jose survivors as an Indian entity. Therefore, their 1955 paper is not evidence sufficient to meet criterion (a).” [p.28] (Muwekma FD 2002, 27-28; see also, 29)
- ▼ “Anthropologist Herbert Taylor, in a 1953 report for the Indian Claims Commission, said that while there were several hundred living descendants of Lower Chinook bands, their tribal organizations had been destroyed long ago.” (Chinook PF 1997, 7)
- ▼ “J. P. Harrington’s 1942 publication was merely a checklist of Costanoan ‘culture elements’ . . . and did not comment on contemporary groups. Alfred Kroeber’s essay published in 1962 was a general review of the nature of Indian groups in California as they existed in the 1700's before contact with non-Indians. Jack Forbes’s 1969 publication classified historical Indian languages, and he used the term ‘Muwekma’ as an Indian word, not as a reference to the petitioning group. Robert Heizer’s

- references in 1974 to historical Costanoan Indians and their language were not contemporary identifications of the petitioner. Randall Milliken's monographs of 1983, 1991, and 1995 were ethnohistories of the Bay Area prior to 1810, and thus his scholarship did not identify an Indian entity after 1927." (Muwekma PF 2001, 11). *Note: Under section 83.8, the petitioner was evaluated since 1927.*
- ▼ "According to the petitioner, [anthropologist C. Hart] Merriam returned to Alameda County . . . and 'located an aged Jose Guzman' . . . and photographed him in August 1934. The petitioner provides no quotation from Merriam to demonstrate that he identified a contemporaneous Indian entity. It submits only the photograph. . . . This information does not identify this individual as part of an existing Indian group. . . ." (Muwekma FD 2002, 24-25). *Note: On Merriam, see also, PF 2001, D&A 2, 3, 5. Note: Under section 83.8, the petitioner was evaluated since 1927.*
  - ▼ "By identifying individual survivors [of a settlement near Pleasanton], the petitioner contends, [ethnologist J. P.] Harrington 'indirectly' identified a tribal entity." [p.13] ¶ ". . . Harrington did not . . . portray his informants as part of an existing community or group. . . . Harrington's focus was on the past rather than the present. The field notes [1929-1930] submitted by the petitioner do not contain any references to contemporaneous Indian settlements, groups, or entities. For the purposes of criterion (a), therefore, Harrington did not identify an Indian entity." [p.14] ¶ "Even though Harrington's field notes show that some of the individuals who had lived at the Indian rancherias at Pleasanton and Niles were still living in the vicinity in 1929-1930, the petitioner has not shown that Harrington described them as an existing Indian group or entity at the time of his field work with them. Therefore, the available evidence on Harrington is not sufficient to meet the requirements of criterion (a)." [p.15] (Muwekma FD 2002, 13-15; see also, 29)
  - ▼ "The petitioner rests its argument largely on a single quotation from Harrington's extensive field notes. . . . Harrington wrote [in 1929]: 'The San José [Mission] Indians were of many tribes – gathered at the mission. They are called Cocheños' . . . [I]n the present we have a name that we use to refer to a group in the past, and historical Indians 'are called' this name now. The use of the present tense, therefore, did not necessarily make this research note a reference to a contemporary group." (Muwekma FD 2002, 14; see also, 14-15)
  - ▼ "The 20th-century ethnography (1904-1934) included studies such as Curtis (1907), Gunther (1934), and Adamson (1934). These studies did not focus on the political or social organization of the Cowlitz tribe of that era." (Cowlitz PF 1997, 14)
  - ▼ "Creek histories . . . do not list any Creek or other Indian community in the county after 1850." (Principal Creek PF 1984, 2)

- ▼ “The group is not identified . . . in any scholarly works on the Creek Nation.” (MaChis Creek PF 1987, 2)
- ▼ “Although a great deal has been written about the Lumbee Indians, no evidence was found to indicate any scholars . . . have ever studied or even mentioned the ULN [petitioner].” (United Lumbee PF 1984, 1)
- ▼ “Although a great deal has been written about the Delaware Indians, no evidence was found to indicate any scholars . . . have ever taken note of the [petitioning] group.” (Munsee-Delaware PF 1982, 2)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ The identification of the petitioner as Indian “has been questioned . . . by the only scholarly study of the group.” (Lower Muskoguee Creek PF 1981, 2)

**(a)(5) Identification as an Indian entity in newspapers and books:**

Evidence that has been ACCEPTED as an identification:

- ▲ “There were two online newspaper articles from the *Port Townsend Leader*, from 1999 and 2000 respectively, which identified the petitioner. Both articles described powwows held by the ‘Snohomish Tribe of Indians’ at Fort Flagler State Park.” (Snohomish FD 2003, 22)
- ▲ “In 1996, a pair of newspaper obituaries made explicit references to the petitioning group.” (Muwekma PF 2001, 16). *See also: PF 2001, D&A 21.*
- ▲ “Simon Otto . . . in 1993 published a [newspaper] column in which he said that the ‘Burt Lake band consist[s] of many who can recall’ their ancestors talking about the burnout of the village.” (Burt Lake Band PF 2004, 33). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “A number of obituaries printed during the 1990's referred to the deceased as ‘a member’ of a ‘Burt Lake band’ of Indians. . . . A newspaper of the Catholic Church identified an entity when it reported [1992] that the local bishop transferred 20 acres of land to the ‘Burt Lake Band of Native Americans’.” (Burt Lake Band PF 2004, 33). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ A commenter “submitted copies of local newspaper articles from the years between 1990 and 1996 which described the activities of the members of a Duwamish group. These articles identified a contemporary Indian group, which appears to be the



- petitioner, and therefore, identified the petitioner as an Indian entity in the 1990's.” (Duwamish FD 2001, 15; see also, 16)
- ▲ “The first explicit identification of the petitioning group by an external observer appeared in a newspaper article in September 1985. A San Jose paper referred to ‘a group of Ohlone Indians,’ which it also called the ‘Muwekma Ohlones.’ This local paper then printed a series of articles which repeated such references. . . . During the decade of the 1990's, local newspapers consistently identified and reported on the petitioning group, often calling it the ‘Muwekma Tribe’.” (Muwekma PF 2001, 16)
  - ▲ “At least three local newspapers identified an Indian entity during the 1980's by using the formal name of the petitioning group.” (Burt Lake Band PF 2004, 33). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  - ▲ Since 1982, the petitioner “has been identified as a Creek Indian tribe in the local newspapers of Enterprise, Alabama. . . .” ¶ “There are no newspaper references to the group prior to 1983.” (MaChis Creek PF 1987, 2)
  - ▲ Since 1980, “the RMI [petitioner] have been repeatedly identified as an ‘Indian’ group in newspaper accounts. . . .” (Ramapough PF 1993, 5)
  - ▲ “. . . the most useful local history for identification of the Cowlitz as an American Indian entity was the work of Judith Irwin [1979-1995], since it was based not only on academic research, but also on extensive personal contact with several Cowlitz families for a period of more than 25 years.” (Cowlitz PF 1997, 15)
  - ▲ “The petitioner has been identified as an American Indian entity in newspapers with greater frequency since the founding of their organization in the 1970's.” (Houma PF 1994, 5). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  - ▲ “The activities of the Chinook Indian Tribe, which formed in 1970, were covered by local newspapers during the 1970's.” (Chinook PF 1997, 7)
  - ▲ “The organization has been identified as Indian since 1969 in newspaper accounts. . . .” (Principal Creek PF 1984, 2)
  - ▲ “Chinook organizations were also identified by newspaper accounts of their meetings in 1953, 1956, 1957, and 1958. This evidence of the identification by external observers after 1951 of claims organizations of Chinook descendants is consistent with the conclusions of the Proposed Finding.” (Chinook RFD 2002, 72)
  - ▲ “A feature article published in 1951 . . . indicated that ‘54 Pottawatomies’ remained at Bradley as a ‘permanent population’.” [p.4] A 1958 article referred to “. . . the

Indian settlement' and . . . 'the "Bradley Indians," as they have been known for many years. . . .' [p.5] ¶ ". . . articles published in local newspapers . . . [described] the settlements at Bradley and Salem as American Indian entities in 1966, 1970, 1975, 1979, 1980, 1982, 1983, 1987, 1988, and 1993." [p.6] (Match-e-be-nash-she-wish Band PF 1997, 4-5, 6)

- ▲ "Since 1950, there has been regular newspaper coverage of the Cowlitz Tribe of Indians and Cowlitz Indian Tribe incorporated organizations." (Cowlitz PF 1997, 19)
- ▲ "The WPA guide to the State of Michigan published in 1941 included a specific identification and description of the Bradley settlement as an Indian entity." (Match-e-be-nash-she-wish Band PF 1997, 4)
- ▲ "Four of the obituaries submitted which identified the deceased as a 'member of the Cowlitz Indian Tribe' dated to the decade of the 1940's." (Cowlitz PF 1997, 18)
- ▲ "Several obituaries between 1939 and 1950 also identified an 'Indian Settlement' or 'Indian Village' west of Burt Lake. . . . These sources all referred to an Indian settlement at Burt Lake as a contemporaneous Indian entity." (Burt Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ "In his 1938 Master's thesis, the local school board commissioner, H. L. Bourgeois, treated the petitioner as a distinct community with mixed Indian and non-Indian heritage. . . ." ¶ "Bourgeois' assumption that the UHN [petitioner] ancestors were a separate entity was based on the perception that they had partial American Indian ancestry. This provides supporting evidence that the petitioner meets criterion 83.7(a)." (Houma PF 1994, 4). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ "In 1936, a Great Falls newspaper reported on the plans of a 'Chippewa-Cree tribe,' under the leadership of [Joseph] Dussome, to bring an Indian claims case against the United States. A Phillips County newspaper in 1941 referred to Dussome as the president of a 'band' of Chippewa Indians. . . . In 1950, a Havre newspaper said that an 'organization of landless Indians of Montana' would file a claim with the Indian Claims Commission." [pp.8-9] ¶ "A Great Falls newspaper identified the petitioner as the Little Shell band or the Landless Indians of Montana in articles in 1955." [p.9] (Little Shell PF 2000, 8-9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ "A reporter of local news and gossip referred to an 'Indian Village' in Burt Township in 1932. . . . In an article in 1935, a Cheboygan newspaper stated that the 'Indian Village at Burt Lake includes about 50 families.' Two months later, it reported that a meeting recently had been 'held in the Indian settlement at Burt Lake. . . .'" (Burt

- Lake Band PF 2004, 31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The 1931 *Athens Times* centennial edition contained extensive articles about the group, as did a historical series published from 1946 through 1948 in the *Kalamazoo Gazette*.” (Huron Potawatomi PF 1995, 8)
  - ▲ “Newspaper articles . . . identified the petitioner’s ancestral group as Indian in the late 1920's and 1930's.” ¶ “Newspaper articles in 1938, 1946, and 1950 identified different leaders of the tribe of Indians near Jena.” (Jena Choctaw PF 1994, 2)
  - ▲ “An article from the *Raymond Herald* in February 1927. . . . reported that about ‘100 members of the Chinook Indian Tribe’ attended a meeting at South Bend concerning the claims suit against the United States. . . . This article explicitly referred to a group of Chinook descendants in existence in 1927, and thus meets the requirements of criterion (a) for 1927.” (Chinook RFD 2002, 71)
  - ▲ “Since 1912, the obituaries of the elected leaders described them as officers of the Cowlitz Indian Tribe.” (Cowlitz PF 1997, 14)
  - ▲ “Newspapers regularly provided coverage of the annual meetings of the Cowlitz Tribal Organization from 1912 through 1939.” (Cowlitz PF 1997, 17; *c.f.*, 14)
  - ▲ “A Mohegan Indian group has likewise been identified in . . . local and regional histories, including . . . Fitch (1906), and Peale (1930) . . .” (Mohegan PF 1989, 2)
  - ▲ “Local newspaper coverage of the burnout of that [Burt Lake] village in 1900 identified ‘Indian Village’ as an Indian settlement. A local newspaper also referred to ‘the Cheboygan Indians’ of Burt Lake at this time, and noted that many people considered them to be ‘a tribe named Cheboygan’.” (Burt Lake Band PF 2004, 30).  
*Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  - ▲ “From the 1880's until the present, a variety of Michigan newspapers have published feature articles about the Pine Creek settlement. . . . Additionally, . . . the ‘local news’ segment . . . between the late 1890's and the 1960's, called ‘Indiantown Inklings,’ [was] published in the *Athens Times* newspaper. . . .” (Huron Potawatomi PF 1995, 7)
  - ▲ After 1880 “and until the present the group has continued to be identified as an Indian entity in Rhode Island newspapers. . . .” (Narragansett PF 1982, 8)

- ▲ “From the 1880's through 1904, local newspapers also published both news items and feature articles which identified the settlement.” (Match-e-be-nash-she-wish Band PF 1997, 4).
- ▲ “The Nottawaseppi Reserve and the Pine Creek settlement were also discussed in county and local histories [in 1877 and 1913].” (Huron Potawatomi PF 1995, 8)
- ▲ These sources and writers discussed in the PF “did consistently identify the RMP [Ramapo Mountain People] as a mixed tri-racial isolate group to which tradition attributed a certain amount of American Indian ancestry.” [p.18] ¶ Identification “of the existence of a distinct tri-racial entity which is generally believed to have included an Indian component in its originating population shall be regarded as minimal evidence for identification of the existence of an American Indian entity. . . .” [p.20] (Ramapough FD 1996, 18, 20). *Note: See also the PF:*

“Since the first newspaper article discussing the petitioner’s ancestors was published in 1872, the composition and origins of the RMI [petitioner] precursor community have been extensively discussed by local historians, by journalists, and occasionally by anthropologists, archaeologists, and folklorists. . . . These reports attributed a certain amount of Indian ancestry to the RMI based primarily upon the physical appearance of some members of the group and stereotyped character traits.” (Ramapough PF 1993, 5).
- ▲ “There have also been numerous identifications in magazines and newspapers from 1859 to the present, particularly in the *Norwich Bulletin* and the *New London Day*.” (Mohegan PF 1989, 2)
- ▲ “Since 1855, periodic articles in regional newspapers, and in local publications within the Snoqualmie Valley, have also identified a Snoqualmie tribal entity.” (Snoqualmie PF 1993, 5). *Note: The PF was prepared prior to the provisions of section 83.8. For the FD, the petitioner was evaluated, under section 83.8, since 1953.*
- ▲ “A Miami Indian entity in Indiana has also been identified from before the removal period to the present in travelers [*sic*] accounts, regional histories, and popular biographies. . . .” [p.3] “. . . numerous articles in Indiana newspapers dating from the 1880's to the present also note the existence of an identifiable, overall Miami Indian entity [as] well as the subgroups in the state. . . .” [p.3] (Miami PF 1990, 2-3)
- ▲ “People at or from Gay Head were . . . positively identified as being an Indian group in travelers’ accounts, local and regional histories, and travel guides; . . . and in newspapers and other media.” (Wampanoag of Gay Head PF 1986, 2)

*Identifications prior to 1900 (for previously acknowledged petitioners):*

- ▲ “Local histories included Olson’s retrospective description of the Cowlitz when she was growing up in the 1890’s. . . .” (Cowlitz PF 1997, 17)

Evidence that has NOT been accepted as an identification:

- ▼ “. . . a 1982 obituary . . . [was] found to have mentioned a historical tribe rather than to have identified a contemporary Indian entity.” (Muwekma FD 2002, 39). *See also: PF 2001, D&A 21.*
- ▼ “. . . a popular history of the Ohlone by Malcolm Margolin that was published in 1978. . . . is an account of an Ohlone lifestyle prior to European settlement, and thus is not relevant to an analysis of the petitioner since 1927. . . . While Margolin acknowledged the existence of living Ohlone individuals, his text did not identify any Indian entity in 1978.” (Muwekma FD 2002, 39; see also, 42)
- ▼ “. . . the petitioner submits a ‘Sunol Regional Wilderness History,’ an undated, 8-page manuscript which the petitioner says was written by the naturalist for the Sunol Valley Regional Park about 1969. . . . This local history’s reference to a single individual ‘Costa Rican Indian’ [in 1908] . . . did not identify an Indian group in 1908. Nor did any other text in this historical manuscript identify any Indian entity in existence in the late 1960’s. . . .” (Muwekma FD 2002, 36; see also, 41)
- ▼ “A newspaper article in 1965 about a ‘survivor of the ancient Ohlone Indian tribe’ is cited by the petitioner as an example of external identification. In this case, however, the tribal reference was clearly to the past, not to a contemporary Indian group.” (Muwekma PF 2001, 16)
- ▼ “This [1949] local history mentioned Indian rancherias as having been a part of Pleasanton ‘up until 1914.’ The excerpt submitted by the petitioner did not describe any Indian group or individuals after 1914. Therefore, it did not identify the petitioning group at any time since 1927.” (Muwekma FD 2002, 27). *Note: Under section 83.8, the petitioner was evaluated since 1927.*
- ▼ The petitioner submitted “three newspaper articles [1920’s] describing a large meeting of the NFAI [Northwestern Federation of American Indians]. None of these described a Snohomish entity, on or off the reservation.” [p.20] ¶ The petitioner submitted “newspaper and periodical articles from the 1930’s. None of these documents identified a group of the petitioner’s ancestors.” [p.21] (Snohomish FD 2003, 20, 21)

- ▼ “An article from the *South Bend Journal* in March 1925 described a multi-tribal meeting regarding potential treaty claims. The article referred to ‘Pacific County Indians,’ thus grouping individuals of different tribal ancestry together by their geographical location. The article mentioned individuals of known Chinook or Clatsop descent, but did not describe them as representatives of a Chinook entity.” (Chinook RFD 2002, 71).
- ▼ The petitioner submitted “two 1910 articles from the *South Bend Journal* that mentioned the efforts of Indian Agent Johnson to take a census of Indians. The articles referred to Indians generally rather than to a specific contemporary tribe. Statements about Indians in Bay Center or ‘on the bay’ were not necessarily identifications of a Chinook Indian entity, and the articles and the agent may both have been referring to Indians who belonged to or were affiliated with the federally recognized Shoalwater Bay Reservation, a group different from the petitioner.” (Chinook RFD 2002, 68)
- ▼ The petitioner submitted “newspaper accounts of 1907 and 1908 . . . that reported on proposed Congressional bills that offered to pay compensation to descendants of the ‘three bands of Indians living in the State of Washington along the lower Columbia River’.” ¶ “The 1907 article in the *South Bend Journal* referred to the individual beneficiaries, rather than to the tribes, who would receive payment of compensation. The 1908 article in the *South Bend Journal* reported that Secretary of the Interior Garfield had denied the contemporaneous existence of these bands. . . .” (Chinook RFD 2002, 67-68)
- ▼ “Two works published in the early 20<sup>th</sup> century mentioned a man named ‘Steilacoom John’ as a surviving long-time employee of the Hudson’s Bay Company (HBC), but did not describe him as a member of any Indian entity. A 1906 newspaper article in the *Tacoma Ledger* also did not identify a Steilacoom Indian entity, but rather discussed one nuclear family. . . .” (Steilacoom PF 2000, 6). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner has submitted several recollections of pioneer settlers. . . .” ¶ “The reminiscence of Ralph Elliott, who arrived in Cathlamet in 1855, mentioned other pioneer settlers and two chiefs, but did not describe or identify tribes. The article did not say that a band of Chinook Indians still existed . . . in 1901 when the newspaper was published. The 1921 [newspaper] article was a very general historical description of Indian life at the time of settlement rather than an identification of a tribe. Skidmore’s 1922 article also was more a historical account than contemporaneous observation that offered very general statements about Indian culture rather than an identification of a specific tribe. . . . Troeh’s manuscript [n.d.] described one family’s settlement at Ilwaco in 1882, but did not identify a tribe continuing to exist at or after that time.” (Chinook RFD 2002, 66-67)

- ▼ “The group is not identified in any local or regional histories of the counties in southeastern Alabama. . . .” (MaChis Creek PF 1987, 2)
- ▼ “. . . local history . . . records do not list any Creek or other Indian community in the county after 1850.” (Principal Creek PF 1984, 2)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ “The 109 year old *Pueblo Chieftain* newspaper made no mention of Munsee or Delaware Indians throughout the newspaper’s existence until June 1974. . . .” (Munsee-Delaware PF 1982, 2)

**(a)(6) Relationships with Indian tribes or organizations:**

Evidence that has been ACCEPTED as an identification:

- ▲ “The petitioner . . . has been identified by and accepted for membership in both regional and national American Indian organizations.” (Snoqualmie PF 1993, 6)
- ▲ “The petitioner has provided examples of its identification by several Indian organizations . . . during the 1990’s.” (Muwekma PF 2001, 17)
- ▲ “The Miami have included with their petition letters from the Saginaw Chippewa Indian Tribe of Michigan, the Miami Tribe of Oklahoma and the Oneida Tribe of Indians of Wisconsin supporting the group’s petition for Federal acknowledgment.” (Miami PF 1990, 3)
- ▲ “The San Juan Paiutes are identified as a band of Southern Paiutes by the Kaibab Band of Paiutes of Arizona and the Paiute Tribe of Utah. Both have submitted resolutions supporting acknowledgment of the San Juan Paiutes.” (San Juan Paiute PF 1987, vi)
- ▲ “Tribal identifications of the petitioner as an Indian entity consist of resolutions in support of the Federal recognition of the Little Shell band passed by the National Tribal Chairman's Association in 1985, the tribal council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in 1985, the tribal council of the Northern Cheyenne Tribe in 1985, the Chippewa Cree Tribe of Rocky Boy's Reservation in 1992, and the Turtle Mountain Band of Chippewa in 1992.” (Little Shell PF 2000, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ “Two federally recognized Indian tribes . . . identified the petitioner as a contemporaneous Indian entity by adopting resolutions in 1984 and 1985 in support of Federal acknowledgment of a Burt Lake band.” [p.32] ¶ “Five federally recognized Indian tribes identified a Burt Lake band as a contemporaneous Indian entity in 1996. At the time Congress considered recognition legislation, these Indian tribes from Michigan passed resolutions in support of the Federal acknowledgment of a Burt Lake band.” [p.34] (Burt Lake Band PF 2004, 32, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “In recent years they have been active participants in the National Congress of American Indians. . . .” (Poarch Band of Creeks PF 1983, 3)
- ▲ “In August of 1983, the recognized Muscogee (Creek) Nation of Oklahoma formally established a government-to-government relationship with the Poarch Band of Creeks and supported the group’s petition for recognition stating the PBC is ‘a distinct and separate band of Muscogee (Creek) Indians’ . . . .” (Poarch Band of Creeks PF 1983, 3)
- ▲ “The group is recognized as a distinct Indian community by the Intertribal Council of California and the Owens Valley Paiute-Shoshone Band.” (Death Valley Shoshone PF 1982, 4)
- ▲ “Four resolutions from recognized tribes supporting recognition for the Samish. . . . were passed by the Squaxin Island Tribe in May 1981, and by the Jamestown Klallam, Sauk-Suiattle, and Suquamish tribes in late September 1982.” (Samish PF 1982, 10). *Note: The PF also noted that Samish recognition was opposed by the Swinomish Reservation and the Tulalip Tribes (PF 1982, 10).*
- ▲ “Since the early 1980's, the group and its leaders have become active in statewide Indian organizations, such as the Intertribal Council of Indians of Indiana. . . .” (Miami PF 1990, 3)
- ▲ “The Jamestown Band has had repeated dealings with recognized Indian groups. The Port Gamble and Lower Elwha Clallam bands and the Skokomish Tribe support the Jamestown petition for acknowledgment.” (Jamestown Clallam PF 1980, 2)
- ▲ “Two recognized tribes, the Bay Mills Indian Community and the Saginaw Chippewa Indian Tribe, support the group’s petition for Federal acknowledgment.” (Grand Traverse Band PF 1979, 4)
- ▲ The petitioner “has been a member of NCAI since 1978.” (Narragansett PF 1982, 9)



- ▲ “The Tchinouk Indians have been identified as a group of Chinook descendants only recently [most after 1974]. . . . They have been identified by the Chinook Nation of Washington State, an unrecognized group, . . . the Native American Rights Fund, . . . and several local Indian groups and organizations in Oregon. Their petition for acknowledgment is supported by the Klamath Tribe, a terminated tribe.” (Tchinouk PF 1985, 8). *Note: The PF also noted that the unrecognized Chinook Tribe, Inc., petitioner “challenged the Tchinouk’s claim to be derived from the Lower Chinook. . . .”*
- ▲ “The new [Chinook Indian Tribe] organization was accepted as a member of the Small Tribes Organization of Western Washington (STOWW) [ca. 1970] and the National Congress of American Indians (NCAI) [by 1980].” (Chinook PF 1997, 7)
- ▲ “In 1972 Navajo tribal chairman MacDonald identified the San Juan Paiutes in Senate hearings. . . . An article in the Hopi newspaper *Qua’toqti* appeared in 1974 describing the San Juan Paiutes.” [p.v] ¶ “The Kaibab Band [of Paiutes of Arizona] also identified the San Juan Paiutes as a Paiute group in 1969 in connection with the Southern Paiute judgment award. . . .” [p.vi] (San Juan Paiute PF 1987, v, vi)
- ▲ “. . . the group as been active in several local Indian organizations, such as STOWW. It has been a member of NCAI since about 1970.” (Snohomish PF 1983, 8)
- ▲ “In 1967 the tribe contacted the National Congress of American Indians (NCAI) seeking assistance to obtain recognition. NCAI supported their recognition efforts and the tribe was a member of the organization for a time.” (Tunica-Biloxi PF 1980, 2-3)
- ▲ “The Jamestown Band of Clallam is a founding and active member of the Small Tribes Organization of Western Washington [ca. 1967]. It was also an early member of the National Congress of American Indians.” (Jamestown Clallam PF 1980, 2)
- ▲ “The Samish were members of the Intertribal Council of Western Washington Indians, a group of recognized and unrecognized Indians active in the 1950’s. They have been members of the Small Tribes Organization of Western Washington (STOWW) which was formed in 1967, and the Affiliated Tribes of Northwest Indians, which are organizations of both recognized and unrecognized groups. They were granted membership in the Northwest Indian Fish Commission, an intertribal organization, in 1975. They have been members of the National Congress of American Indians (NCAI) since at least 1974.” (Samish PF 1982, 9)
- ▲ “In the 1950’s the Indiana and Oklahoma Miami worked together again, this time on Miami claims cases before the Indian Claims Commission. Contact and visits

between the councils and leaders . . . of both Miami organizations have continued to the present.” (Miami PF 1990, 3)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “The contemporary San Juan Paiutes are . . . identified by the predominantly Navajo local population . . . which surrounds them. . . .” (San Juan Paiute PF 1987, vi)

Evidence that has NOT been accepted as an identification:

- ▼ “The Tribal Council of the Tule River Tribes . . . passed a resolution refusing to recognize, support or endorse the KIN [petitioner] or its activities.” (Kaweah PF 1984, 1)
- ▼ “The organization which represents the preponderance of the Lumbees, the Lumbee Regional Development Association, Inc., (LDRA) formally opposes acknowledgment of the ULN [petitioner].” (United Lumbee PF 1984, 1)
- ▼ “One resolution opposing recognition was received from the Tulalip Tribes, Inc., whose membership includes more persons of Snohomish ancestry than any other tribal background.” (Snohomish PF 1983, 8).
- ▼ “The recognized Delawares now in Oklahoma deny the MTD [petitioner] is a Delaware (or Indian) group or that it has had a continuous existence as an Indian tribe.” (Munsee-Delaware PF 1982, 2)
- ▼ “A 1947 membership card in a Bay Area Indian organization listed an individual as a ‘Mission’ Indian.” ¶ “The 1947 membership card was a form of self-identification which did not identify the petitioning group. The use of a general designation of ‘Mission’ Indians was not capable of identifying the petitioning group as distinct from any other group of descendants from any other Spanish mission. . . . [T]he examples . . . [including] the 1947 membership card are not sufficient to meet the requirements of criterion (a) because they are evidence about *individual* Indians, not evidence of identification of an Indian *entity*.” (Muwekma PF 2001, 13)

**(a) Other evidence of identification:****(a) Other evidence – local non-Indian residents:**Evidence that has been ACCEPTED as an identification:

- ▲ “Elderly non-Indian residents of the area . . . recall the Choctaws as a constant presence in the community.” (Jena Choctaw PF 1994, 2-3)
- ▲ “The group is considered to be a distinct Indian community by non-Indians in the immediate vicinity of the Jamestown settlement. . . .” (Jamestown Clallam PF 1980, 2)
- ▲ “In 1906, a woman from Indianapolis who had spent the summer at Burt Lake, and heard the story ‘of the Indians who have their settlement at Burt Lake about four miles from Brutus,’ wrote to the Governor of Michigan to inquire whether the Indians could receive compensation for their lost church building so that ‘they may build another in their new settlement.’ This correspondent thus identified a post-burnout Indian settlement in 1906.” (Burt Lake Band PF 2004, 30-31). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Also identifying the Paiutes were . . . testimony or other writings of non-Indians who had lived in or studied the area (Bennett 1880, Johnston 189[8], Richardson 1986, Runke 1916, Reebel 1935) between 1880 and the 1930's.” (San Juan Paiute FD 1989, 4)
- ▲ “. . . the lands which they [members of the Pine Creek Indian settlement] bought came to be known as ‘East Indiantown’.” (Huron Potawatomi PF 1995, 6)

Evidence that has NOT been accepted as an identification:

- ▼ “The interviewee [a member of a local ranching family] identified two individuals. . . . Both individuals were described in the past tense, not as 1970 contemporaries.” ¶ “An identification of two individuals, however, that did not link them to an existing group of Indians does not meet the regulatory requirement for the identification of a contemporaneous Indian entity. This interviewee did not identify any Indian group after 1919 and did not identify any Indians in the present.” (Muwekma FD 2002, 37)
- ▼ “In 1945, [local resident and notary public Charles] Wauhab wrote of ‘Trina’ of the ‘Marino’ family that: ‘She is a descendant of the local Indian tribe. . . .’” ¶ “The Proposed Finding concluded that this was not a contemporaneous identification of an Indian entity in 1945 because Wauhab ‘referred to a tribe in the past, since one is a

“descendant” of a tribe that existed in the past.’ Wauhab did not write that ‘she belongs’ to the local tribe or that ‘she is active’ in the local tribe, language that would have referred to an existing entity, but that ‘she is a descendant.’ The point is that even though Wauhab used the present tense to indicate that ‘Trina’ Marine Ruano was alive in 1945, it is reasonable to conclude that his reference to the ‘local Indian tribe’ was to an entity that had existed at an earlier time. There is not a reasonable likelihood that this 1945 letter was an identification of a contemporaneous Indian entity.” (Muwekma FD 2002, 26)

**(a) Other evidence – miscellaneous:**

Evidence that has been ACCEPTED as an identification:

- ▲ “. . . an announcement by Stanford University in 1996 identified the petitioning group by referring to the ‘Muwekma Tribe of Ohlone Indians.’ In 1996, Santa Clara University made an agreement with the petitioner as the ‘Muwekma Ohlone Tribe’.” (Muwekma PF 2001, 17)
- ▲ “The missionary Schoff identified the band in 1969, and in 1970 the San Juan Paiutes were identified -- and described -- by DNA attorney Withers and journalist Stone. . . . DNA attorney Arthur identified the band in 1981. . . .” (San Juan Paiute PF 1987, v)
- ▲ “Both a Michigan representative of the Women’s National Indian Association and a Chicago advocate issued appeals on ‘behalf of a band of Cheboygan Indians,’ thus identifying the Indians at Burt Lake as a band in 1903.” (Burt Lake Band PF 2004, 30). *Note: See also PF 2004, 36. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . the church at Bradley which had been established in the 1880's continued to be designated as an Indian mission by the Methodist church.” [p.4] ¶ “Most external identifications for the period 1963 through 1988 were in the context of the mission churches and their activities in the settlements. . . .” [p.5] (Match-e-be-nash-she-wish Band PF 1997, 4, 5). *Note: The PF considered the Indian mission church to have been an Indian-controlled social and political entity (PF 1997, 8, 11-12). See also: Huron Potawatomi PF 1995, 7.*

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▲ “In 1929, the St. Anna’s Indian Mission (Episcopal) was begun to service the Indians at Poarch. . . .” (Poarch Band of Creeks PF 1983, 3)
- ▲ “The band has been identified as Indian by the Catholic, Methodist and Presbyterian churches for over a century.” (Grand Traverse Band PF 1979, 4)

Evidence that has NOT been accepted as an identification:

- ▼ “The petitioner submitted an unidentified 1940 press release or biographical statement about college football player Tommy Yarr. . . . While the document did identify Yarr as having Snohomish ancestry, it did not identify a group of STI [petitioner] ancestors.” (Snohomish FD 2003, 21)
- ▼ “The petitioner also submitted three maps [of local counties], one from 1925, and two from 1927. . . . The maps listed the names of various households and businesses in these areas, including some belonging to the petitioner’s ancestors, but did not identify any Snohomish entity.” (Snohomish FD 2003, 20)
- ▼ “. . . the actual church records, which were available through 1918, did not identify the church as Indian, or its members as Indian.” (Ramapough FD 1996, 17). *Note: The FD [p.16] classified church records under subsection (a)(3).*
- ▼ A commenter “provided a copy of a 1907 survey map which showed an ‘Indian village’ in the vicinity of Tukwila. He claimed that it showed that the ‘Duwamish maintained a tribal presence throughout the area’ after 1916 when the level of Lake Washington was lowered, affecting the Black River settlement site. This map by itself did not identify this village as Duwamish or associate this village with any of the petitioner’s ancestors. It is not clear that the map referred to an existing Indian village rather than to a historical village site. . . . [A] map of 1907 does not provide evidence that a settlement continued to exist after 1916. Nor does a map of one location provide evidence about a tribal presence throughout an area. Thus, by itself, this map does not identify the petitioner as an Indian group in 1907 or any more recent date.” (Duwamish FD 2001, 13-14)
- ▼ “The petitioner submitted excerpts of city directories from 1900-1910 for the area around Port Townsend. . . . None of the directories identified the existence of an entity of STI [petitioner] ancestors in that region. Instead, they simply listed the names of some of the petitioner’s ancestors who lived in a non-Indian community.” (Snohomish FD 2003, 18)

*Identification of Indian individuals and “Indian identity” prior to the 1994 regulations:*

- ▼ “Various other historical documents submitted contained no specific reference to Creek Indians. . . .” (Lower Muskogee Creek FD 1981, 5).

**SECTION 83.8(D)(1):****Requirements of the criterion as modified by previous Federal acknowledgment:**

- “When the date of last Federal acknowledgment is prior to 1900 . . . the reduced evidentiary burden for criteria (b) and (c) is balanced by an increased evidentiary burden for criterion (a). The chronological period for which the petitioner must provide evidence that it meets criterion 83.7(a) is extended from 1900 back to the last date of Federal acknowledgment, as indicated in section 83.8(d)(1). With a finding of previous Federal acknowledgment in 1851 and 1855, the Chinook petitioner needs to show under the 1994 regulations that it ‘has been identified as an American Indian entity on a substantially continuous basis’ since 1855.” ¶ “An additional requirement imposed by section 83.8(d)(1) is that the identifications of the petitioner must identify it as the same Indian entity that was previously recognized.” (Chinook RFD 2002, 64)
- “Section 83.8(d)(1) . . . requires not only that the petitioning group has been identified as an Indian entity on substantially continuous basis, but also that some identifications of the petitioning group have identified it ‘as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity’.” (Muwekma PF 2001, 10). *Note: See also, FD 2002, 10. Note: The PF and FD evaluated this requirement since 1927, the presumed date of last Federal acknowledgment.*
- “The application of section 83.8 changes the requirements for criterion 83.7(a) to require identification from the date of last Federal acknowledgment. It requires also that the identification make clear that the group is being identified as the same entity which previously had been federally acknowledged.” (Snoqualmie FD 1997, 4). *Note: The FD required identification since 1953, the date of last Federal acknowledgment.*
- “. . . the modification in section 83.8(d)(1) extended the time period for which the CIT [petitioner] was required to demonstrate criterion 83.7(a): not merely since 1900, but since the point of last Federal acknowledgment. In the case of the CIT, this date was determined to be . . . 1855. . . .” (Cowlitz PF 1997, 11). *Note: See also the FD:*

“. . . the extension of previous acknowledgment to the later date of 1878-1880 means that. . . . The petitioner only needs to show that it meets criterion (a) from 1880 to the present.” (Cowlitz FD 2000, 9)
- “. . . the modification in section 83.8(d)(1) extends the time period for which criterion 83.7(a) must be demonstrated: not merely since 1900, but since the point of

last Federal acknowledgment. In the case of MBPI [petitioner], this date was determined to be 1870. . . .” (Match-e-be-nash-she-wish Band PF 1997, 2)

- “. . . the modification in section 83.8(d)(1) extends the time period for which criterion 83.7(a) must be demonstrated: not merely since 1900, but since the point of last Federal acknowledgment. In the case of HPI [petitioner], this date was determined to be . . . 1833. . . .” (Huron Potawatomi PF 1995, 2)

### **83.8(d)(1) Identification as the “tribal entity that was previously acknowledged”:**

Evidence that has been ACCEPTED as an identification:

- ▲ “Under criterion 83.7(a) as modified by 83.8(d)(1), the proposed finding concluded that the petitioner had been identified as an American Indian entity on a substantially continuous basis since 1855, . . . and that it was the same group as the one previously federally acknowledged.” (Cowlitz FD 2000, 8)
- ▲ “Under criterion 83.7(a) as modified by 83.8(d)(1), the proposed finding concluded that the petitioner had been identified as an American Indian entity and as the same group as the one previously federally acknowledged on a substantially continuous basis since 1870, the date of last unambiguous prior Federal acknowledgment. . . .” (Match-e-be-nash-she-wish Band FD 1998, 7). *Note: See also the PF:*

“. . . the Allegan County settlement near Bradley, Michigan, and its residents have been historically, and are currently, consistently identified as descendants of Match-e-be-nash-she-wish’s Band of Potawatomi Indians of Michigan from the Kalamazoo Reserve. . . .” (Match-e-be-nash-she-wish Band PF 1997, 3)
- ▲ “The STO [petitioner] since 1953 has been identified in a variety of Federal records as well as other sources as the same entity as the group known as ‘Jerry Kanim’s Band,’ as it existed before 1953.” (Snoqualmie FD 1997, 4). *Note: 1953 was the date of last Federal acknowledgment.*
- ▲ “The HPI [petitioner], or Nottawaseppi Huron Band of Potawatomi, have consistently been identified in Federal, State, and local records, by the BIA, and by academic scholars, as an Indian group, specifically as a Potawatomi group who were successors to treaty signers, from the reestablishment of the community in 1842 . . . until the present day.” (Huron Potawatomi PF 1995, 8)

Evidence that has NOT been accepted as an identification:

- ▼ “The petitioner’s documentation contains only a single example between 1927 and 1995 . . . of an identification of the petitioning group as one that had evolved from the Indian settlement at the Verona station. One example is not sufficient to meet this requirement.” (Muwekma PF 2001, 10). *See also: FD 2002, 12.*

**83.8(d)(1) and 83.8(d)(5):**

- “If a petitioner cannot meet the requirements of section 83.8(d)(1), the acknowledgment regulations provide, in section 83.8(d)(5), that the petitioner may demonstrate alternatively that it meets the unmodified requirements of criterion 83.7(a) since the date of last Federal acknowledgment.” [p.11] ¶ “Because there is insufficient evidence to meet the requirements of criterion 83.7(a) as modified by section 83.8(d)(1), this Final Determination will evaluate, as provided in section 83.8(d)(5), whether or not the petitioner has demonstrated that it meets the unmodified requirements of criterion 83.7(a) from 1927 until the present.” [p.12] (Muwekma FD 2002, 12). *See also: PF 2001, 10-11. Note: 1927 was the presumed date of last Federal acknowledgment.*
- “The regulations also provide . . . that if the petitioner cannot meet this requirement of section 83.8(d)(1), it may demonstrate instead that it meets the unmodified requirements of criterion (a), in section 83.7(a), from the date of last Federal acknowledgment until the present. This alternative evaluation, as provided in section 83.8(d)(5), is less burdensome on the petitioner and therefore is applied here.” (Chinook RFD 2002, 64)



## Criterion 83.7(b)

### The text of criterion 83.7(b):

“(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

(1) This criterion may be demonstrated by some combination of the following evidence and/or other evidence that the petitioner meets the definition of *community* set forth in § 83.1: (i) Significant rates of marriage within the group, and/or, as may be culturally required, patterned out-marriages with other Indian populations. (ii) Significant social relationships connecting individual members. (iii) Significant rates of informal social interaction which exist broadly among the members of a group. (iv) A significant degree of shared or cooperative labor or other economic activity among the membership. (v) Evidence of strong patterns of discrimination or other social distinctions by non-members. (vi) Shared sacred or secular ritual activity encompassing most of the group. (vii) Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian. They may include, but are not limited to, language, kinship organization, or religious beliefs and practices. (viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name. (ix) A demonstration of historical political influence under the criterion in § 83.7(c) shall be evidence for demonstrating historical community.

(2) A petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided to demonstrate any one of the following: (i) More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community; (ii) At least 50 percent of the marriages in the group are between members of the group; (iii) At least 50 percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship organization, or religious beliefs and practices; (iv) There are distinct community social institutions encompassing most of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or (v) The group has met the criterion in § 83.7(c) using evidence described in § 83.7(c)(2).” (59 F.R. 9293)

### The definition in section 83.1:

“*Community* means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its

members are differentiated from and identified as distinct from nonmembers. *Community* must be understood in the context of the history, geography, culture and social organization of the group.” (59 F.R. 9293)

**The text of section 83.8(d):**

“To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that: . . . (2) The group meets the requirements of the criterion in § 83.7(b) to demonstrate that it comprises a distinct community at present. However, it need not provide evidence to demonstrate existence as a community historically.” (59 F.R. 9293)

**The text of criterion (b) from 1978 to 1994:**

“(b) Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area.” (43 F.R. 39361)

**Compilation of precedents:**

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the finding.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:****“a distinct community”:**

- “. . . community involves much more than a membership list. . . . Individuals who are eligible for enrollment in more than one entity make choices for a variety of reasons. . . . The inclusion of their names on the membership list of one tribe [or another unacknowledged petitioner] does not automatically or necessarily mean that they are not participating in the activities of their own Indian community. It does not mean that the second Indian community has had no separate existence.” (Match-e-be-nash-she-wish Band FD 1998, 10). *Note: A footnote pointed out that dual enrollment is discussed under criterion 83.7(f).*
- “Maintenance of social cohesion as a distinct group is required by this criterion.” (Snoqualmie FD 1997, 9)
- “Under the 1994 revised regulations. . . . Criterion 83.7(b) no longer requires evidence that a petitioner’s community has been *viewed as American Indian* as well as ‘distinct from other populations in the area’. . . .” [p.21] ¶ “It should be noted that in the 1994 revision the issue of demonstrating descent from an Indian tribe has also been analytically separated from the consideration of community. . . .” [p.22] (Ramapough FD 1996, 21, 22)
- A third party commenter “seemed to imply that the 1994 revision of the Federal acknowledgment regulations imposed a new, more strict requirement for the community criterion. It appears that . . . [she] distinguished between the Proposed Finding terminology ‘community’ and ‘social community’.” [p.22] ¶ “The analytical concept of ‘social community’ . . . is not a stricter requirement under the new regulations. It is used as a synonym for community, and the standard for community remains the same.” [p.23] (Ramapough FD 1996, 22, 23)
- “The cohesiveness found in some of the separate communities does not prove that the entire petitioning population meets 83.7(b) as a single community.” (Houma PF 1994, 15). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The regulations require that a distinct social community be maintained. . . .” (Snoqualmie PF 1993, 8).
- “To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be

broadly distributed among the membership. . . . across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that the members of the group as a whole are significantly connected with each other.” (Miami FD 1992, 5)

- “. . . the regulations require that a tribe be a distinct community from other populations in the area. The members must maintain at least a minimal social distinction from non-members. This requires that they identify themselves as distinct and are identified as different by non-members of the group.” (Miami FD 1992, 6)
- “The intensity of social interaction and strength of relationships is not normally uniform within the membership of a tribe. It is not required that all of the membership maintain the same or even a strong degree of social cohesion. There may be a ‘social core’ which has a high degree of social connectedness while the periphery of the membership has a lesser degree of connectedness. Characteristically, peripheral members have significant connection with the social core, although generally not with each other. It is essential to demonstrate that most of the peripheral individuals maintain social ties and interaction with the social core.” (Miami FD 1992, 5)
- “While blood degree may be some evidence of social and cultural cohesion and maintenance of tribal relations, it is more definitely not conclusive as to the existence of tribal relations.” (Narragansett FD 1983, 48 F.R. 6177)

*Evidence of residence in “a specific area” prior to the 1994 regulations:*

*See: Grand Traverse Band PF 1979, 5; Jamestown Clallam PF 1980, 3; Death Valley Shoshone PF 1982, 4-5; Narragansett PF 1982, 9, 11; Poarch Band of Creeks PF 1983, 3-4; Principal Creek Nation PF 1984, 3; United Lumbee PF 1984, 2, 4; Southeastern Cherokee PF 1985, 5; Tchinouk PF 1985, 8-9; Wampanoag of Gay Head PF 1986, 2, and FD 1987, 5; MaChis Creek PF 1987, 3; San Juan Paiute PF 1987, vi-viii, and FD 1989, 7; Miami PF 1990, 4-6, and FD 1992, 7-9, 13; Mohegan PF 1989, 2, 4, and FD 1994, 14.*

### **“A predominant portion”**

- “Under the regulatory criterion a minority portion of the petitioner cannot meet Section 83.7(b), because the regulations require that a ‘predominant portion’ of the petitioner comprises a distinct community.” (Burt Lake Band PF 2004, 38). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “. . . the Department has interpreted ‘predominant’ to mean at least 50 percent.”

[p.34] ¶ “In its 1994 rulemaking, the Department interpreted the term ‘predominant’ to mean ‘that at least half of the membership maintains significant social contact with each other.’” [p.36] ¶ “. . . a finding that a subgroup comprising a minority of a petitioner’s members, viewed separately, would satisfy the definition of ‘community,’ simply cannot be construed as meeting the regulatory requirement that the ‘community’ criterion must be evaluated for the entire petitioning group.” [p.38] (Chinook RFD 2002, 34, 36, 38)

- “. . . the original Final Determination departed from the correct standard under the acknowledgment regulations in finding that the petitioner as a whole constituted a community at present under section 83.8(d)(2) of the 1994 regulations, based in large part on a finding that a Bay Center subgroup of the petitioner’s members constituted a ‘community’ . . . . Although the Final Determination found that only the subgroup met the criterion, it suggested that if only the subgroup were recognized, it could then extend membership to the remainder of the petitioner after acknowledgment. However, . . . such post-acknowledgment action to extend membership to individuals or groups not covered in the original petition or of a different character and history is prohibited by the regulations at 25 CFR § 83.12(b). . . . Therefore, this Reconsidered Final Determination does not rely upon a finding that the Bay Center community meets criterion (b) as a ‘substitute’ for a demonstration that petitioner as a whole satisfies criterion (b).” (Chinook RFD 2002, 76; see also, 38)
- New evidence shows that “the petitioner’s ancestors had continued to interact at a level to meet criterion (b) until sometime between 1930 and 1950. It has not been possible to determine from the available evidence the exact date that the level of interaction fell below a predominant portion of the petitioner’s membership, but the record does not contain sufficient evidence of community after 1950.” (Chinook RFD 2002, 78)

**“the petitioning group”:**

- “. . . during the 1900-to-1920 period, three Indian siblings, members of the Martell family, moved into the Indian Road community. They had no ancestry tracing to the historical Cheboygan Tribe. . . . Although only collateral kin to Cheboygan descendants, the Griswold/Martells and their descendants gradually became a part of the Indian Road community through long term interaction, some marriages and on-going associations with them. . . . Unlike John Vincent’s descendants, these Martells have a history of social interaction with the residents of Indian Road. . . . In short, the community on Indian Road seemed to evolve to include these Martells, who are active in the petitioner.” (Burt Lake Band PF 2004, 45). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT been accepted under the criterion:

- ▼ “The presence of the Vincent descendants [in the petitioner’s current membership], as well as the loss of many Burt Lake descendants to Little Traverse Bay Band[s], make the petitioner a different entity than the one represented by the Cheboygan annuitants in 1870, the one centered at Indian Village on Burt Lake in 1900, and the one that evolved from Indian Village at Indian Road in the 20th century.” (Burt Lake Band PF 2004, 59). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  
- ▼ “The participation of individuals in pan-Indian organizations or in other tribally sponsored events . . . put on by other California petitioners and Federal tribes, are not petitioner events and therefore not evidence under (b).” (Muwekma FD 2002, 94). *Note: See also, PF 2001, 23.*
  
- ▼ “The PF stressed that the people identified as Duwamish in records and often cited in the petition did not interact with the petitioner’s ancestors. Rather, they eventually moved to reservations and do not have descendants on the petitioner’s membership list.” [p.19] ¶ “The records show that those individuals with Duwamish names or connections who were interacting with the reservation communities at Muckleshoot, Nisqually, or Puyallup were distinct from the individual descendants who later would form the DTO petitioner.” [p.22] (Duwamish FD 2001, 19, 22). *Note: See also the FD’s extended discussion of church and school records:*

“ . . . the petitioner submitted several sets of excerpts from Catholic Church records [1876-1899]. . . .” [p.19] ¶ [In one set] “. . . virtually all of the families appearing in these records are known to have lived on either Port Madison or Muckleshoot reservations by 1911 and not in families that were to become part of the petitioning group.” ¶ [In a second set,] “All of the entries are in a section entitled ‘Puyallup Reservation.’ With two exceptions, the individuals mentioned in this document do not appear to be ancestors of the petitioning group. . . . these are not the Duwamish who are ancestral to the DTO [petitioner].” ¶ [The petitioner “extracted” a list of students at the Catholic St. George School for the years 1903 and 1939.] “Beside each name is listed either ‘Puyallup,’ ‘Muckleshoot,’ or ‘Suquamish.’ No one was identified as ‘Duwamish.’” [p.21] ¶ “Of the 42 records in this collection, only six concern individuals whose names appear on a post-1915 DTO listing of Duwamish. . . . These individuals . . . appear to be closely associated with the Muckleshoot Reservation.” [pp.21-22] (Duwamish FD 2001, 19-22)

**“from historical times until the present”:**

- A petitioner’s researcher “claims that it is necessary to look only at ‘endpoints,’ apparently taking the position that a Duwamish tribe existed historically and the

petitioner claims to be the Duwamish tribe and so exists now. He assumes that similarities at the ‘endpoints’ allow an assumption of continuity between the endpoint[s]. . . . [However,] past determinations have not accepted the comparison of ‘endpoints’ . . . as relevant evidence under the regulations.” ¶ “The regulations require that contemporary evidence demonstrate continuous community . . . from historical times to the present.” (Duwamish FD 2001, 41)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “. . . the petitioner demonstrated that a predominant portion of its membership comprised a distinct community from historical times until the present.” [p.11] ¶ “The petitioner has shown . . . that it derives as a community from a continuously existing historical community, or from amalgamated communities, which evolved from historical tribes.” [p.25] (Little Shell PF 2000, 11, 25; see also, 24-25). *Note: See also PF 2000, 6. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Historical changes in STO [petitioner] enrollment, described in the technical reports, show that membership has been consistently centered around an interrelated group of family lines, and that the number of members from other lines decreased as individuals . . . shifted their enrollments to Tulalip and other reservations after the 1930’s. The nature and degree of change in enrollment does not conflict with a finding of continuity as a tribe. . . .” (Snoqualmie FD 1997, 9).
- ▲ “Because of high rates of in-group marriage before 1959 and evidence of social interaction and distinctiveness after 1959, . . . the Jena Band of Choctaw comprises a distinct community and has existed as a community from historical times until the present.” (Jena Choctaw PF 1994, 6-7). *Note: See also, FD 1995, 60 F.R. 28480.*
- ▲ “Until that year [1941], the Mohegan had maintained a cohesive, albeit continually declining, Indian community. . . .” [p.10] ¶ “The new evidence demonstrates that social community continued to exist between 1941 and 1966 . . . at a somewhat reduced level in comparison with the periods preceding and following. [¶] The reduced level of social community from 1941 through 1966, represents, in part, a fluctuation of tribal activity. . . . The situation from 1941 to 1966 is considered to be a fluctuation in activities for two reasons. The first reason is the direct, positive evidence for some social and political activity from 1941 to 1966. The second reason is the continuity in political and social activities and leadership before 1941 and after 1966. [¶] The data . . . indicate that the Mohegan have maintained a social community from 1941 to the present” [p.11] ¶ “In concluding that social community continued to exist from 1941 to 1966, we give special weight to the strength of evidence for community in the periods immediately before 1941 and after 1966.” [p.17] (Mohegan FD 1994, 10, 11, 17). *Note: The FD relied on the PF for the period before 1941. The FD reversed the conclusions of the PF for the period after 1941*

(see, PF 1989, 2, 5).

- ▲ “The Snoqualmie have maintained a distinct community throughout history since first sustained contact with Euro-Americans in the 1830’s until the present.” (Snoqualmie PF 1993, 22-23). *Note: For the FD the petitioner was evaluated “at present” under section 83.8(d)(2).*
- ▲ “The San Juan Southern Paiute Tribe has existed as a distinct community occupying a specific area from earliest sustained contact until the present.” (San Juan Paiute FD 1989, 7; see also, 5)
- ▲ “The Poarch Band of Creeks of today originated in the aboriginal and historical Creek Nation. . . . the Band is derived from a community which developed in the latter part of the 18th century in the Alabama-Tensaw River lands.” [p.3] ¶ “Between 1840 and 1850, a portion of the Alabama-Tensaw community moved inland. . . .” ¶ “The inland families . . . developed, by the end of the nineteenth century, into five settlements. . . . [which] came to form a separate community from the original group on the river after the 1870’s.” ¶ “The Poarch Creeks have remained a very cohesive group to the present. . . .” [p.4] (Poarch Band of Creeks PF 1983, 3-4)
- ▲ “The present-day Narragansett Tribe of Indians is primarily derived from the Niantic Tribe which was joined by substantial remnants of the Narragansetts. . . .” ¶ “A distinct community has existed since earliest European contact in the area of the present Charlestown township. . . .” ¶ “. . . the membership has remained stable.” [p.9] ¶ “The tribe has resided in this area continuously from earliest historical times.” [p.11] (Narragansett PF 1982, 9, 11)
- ▲ “The present-day Death Valley Timbi-Sha Shoshone Band is clearly derived from several traditional Western Shoshone local political units located in Death Valley and neighboring mountain ranges.” [p.4] ¶ “The group is composed of families that can be shown to have inhabited the area since at least the earliest period of contact with non-Indians.” ¶ The petitioner’s “members are descendants of Shoshone groups which historically inhabited the area and fused into one band. . . .” [p.5] (Death Valley Shoshone PF 1982, 4-5)
- ▲ “The current tribe is the result of a gradual historical fusion of the four tribes” ¶ “The community at Marskville has been maintained as an Indian community since its founding.” ¶ “The membership has remained stable and distinct from non-Indians.” (Tunica-Biloxi PF 1980, 3)
- ▲ “Jamestown is and has been a community distinct from non-Indians and other Clallam bands since it was formed in 1874.” ¶ “The group’s membership has



remained stable and distinct from other Clallams, with a reasonably consistent body of family lines. . . .” (Jamestown Clallam PF 1980, 3)

Evidence that has NOT been accepted under the criterion:

- ▼ “Two main groups of descendants, only one of which descends from the historical Cheboygan band, make up the current petitioner.” [p.37] ¶ “The petitioner does not meet criterion (b) before 1984, because the descendants of John B. Vincent, almost half of the current membership, were not part of a Burt Lake Indian entity, or any other Indian entity. . . . Additionally, the petitioner did not submit evidence for an Indian community that includes Vincent descendants, which amalgamated with a Burt Lake entity historically.” [p.59] ¶ “The petitioner does not meet criterion (b) after 1984, the date of the first evidence of participation by John B. Vincent’s descendants, because the petitioner did not demonstrate that his descendants socially interacted with the descendants of Indian Village on Burt Lake as part of an Indian entity. . . . Thus, no community at present includes a predominant portion of the petitioner’s members. . . .” [pp.59-60] (Burt Lake Band PF 2004, 37, 59-60; see also, 43, 49-50, 53-54, 57). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ The evidence “is not sufficient to demonstrate community as defined under criterion 83.7(b) at any time from 1855 to the present. . . . Few subsequent marriages [after the late-19<sup>th</sup> century] have occurred among either members of STI [petitioner] or among members of STI and other groups of Puget Sound Indian ancestry, and thus the group lacks the kinship ties that such marriages create. The petitioner has not demonstrated that a significant number of its ancestors maintained relationships with the historical Snohomish tribe located on the Tulalip reservation, or with other Snohomish descendants living off of the Tulalip reservation prior to the formation of the 1926 Snohomish claims organization. . . . Interviews and affidavits submitted by the petitioner provide no evidence for community among the petitioner’s members from 1935 until 1950. Interviews conducted in 2003 indicate that most current members have not interacted regularly with each other outside of events sponsored by the formal STI organization.” (Snohomish FD 2003, 34; see also, 32, 33, 34). *Note: See also the PF:*

“The membership is a collection of numerous and diverse family lines which have few ties with each other historically. . . .” ¶ “The current membership is not descended from Tulalip Reservation allottees or enrollees. . . .” [p.10] ¶ “The enrollment of descendants of differing tribal backgrounds [1917, 1926, 1950’s] . . . appears to reflect enrollment based on residence in a common area rather than tribal background.” [p.11] ¶ “No direct relationship could be established between the 1917 Snohomish organization and the 1926 Snohomish organization.” [p.13] ¶ “The members of the petitioning organization do not now and have not historically formed a community. . . .” [p.14] (Snohomish PF 1983, 10, 11, 13, 14; see also, 14-15)

- ▼ “No new evidence was submitted to show that the petitioner met criterion 83.7(b) at any time since it was founded in 1925, or that it was a continuation of a prior existing community.” (Duwamish FD 2001, 43). *Note: See also the PF:*

“The evidence does not show that the petitioner’s organization is a continuation of the historical Duwamish tribe. Although there is evidence that the historical Duwamish tribe existed as a community until 1896, no evidence . . . demonstrates that this community continued to exist after 1896.” [pp.4-5] ¶ “The petitioner’s organization . . . originated in 1925 and has existed since then as a voluntary association. . . .” [p.5] ¶ “. . . reservation censuses showed that many Indians from these traditional settlements were listed on the Indian census rolls of these reservations [Port Madison, Muckleshoot, Lummi, and Puyallup] during the last quarter of the 19th century.” [p.6] ¶ “The disjunction between the 1915 and 1926 [Duwamish] lists. . . . [¶] [and] several differences between the 1926 and the 1915 members . . . show that the two lists represented two different groups of people.” [p.8] ¶ “In summary, the Duwamish Tribal Organization that was formed in 1925 is not a continuation of the Indian tribe known historically as the Duwamish. There is no evidence, moreover, that the organization has maintained the kind of social interaction and social relationships that indicate the continuous existence of a community.” [p.11] (Duwamish PF 1996, 4-6, 8, 11)

- ▼ “. . . the Proposed Finding found that a historical Chinook tribe met criterion 83.7(b) from 1811 to 1854, based on the existence of distinct Chinook Indian villages. . . . The Proposed Finding determined that 1880 was the last year for which there was sufficient evidence demonstrating that the petitioner, as a whole, met the requirements of the criterion.” [p.74] ¶ [For the final determination,] “The evidence which is available from 1880 to 1950 is sufficient to show that the petitioner, as a whole, meets criterion 83.7(b) for that time period.” [p.95] ¶ “. . . the petitioner did not present evidence of social interaction at a level sufficient to meet criterion 83.7(b) at any time after 1950. . . .” [pp.95-96] ¶ “Under the 1978 regulations, the petitioner has not demonstrated that ‘a substantial portion of the petitioning group’ has formed a community ‘distinct from other populations in the area’ since 1950. Therefore, the petitioner does not meet the requirements of criterion 83.7(b).” [p.96] (Chinook RFD 2002, 74, 95-96; see also, 77-78). *Note: See also, PF 1997, 23-24. Note: The RFD evaluated the petitioner under both the 1978 and 1994 regulations.*
- ▼ “There is no primary source of evidence that links the RMI historically as a group to a specific historic Indian tribe. . . .” (Ramapough PF 1993, 10). *Note: See also the FD:*

“. . . the petitioner has not documented that the RMP [Ramapo Mountain People] coalesced into a distinct community until around 1870.” ¶ “BIA researchers found

- only limited, anecdotal evidence for RMI [petitioner] social community from 1950 to the present.” ¶ “. . . the petitioner meets criterion 83.7(b) at a high level of evidence from 1870 to 1950. . . .” [p.23] “The pattern of over 50 percent group endogamy is consistent with evidence which indicates close residential patterning for the RMI [petitioner] ancestors for much of the same period.” ¶ “. . . the RMI’s ancestors have not been shown to have formed a distinct community in the Ramapo Mountains until about 1870. . . . Also, very little acceptable evidence was presented to show that the current members of the RMI have continued to maintain a social community from 1950 to the present.” ¶ “. . . the petitioner does not meet criterion 83.7(b) prior to 1870 or from 1950 to the present.” [p.24] (Ramapough FD 1996, 23-24; see also, 21). *Note: See also, PF 1993, 6-7, 10-11.*
- ▼ “The available evidence demonstrates that the petitioner did not exist continuously as a distinct community from historical times to the present. Most significantly, there is no evidence for a UHN [petitioner] ancestral community . . . prior to 1830. . . . There is no evidence of any social, political, or genealogical connections between the petitioner and the historical Houma Indian tribe.” [p.6] ¶ “Because they have not evolved as a continuously existing social community from a historic Indian tribe, [they] do not meet the requirement for continuous existence as a community. . . .” [p.16] (Houma PF 1994, 6, 16). *Note: The PF detailed the origins of the petitioner’s original community and the ethnicity of its original families (PF 1994, 7-10). The PF evaluated the evidence for separate communities from 1880 to 1940 (PF 1994, 16-17). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  - ▼ “. . . social contact within the present-day Miami membership is extremely limited in degree and extent, and there is virtually no social distinction between Miami members and the non-Miamis with whom they interact. The Miamis do not meet the intent of the regulations . . . that to be acknowledged as a tribe a group must constitute a community which is distinct and whose members have significant social ties with each other.” [p.3] ¶ “The proposed finding concluded that the Miami had constituted a community within the meaning of the regulations until at least the early 1940’s.” [p.6] (Miami FD 1992, 3, 6)
  - ▼ The petitioner “does not presently constitute, and has not historically formed, a community distinct from surrounding populations.” ¶ “The group holds that its ancestors managed to escape forced removal from Alabama by hiding in a cave in Covington county. Federal census records indicate that most of the group’s ancestors did not take up residence in Alabama until long after the period of Creek removal (1827-1837), and that none of the primary families were living in Covington County prior to the 1880s.” (MaChis Creek PF 1987, 3)
  - ▼ “The Tchinouk have not formed a distinct community, identified as Indian, since the origins of the component families in the 1820’s and 1830’s.” (Tchinouk PF 1985, 9)

- ▼ “. . . the SECC, the NWCWB, the RCITB [petitioners] and their affiliated bands and clans are recently formed, overtly multi-tribal voluntary associations of individuals recruited into membership. The petitioning organizations are not derived from nor are they the historical successors of the pre-removal Cherokee Nation.”(Southeastern Cherokee FD 1985, 50 F.R. 39048). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- ▼ “There is no evidence that the ULN [petitioner] has any connection with the Lumbees in North Carolina in the past or the present. . . .” [p.2] “There was no indication of a common social, cultural or genealogical background. There appears to be no general knowledge of a common history before 1976. Individuals interviewed claimed a wide variety of tribal backgrounds. . . .” [p.3] (United Lumbee PF 1984, 2, 3). *Note: See also, FD 1985, 50 F.R. 18746.*
- ▼ “The KIN [petitioner] does not presently and has not historically formed a community distinct from surrounding populations. It is an organization formed in 1980. . . .” ¶ “. . . KIN is a recently-formed organization . . . that does not constitute a community . . . [and] there are no historical predecessor communities.” (Kaweah PF 1984, 1)
- ▼ “The PCN [petitioner] does not presently and has not historically formed a community distinct from surrounding population [*sic*]. It is an organization formed in 1969. . . .” [p.2] ¶ “The PCN is not a formalization of a less formally organized community which existed previously. . . . No Indian community ancestral to the PCN was found in the areas where many of the members’ ancestral families lived in the later 19th or early 20th centuries. . . .” ¶ “. . . the Principal Creek Indian Nation East of the Mississippi is a recently formed organization . . . [with] no historical predecessor communities.” [p.3]” (Principal Creek Nation PF 1984, 2-3)
- ▼ The petitioner “has no Delaware or Munsee antecedents.” ¶ “The petitioner submitted no evidence that its members . . . had any connection with the Delaware tribe in the past or present, except for very recent contacts . . . in 1976.” (Munsee-Delaware PF 1982, 3)
- ▼ “The history and character of the family lines currently enrolled in the group indicate that they are of diverse origin and that the antecedent members of these families had been widely scattered and had had no significant association in the previous years. Thus, they do not appear to have been derived from a historical community or associated communities.” (Lower Muskogee Creek PF 1981, 3). *Note: See also the FD:*

“There is strong evidence that the group was created in 1972 . . . rather than formalizing previously existing communities. . . .” (Lower Muskogee Creek FD 1981, 3)

**“must be understood in the context of the history. . . of the group” (§83.1):**

- The evaluations of this petition “take into account the impact that certain social conditions, such as contact, racism, war, poverty, or forced movement of the Duwamish to reservations may have had on the availability or the destruction of records. However, historical events do not cancel the regulation’s requirements to demonstrate continuous existence of a tribal community under criterion (b).” (Duwamish FD 2001, 18)
- “Viewed in the light of the requirement in 83.1 that the criterion for community be ‘understood in the context of the history, geography, culture, and social organization of the group,’ we find that the historical development of the Cowlitz Indian Tribe (CIT) has resulted in a two-level community structure, in which community is stronger at the level of the subgroup and looser, but still consistently extant, at the level of the tribe as a whole.” (Cowlitz PF 1997, 31)
- “Marriage outside the village and the tribe was the norm for the Snoqualmie and other Coast Salish, at least for the upper social class, creating a strong network of social and economic relationships across the region. Because of this, tribes in the Puget Sound area, including the Snoqualmie, traditionally were cohesive groupings within a broader network of kinship, social and economic relationships that made up Puget Sound Indian society. The social organization of the Coast Salish tribes, including the Snoqualmie, has retained much of this character up to the present. Evaluations under the acknowledgment regulations interpret the criteria concerning community and political influence in terms of the particular social organization and culture of the tribe in question, in this case that of the Coast Salish tribes of the Puget Sound area. This has been done throughout this evaluation. . . .” (Snoqualmie PF 1993, 7)

**EVIDENCE UNDER 83.7(b)(1):**

This criterion may be demonstrated “**by some combination of the following evidence**”:

- “Nine . . . kinds of evidence listed under section 83.7(b)(1) may be used in combination to demonstrate only that the petitioner meets (b), but are not sufficient to meet section 83.7(c).” (Muwekma FD 2002, 46)

- “Lack of evidence is a justification for finding that a petitioner does not meet a criterion.” (Muwekma FD 2002, 50; see also, 57, 97, 99). *Note: The FD cited section 83.6(d).*
- “The 1994 regulations provide examples in section 83.7(b)(1) of the kinds of evidence which might be used in combination to demonstrate that the petitioner meets the criterion, but do not limit the possible evidence to these examples.” (Chinook RFD 2002, 75)
- “The regulations allow a variety of forms of data which may be used in various combinations to demonstrate community.” (Snoqualmie FD 1997, 9)

Evidence that has been ACCEPTED in combination:

- ▲ “The MBPI [petitioner] demonstrated evidence of community interaction in mission activities that serve the entire membership, by significant rates of informal social interaction among the group, by buying and optioning land for the entire group, by maintaining close kin relationships which continue today, . . . and in at least a low rate of patterned marriage with other Michigan Indians. When combined, this evidence supports the conclusion that the MBPI [petitioner] provides significant evidence of community. . . .” (Match-e-be-nash-she-wish Band PF 1997, 10)
- ▲ The Snoqualmie petitioner “maintained geographically distinct settlements, exclusively or almost exclusively occupied by members of the group. They maintained a distinct language and culture. There were extensive kinship ties within the group as well as within the larger network of Puget Sound Indian society. All of these characteristics are strong evidence to demonstrate the existence of the Snoqualmie as a distinct community under criterion (b) [prior to 1914].” (Snoqualmie PF 1993, 8). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*

**(b)(1)(i) Significant rates of marriage within the group or patterned out-marriages:**

- After the 1930's, “marriages to other Indians in urban areas sometimes wedded Burt Lake individuals to members of Potawatomi, Huron, or other Indian tribes that were not part of the Ottawa and Chippewa regional system of marriages, in which their [Burt Lake] ancestors participated traditionally. These kinds of random, not patterned, marriages between individual Indians, rather than Indian populations, would not be evidence acceptable to demonstrate community under the regulations, which require exogamous marriages to be ‘culturally required, patterned out-marriages with other Indian populations’.” (Burt Lake Band PF 2004, 51). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- The petitioner’s “chart entitled ‘Snohomish-Indian Marriages’ . . . . does not include a means to substantiate or verify that the people being identified as Indians were actually Indian. The claimed identities of these spouses are impossible for OFA to verify based on the evidence submitted. Thus, the chart is not useful evidence to demonstrate community.” (Snohomish FD 2003, 29)
- “The petitioner has offered statistics it maintains demonstrate that the reservation communities in the area also had substantial rates of intermarriage with non-Indians. . . . [T]he statistics offered by the petitioner are irrelevant.” (Snohomish FD 2003, 29)
- The Department “has never required proof of legal marriage if other evidence indicates that couples were joined for several years and if they had children together.” (Muwekma FD 2002, 59 n.23)
- “In the case of this [Chinook] petitioner, a ‘patterned marriage’ refers to marriages to Chinookan or other Indians from the local vicinity, as culturally appropriate.” (Chinook PF 1997, ATR 70)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ On the basis of a “partial reconstruction,” a count of “marriages extant in the years between 1883 and 1936 of all of the Eastern Pequots that could be identified. . . . found that of 167 total marriages, 54 (39 percent) were with other Eastern Pequot. Another 17 were with Western Pequot (10 percent). Narragansett spouses accounted for 25 marriages (15 percent) and marriages with miscellaneous other Indians or Indian descendants was six percent. . . . [Thus,] marriages within the tribe and with neighboring tribes were common, and provides good evidence to demonstrate community.” (Eastern Pequot PF 2000, 90). *Note: The stated figure of 39 percent should be 32 percent.*
- ▲ “Matrimonial endogamy among the Cowlitz and Cowlitz metis and patterned out-marriages with other Indian groups constituted more than half of the marriages through the 1920’s and continued at a significant level into the 1950’s.” (Cowlitz PF 1997, 23). *Note: The petitioner was evaluated under section 83.8 “at present”; see the comment in the FD about evidence prior to 1981 (FD 2000, 10).*
- ▲ “. . . through 1964, more than 50 percent of the new marriages of HPI [*sic*] members were either within the band or were culturally appropriate, patterned out marriages to other Michigan Indian groups. . . . Thus, the MBPI [petitioner] marriage pattern does provide a significant level of evidence for community as late as 1964, as specified

under 83.7(b)(1)(i).” (Match-e-be-nash-she-wish Band PF 1997, 7). *Note: This conclusion was supported by Table IV in ATR 46.*

- ▲ “Beginning in 1965, the level of existing MBPI [petitioner] marriages, either within the group or culturally appropriate patterned out marriages with other Indians, dropped from a rate of 50 percent to a rate of approximately 15 percent. The rate has held steady since 1965 . . . and provides evidence . . . of continuing community as defined in 83.7(b)(1)(i).” (Match-e-be-nash-she-wish Band PF 1997, 9)
- ▲ “Until 1960, more than 50 percent of the new marriages of HPI [petitioner] members were either within the band or were culturally appropriate, patterned outmarriages to other Michigan Indian groups. . . . Therefore, the HPI meets criterion 83.7(b)(1)(i) with significant levels of evidence as late as 1960.” [p.10] ¶ Since the 1960's, “the rate of marriage within the group, or to other Indians, remained stable at approximately 20 percent . . . indicating the continuing existence of significant marriage rates as defined in 83.7(b)(1)(i).” [p.11] (Huron Potawatomi PF 1995, 10, 11).
- ▲ Between 1914 and 1956, “The Snoqualmie were extensively married within their own community or within local Indian society as a whole. Marriage outside the tribe was as common as marriage inside, in the traditional manner of Snoqualmie and Coast Salish culture. There were only a few family lines, comprising a small minority of the group, that were derived from marriages of pioneer men with Indian women (in the 1850's and 1860's) whose descendants had married only non-Indians and had integrated socially into non-Indian society.” (Snoqualmie PF 1993, 9). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*
- ▲ “The families in these [five] hamlets became tightly intermarried and gradually came to be distinguished socially from other descendants of Creek half-blood families in the same area, who were no longer socially identified as Indian. . . .” (Poarch Band of Creeks PF 1983, 4). *Note: See also the FD:*

“Intermarriage within the group has occurred to such an extent over the years that family lines . . . are now extremely intertwined and many members trace their ancestry to more than one established Creek ancestor.” (Poarch Band of Creeks FD 1984, 49 F.R. 24083)
- ▲ “The Narragansetts have been a closely intermarried community for at least the last 150 years with innumerable connections between families. A comparison between 1880 and 1980 also shows that there has been a high degree of retention of family lines. The close intermarriage and the stability of composition, plus the geographic stability of the group reflect the maintenance of a socially distinct community.” (Narragansett PF 1982, 10)



Evidence that has NOT been accepted under the criterion:

- ▼ “. . . the petitioner’s members are not descended primarily from ‘culturally required patterned out-marriages with other Indians,’ but from several generations of marriages to non-Indians, particularly during the 20<sup>th</sup> century.” (Snohomish FD 2003, 29). *Note: See also the PF:*

“The present membership is derived from 38 different family lines which originated in a variety of geographical areas. There is almost no intermarriage between these lines.” [p.10] ¶ “Marriage outside the [contemporary] group is almost universal. . . . Moreover, marriage with other Indians or Indian descendants is unusual.” [p.14] (Snohomish PF 1983, 10, 14; see also, 11)

- ▼ “After 1920, Indian-to-Indian marriages were rare. . . . The petitioner gave only the names of Indian-to-Indian marriages after 1930 and did not attempt to compute the percentage of such marriages within the entire Indian community.” [p.59] ¶ “The combined evidence of the continuation of marriages made before 1910 and the four marriages [between Indians] between 1911 and 1930, is not evidence of significant rates of marriage between 1911 and 1930. . . . Between 1927 and the present, one member of the petitioning group married a person from another tribe, and most of their descendants are not enrolled in the petitioner. This marriage does not provide evidence of ‘patterned out-marriage,’ and the petitioner did not provide evidence of Indian-to-Indian marriages within the meaning of criterion (b) after 1930.” [p.60] (Muwekma FD 2002, 59, 60).
- ▼ “With regard to the Roblin Roll [1919] . . . [the petitioner’s researcher] stated that. . . . ‘The Roblin blood quantum data provide an objective means for determining which groups were affiliating with Indian tribes.’” ¶ “The BIA’s analysis indicates that some 33 percent of living individuals on Roblin’s list of unenrolled Duwamish are listed as ‘full-bloods.’ However. . . . only a quarter of . . . [them] appear on the 1926 DTO [petitioner] list.” ¶ “In addition, some of the individuals listed as ‘full-blood’ by Roblin are elderly heads of a family line whose members had not married into Indian society for three generations. . . . The full blood status of these elders therefore only indicates that their parents were interacting with other Indians at the birth of their child, in these cases in the mid-19th century. The 1919 presence of high-blood elderly individuals who themselves and whose descendants have continuously married outside of Indian society does not demonstrate a continuous interaction with other Indians. Most of the marriages producing full-blood off-spring who appear on the 1926 list took place in the 19th century. . . . Thus, the interaction on which these marriages are based occurred before 1900. . . . Therefore, other evidence would be required to show that a predominant proportion of the listed individuals continued to interact in a tribal environment well into the 20th century,

and certainly past 1926.” (Duwamish FD 2001, 25)

- ▼ “The petitioner has not demonstrated significant rates of marriage within the group at any time since record-keeping began in the mid-19<sup>th</sup> century.” [p.8] ¶ Historically, “the great majority of the members of the petitioner’s family lines married non-Indians.” ¶ “The STI [petitioner] did not present and BIA research did not locate any currently existing marriages among STI members or any evidence of patterned out-marriages of STI members with other Indian populations.” [p.9] (Steilacoom PF 2000, 8, 9). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner did not submit any analyses on the percentages of culturally patterned marriages.” [p.69] ¶ “. . . the available data on marriages . . . appeared to be very incomplete. It is possible that, with more research, the petitioner could find more complete, reliable data on marriages. . . .” [p.70] ¶ “The partial data that were available for the early 1950's indicated that several of the Chinook descendants were still married in a culturally-patterned fashion, at a rate of about 11%, in 1953. In the early 1950's, there were 555 adult Chinook descendants on the membership application list, 314 of whom were married. At least 35 of the 314 married adults (11%), were in culturally-patterned marriages.” [p.71] (Chinook PF 1997, ATR 69-71). *Note: See the definition of “patterned marriage” at ATR 70. Note: “The evidence which is available from 1880 to the present is not sufficient to show that the petitioner, as a whole, meets criterion 83.7(b).” (PF 1997, 24).*
- ▼ “. . . there have been no marriages between members of the families that make up the present membership for many generations. . . . Information concerning marriages from 1860 to the present was too limited to determine that marriage with other Indians of the region had been frequent for any time period. Consequently, the petitioner did not demonstrate the existence of social community by means of showing . . . a high rate of marriage within the group or with other Indians of the region.” (Duwamish PF 1996, 10; see also, 6-7)
- ▼ The proposed finding concluded that: “Group endogamy, one indicator of social cohesion, had not been practiced by the Mohegan since the late 1800’s.” (Mohegan FD 1994, 10)
- ▼ “There are no current marriages between two Snoqualmie. There are a number of the older generation who are presently married to other local Indians or who have had such marriages.” (Snoqualmie PF 1993, 22)
- ▼ The proposed finding found that, “there had been virtually no intermarriage within the group beginning with the generation born between 1881 and 1907. . . .” (Miami FD 1992, 7). *Note: See also the PF:*

“Initially after removal, Indiana marriages were predominantly within the local Miami population. . . . Beginning with the generation born after 1864, however, most marriages were with local non-Indians. There were few (about 10 percent of the total) marriages within the Miami for the generation born between 1881 and 1907 (i.e., marrying after 1900).” ¶ “Between the 1930’s and the present . . . there were essentially no additional intermarriages within the Miami population.” (Miami PF 1990, 5)

- ▼ “An examination of the group’s genealogy showed almost no intermarriage between families and dispersed historical residence patterns, both of which indicate that families were historically unconnected and had little or no social interaction.” (Lower Muskogee Creek FD 1981, 4)

**(b)(1)(ii) Significant social relationships connecting individual members:**

- “For kinship interactions to be useful evidence under 83.7(b), they must connect individuals from a number of different family lines over many generations. In this tribal context, crisscrossing connections link the entire membership and generate over time a dense network of ties and obligations.” (Duwamish FD 2001, 37-38)
- “Ties of common ancestry that are more than two generations removed are too distant to presume on genealogical evidence alone that a significant social tie exists. . . .” (Snoqualmie FD 1997, 6)
- “. . . where the members of a petitioner have only distant genealogical relationships with each other, this does not provide any evidence for the existence of community. The absence of marriages among a group’s members over many generations, while not necessarily evidence that a community does not exist, makes it likely that there were no social ties among members based on kinship . . .” (Samish FD 1995, 6).  
*Note: See also the comment in the PF on marriage outside the group (PF 1982, 13).*  
*Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- “‘Social relationships’ refers to circumstances where the individuals within a group define themselves and are defined by others as connected with each other in a particular way, accompanied by role definitions, feelings of social attachment, obligations and expectations. . . . Strong social relationships can exist without being manifest in frequent day-to-day interaction.” (Snoqualmie PF 1993, 15-16)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ The petitioner “attributes the destruction of Chinookville to the natural ‘massive

erosion' of the Columbia River which 'washed away' the old village in the 1880's." [p.86] ¶ "Close family ties between parents, children and siblings would not have severed immediately. People generally maintain ties to close kin until they die, and this assumption should be applied in this case. . . . [I]t would seem likely, and the anecdotal evidence supports the contention that, close relatives would have remained in continuous contact following the diaspora from Chinookville for another generation, allowing the petitioner to meet criterion (b) to 1910." [p.87] (Chinook RFD 2002, 86-87). *Note: See also RFD 2002, 83-84.*

- ▲ “. . . the historically high rates at which the petitioner’s ancestors married other Métis created kinship ties that have created social cohesion among the petitioner’s ancestors. . . . This evidence under section 83.7(b)(1)(ii), when combined with other evidence in the record, is sufficient to meet criterion (b).” (Little Shell PF 2000, 23). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ The proposed finding concluded “that other evidence [than genealogical evidence] showed that relationships continued based on intermarriages from earlier generation ties. These kinship ties between family-line groups are supporting evidence of social community. . . . Interviews with members of the Snoqualmie demonstrate that social ties based on kinship ties beyond the grandparent generation remain socially significant [at present].” (Snoqualmie FD 1997, 6). *Note: The PF concluded that “kinship ties” based on “marriage ties . . . created no later than the 1920’s” provided “significant supporting evidence for the more direct evidence that significant social relationships still exist. . . .” (PF 1993, 17).*
- ▲ “The proportion of Snoqualmie who have not demonstrated social ties was small enough that . . . significant interaction and social relationships exist broadly among the membership. . . .” (Snoqualmie FD 1997, 7). *Note: The FD found that the “most socially and politically active” family lines comprised about 70 percent of the petitioner’s membership (FD 1997, 6). Note: See also, PF 1993, 16-18.*
- ▲ “The Methodist Mission Indian church at Bradley provided a focus for social activities which encompassed most of the group from the 1880's until the present. . . . Because mission activities were controlled by the MBPI [petitioner] and because their activities extended beyond the actual church membership to all MBPI members, many church activities provided a significant level of evidence for community under criterion 83.7(b)(1)(ii) and 83.7(b)(1)(iii).” (Match-e-be-nash-she-wish Band PF 1997, 8)
- ▲ At present, “MBPI [petitioner] members leaving the core [geographical] area to settle in specific towns or cities. . . . [have] maintained their social ties to their close relatives still residing in the Salem and Bradley communities, providing . . . evidence under 83.7(b)(1)(ii).” (Match-e-be-nash-she-wish Band PF 1997, 9)

- ▲ “Elderly Upper Cowlitz witnesses provided testimony [ca. 1955] about both their own and also Lower Cowlitz family [grave and fishing] sites, indicating familiarity with the activities of Cowlitz settlements that crossed subgroup lines. . . .” (Cowlitz PF 1997, 27). *Note: The petitioner was evaluated under section 83.8 “at present”; see the comment in the FD about evidence prior to 1981 (FD 2000, 10).*
- ▲ “The evidence shows weak but consistent relations between subgroups. First, kinship genealogies link families from different subgroups. Thus, for example, individuals from one subgroup will attend the reunions of other subgroups simply because they are related to members of different subgroups through intermarriage. Second, members of these subgroups indicated considerable knowledge of kinship, group subsistence activities, religious differences, and political activities regarding members from among different groups. . . . Together, these weak but consistent social relationships among the different subgroups show the existence of tribal community.” (Cowlitz PF 1997, 31; see also, 27-29). *Note: The PF defined these “subgroups” at pp.24-25. The PF also concluded that the evidence showed “strong tribal relations among families within subgroups. . . .” (PF 1997, 31)*
- ▲ “The out-migration was not random. Field data showed that it took place as a migration chain, in which neighbors and relatives who had moved invited other HPI members to follow and assisted them with housing and employment. A clear pattern emerged by which HPI members who left the core area settled in five specific towns or cities where, today, 20 or more other HPI members reside.” (Huron Potawatomi PF 1995, 11)
- ▲ “It was determined through analysis of the HPI [petitioner] kinship structure that the modern HPI community continues to demonstrate extensive primary kin links among residents in the social core area centered around Pine Creek and the outlying areas – the five other towns with more than 20 HPI members which have developed since World War II. This indicates that geographical dispersal has not led to a breakdown in social contact.” ¶ “These significant social contacts, as described in 83.7(b)(1) – (ii) and (iii), were not limited to primary kin groups.” (Huron Potawatomi PF 1995, 12). *See also: FD 1995, 60 F.R. 66315.*
- ▲ “. . . many or most of the individuals alive in the decades between 1914 and 1956 had been born in and had previously lived in the distinct [geographical] communities. They can reasonably be expected therefore to have maintained social relationships based on previous residence in those communities, even though this was not demonstrated by specific evidence.” (Snoqualmie PF 1993, 9). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*
- ▲ Prior to 1914, “There were extensive kinship ties within the [petitioning] group as

well as within the larger network of Puget Sound Indian society. . . . strong evidence to demonstrate the existence of the Snoqualmie as a distinct community under criterion (b).” [p.8] ¶ “Marriage within the Snoqualmie was common until the 1920's and Snoqualmie marriage within Puget Sound Indian society was common until the 1950's. Thus there remained a considerable degree of close kinship ties within the membership between 1956 and 1981. Kinship and other social links with other Puget Sound Indians continued to be maintained by a substantial portion of the Snoqualmie. Thus there was probably a high degree of participation in the broad network of Puget Sound Indian society, based on individual kinship links.” [pp.11-12] (Snoqualmie PF 1993, 8, 11-12; see also, 8-9). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*

- ▲ “Strong evidence for the existence of significant social relationships among the Snoqualmie [at present] is provided by the fact that family line groupings are socially defined and known throughout the membership. . . . These kinship groupings are well-known and are defined as the major families making up the tribe. They have a clear social definition which ascribes particular characteristics and histories to each family group. These social definitions carry with them a sense of a long history of interaction and relationships which are important to the Snoqualmie. Their existence indicates that regular social interaction has taken place, in order for that knowledge and history of relationships to exist.” (Snoqualmie PF 1993, 16). *Note: See also, FD 1997, 5.*
- ▲ “Members of the tribe indicate they generally know who other members of the tribe are. Members can readily name other members, can detail relationships among the families, can identify which families have intermarried, and are knowledgeable about other families in the tribe. Members can generally discuss the size of other Narragansett families, describe what types of occupations certain families are engaged in, where they reside, and how active these families are in various tribal activities.” (Narragansett PF 1982, 10)

Evidence that has NOT been accepted under the criterion:

- ▼ “The relationships between the STI [petitioner] ancestors and the Tulalip Snohomish descendants, as can be determined by the genealogical information submitted by the petitioner, is not close enough to assume that the individuals associated with each other without additional evidence.” (Snohomish FD 2003, 27). *Note: See also, PF 1983, 11.*
- ▼ “Lacking these intermarriages, there is no evidence for continued kinship ties within the group or for social ties created by marriage with other members of Puget Sound Indian society.” (Snohomish FD 2003, 29)

- ▼ “The information obtained [by the petitioner’s ‘membership survey’] was supposed to demonstrate relationships between members of the group, but without some form of identification to indicate just who the people were supposed to be, the information they gave is not useful in determining the relationships with others. The survey [also] does not indicate whether people had known other members years ago, or whether they knew them currently.” (Snohomish FD 2003, 30)
  
- ▼ “The oral histories extended evidence concerning the actual practices and obligations of godparenting historically. . . .” ¶ “The petitioner repeatedly points to this single network [of Maggie Pinos, childless herself, who godparented several children and fostered and adopted others] as evidence for demonstrating interaction among its extended families. . . . In fact, only [a] relatively small group of individuals are linked through Maggie Pinos. . . . [H]er network of special or created kin links is really the only example . . . of a godparent/foster parent network. . . .” [p.50] ¶ “Godparenting patterns did not demonstrate that people reached beyond close relatives to establish godparenting links with group members, not otherwise closely related to them, and, therefore, these patterns did not demonstrate community under criterion (b).” [p.51] ¶ “The documentary record and oral histories show that some godparents did aid orphans, but it also indicates that other steps were taken to deal with child care, including placing children in foster homes and turning to government aid. The examples of individuals performing actual godparenting responsibilities are few. . . . [and] pertain to situations before about 1950.” [p.68] ¶ “The relationship and social network described above, through godparenting and placement of children and visiting is evidence under 83.7(b)(1)(ii) . . . and (iii) . . . before 1927. After 1927, the relationships developed in childhood carried over . . . especially for the biological and created families of Susanna Nichols [d.1930] and the created family of Maggie Pinos [d.1960], but by 1950 these relationships and patterns of interaction had fallen and were no longer significant under the regulations.” [p.75] ¶ “. . . all examples of godparenting actually being utilized to deal with the welfare of the godchild or the godchild’s child pertain to examples before 1946. Evidence of godparenting combined with other evidence provides supporting evidence of community until 1930 and perhaps until 1950, although at decreasing levels. This determination is based in part on the evidence in the oral interviews which demonstrated that godparenting ties . . . carried actual obligations and these obligations involved significant interaction among individuals. After 1950, evidence of actual obligation related to godparenting declined in the record.” [p.92] (Muwekma FD 2002, 50-51, 68, 75, 92). *Note: The evaluation concerned the possible carry over of evidence from criterion (b) to criterion (c) prior to “at present.”*
  
- ▼ “There is no evidence of such a network [of kin links created by godparenting] existing presently in the petitioner.” [p.50] ¶ [O]nly a single example for a current fostering situation is described by the petitioner. . . .” [p.68].” (Muwekma FD 2002, 50, 68). *Note: See also, PF 2001, 25.*

- ▼ “The funeral attendance patterns demonstrated by evidence in 1960 and 1998 provides supporting evidence under 83.7(b)(1)(ii), but not at a level to meet criterion (b) at present. . . . [T]he evidence is infrequent and does not encompass a predominant portion of the petitioner’s membership. . . . [M]uch of this evidence predates the present day. Even when combined with all other evidence in the record, there is insufficient evidence to meet criterion (b) at present.” (Muwekma FD 2002, 92)
- ▼ “After 1920, the effect of lingering kinship ties between people in Bay Center, Ilwaco, and Dahlia, based on close kin ties and common residency in Chinookville before 1880 can no longer be presumed to exist.” (Chinook RFD 2002, 87)
- ▼ “Informal social interactions are suggested by an anecdote concerning an elderly woman who was brought fish by other Duwamish when she was ill. . . . This singular example of an informal tribal welfare effort may be an example of the kind of activity which would be evidence to meet criteria 83.7(b) or 83.7(c) had they been typical of relationships between group members and had they continuously occurred into the present-day.” (Duwamish FD 2001, 38)
- ▼ “The petitioner submitted as its primary evidence under section 83.7(b) a survey [1997] of members’ participation in godparenting, funerals, weddings and other activities with one another. This evidence, depending on the levels of interaction shown by the survey, could be evidence under section 83.7(b)(1)(ii) . . . or section 83.7(b)(2)(iii). . . .” [p.20] ¶ “The survey did not demonstrate broad-based patterns of interaction. . . . The survey cannot be used in combination with other evidence to demonstrate that the petitioner meets criterion (b) under 83.7(b)(1).” [p.21] (Muwekma PF 2001, 20-21)
- ▼ “Because there have been no marriages between members of the families that make up the present membership for many generations, the members of the Duwamish Tribal Organization do not have close kinship ties with each other. . . . [T]he petitioner did not demonstrate the existence of social community by means of showing close kinship ties. . . .” (Duwamish PF 1996, 10)
- ▼ “As time progressed and later generations were born, the contacts between the major areas of settlement (the different bayous) cannot be presumed to exist: kin ties became more and more distant. Data to demonstrate continued significant interaction is required. . . .” (Houma PF 1994, 13). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ The proposed finding found that, “There were few close kinship ties linking the Miami membership because there had been virtually no intermarriage within the



group beginning with the generation born between 1881 and 1907. . . .” [p.7] ¶  
 “. . . the median generational depth to a common ancestor is now quite great. . . .  
 Thus the Miami are so distantly related to each other that significant social ties  
 cannot be assumed to exist solely on the basis of genealogical relationships.” [p.8]  
 (Miami FD 1992, 7, 8)

- ▼ “. . . the importance of subgroups has diminished over time. Subgroups are not presently a basis for organizing social relationships among the members in general. They are of limited or no importance to most contemporary Miamis.” (Miami FD 1992, 10)
- ▼ “Available evidence indicates that members of the [contemporary] organization are generally not familiar with very many other members. . . . The organization’s members often cannot distinguish members from non-members. . . .” (Snohomish PF 1983, 14)

**(b)(1)(iii) Significant rates of informal social interaction among the members:**

- “Although members live within an area where interaction is possible, such interaction was not documented, and may not be assumed.” (Muwekma FD 2002, 59)
- “Most Americans interact with other family members, meaning individuals within limited lineage groupings (groups of individuals who descend from sets of grandparents or great-grandparents). For kinship interactions to be useful evidence under 83.7(b), they must connect individuals from a number of different family lines over many generations.” (Duwamish FD 2001, 37-38)
- “. . . social interaction should not only be within family lines, but across family lines.” (Chinook PF 1997, 9; see also, 21)
- The administrative law judge “implied that participation in the [petitioner’s] organization should be considered a valid form of social interaction to show that a community exists. This comment is specifically rejected. We affirm that a tribe is more than a voluntary association.” (Samish FD 1995, 7). *Note: See also the discussion in the PF of Samish participation in a 1926 claims organization (PF 1982, 12). Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- “‘Social interaction’ describes the actual occurrence of interaction between individuals such as at meetings, in conversation, during conflicts and the like.” (Snoqualmie PF 1993, 15)

- “This criterion does not require that social interaction and relationships be uniform within the membership, but allows for the common circumstance where the main body of a group has substantial social ties while a periphery of membership has a lesser degree of social connection.” (Snoqualmie PF 1993, 18).
- “Informal social contacts, such as friendships, are often ones of social intimacy and consistency. In contrast, casual contacts are incidental, do not hold significance for the individual, and can easily be replaced. Informal relationships also contrast with those among members of a club, society or other organization. The social ties among members of such organizations are normally limited to relationships which derive from their common membership and participation in the organization. Social interaction occurs only in the context of meetings or other activities of the organization.” (Miami FD 1992, 10)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Newspaper articles from the local small towns . . . show a network of interacting individuals, almost all Indian descendants, many of whom are ancestral to the current petitioner. Although never identified as ‘Indians’ in the social columns, the Indian social sphere of interaction was predominately distinct from the non-Indian social sphere of interaction. The newspaper articles show that the distinction between Indian descendants and non-Indians decreased from 1920 to 1950. From 1906 to 1935, social events were typically attended only by Chinook descendants who are ancestral to the petitioner and their spouses or only by non-Indians, indicating that social separation occurred between these two groups. . . . After 1935, attendance at various functions increasingly included both Chinook descendants who are ancestral to the petitioner and non-Indians.” (Chinook RFD 2002, 82). *Note: See also RFD 2002, 35, 76).*
- ▲ The petitioner meets criterion (b) until “1950 based on a totality of the affirmative evidence demonstrating interaction among a predominant portion of the petitioner’s ancestors in a cohesive social network.” [p.94] ¶ “. . . evidence submitted by the petitioner . . . was sufficient to show continuous significant social interaction between the Indians living in Bay Center and the Chinook descendants concentrated in Dahlia or Ilwaco between 1880 and 1950. This is not a conclusion that separate communities existed and later combined, but that most ancestors of the petitioner constituted a distinct community. The social interaction in the 1930’s and 1940’s appears to be based on relations that were established during earlier periods and to rest primarily in the older generation. As people who had been closely connected as children and young adults in Chinookville or Bay Center died, the succeeding generations interacted less often and intensely until the community of Chinook descendants became indistinguishable from the rest of the population. The evidence which is available from 1880 to 1950 is sufficient to show that the petitioner, as a

whole, meets criterion 83.7(b) for that time period.” [p.95] (Chinook RFD 2002, 94, 95). *Note: See also RFD 2002, 84-93).*

- ▲ “. . . additional evidence contained in the petitioner’s response [to the proposed finding] showed that interaction by members in the community at present was extensive and involved people in all subgroups in proportion to the subgroup’s size in the overall CIT [petitioner] membership.” ¶ “BIA researchers performed quantitative analysis on the data submitted. . . . This analysis demonstrated that a significant proportion of the members of CIT are documented as either actually participating in CIT affairs or closely related as a parent, child or sibling to an individual who actually participated in CIT affairs.” (Cowlitz FD 2000, 11)
- ▲ “The proposed finding concluded that because attendance [since 1981] was broadly distributed, ‘the general membership meetings provide some evidence to demonstrate social community, although not strong evidence in itself’ . . . . A review of interviews supports the . . . conclusion that there was some informal social interaction at meetings which reflected the existence of a community and was not solely due to common membership in a voluntary organization.” (Snoqualmie FD 1997, 7). *Note: See also, PF 1993, 19 (and p.12 for similar conclusions for the period before 1981). The PF noted “limited” evidence of members’ “in-depth knowledge” of other members that would not have resulted only from interaction in “formal events such as meetings.” (PF 1993, 19). The PF concluded that there was “limited evidence” of the existence of “informal . . . social contact” among members (PF 1993, 22).*
- ▲ Prior to 1986, “The Methodist Mission Indian church at Bradley provided a focus for social activities which encompassed most of the group. . . . Because mission activities were controlled by the MBPI [petitioner] and because their activities extended beyond the actual church membership to all MBPI members, many church activities provided a significant level of evidence for community under criterion 83.7(b)(1)(ii) and 83.7(b)(1)(iii). [¶] Members living in Salem and Bradley continued to share some resources and work together on community projects. . . . Participation was widespread in a variety of activities, as documented by attendance or guest lists. MBPI [petitioner] men, women, and children, representing all family lines, worked together. . . . These activities provided further evidence under 83.7(b)(1)(iii).” (Match-e-be-nash-she-wish Band PF 1997, 8)
- ▲ At present, members “come together in significant numbers, across all family lines, to work in community projects or to attend activities. . . . As measured by attendance and guest lists of various community activities during this period, the MBPI [petitioner] have continued to maintain a significant rate of informal actual social interaction among group members as defined in 83.7(b)(1)(iii).” [p.9] ¶ “Also during the present period, a majority of the MBPI families regularly or frequently participate in religious and community service activities sponsored by one of the three Indian

missions. . . . The fact that members served on committees designed to provide services to all MBPI members, whether or not the members were active mission members, is a significant demonstration of utilizing the missions for MBPI community activities that extended throughout the MBPI membership and provides significant evidence under 83.7(b)(1)(iii).” [pp.9-10] (Match-e-be-nash-she-wish Band PF 1997, 9-10)

- ▲ “The [Swinomish and Lummi] reservation families continued to be somewhat distinct as a Samish community even after moving to the reservations, notwithstanding their social and political participation in the communities which emerged on those reservations. From the late 19th century to the present, the nonreservation families continued in significant contact with the reservation families, beyond simply being in the same organization, even though they had married non-Indians and lived elsewhere.” (Samish FD 1995, 5). *Note: The FD reversed the PF on this issue; see PF 1982, 13. Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- ▲ “Field data confirmed that informal communication is . . . maintained along primary kin lines, and that there continues to be rapid transmission of information of interest to the tribe along this network. . . . Communication paths were not one-directional, but multiple; not just from Pine Creek outward, but also from one outlying area to another.” ¶ “These significant social contacts, as described in 83.7(b)(1) – (ii) and (iii), were not limited to primary kin groups. There is extensive, informal ‘visiting’ among HPI members resident in the various geographical areas. . . . Analysis of three events within the recent period for which there were documented sign-in sheets, two funerals of HPI elders and a graduation party, indicated that a broad section of the HPI population, cutting across nuclear kin group, does attend events which are perceived to be of concern to the tribe as a whole.” (Huron Potawatomi PF 1995, 12). *See also: FD 1995, 60 F.R. 66315.*
- ▲ “There is evidence that social ties and cultural practices were maintained after 1950 through ‘visiting’ with friends and relatives. Members who had moved farther away for employment frequently returned to Jena on weekends to visit. . . .” [p.5] ¶ “News and gossip are exchanged by phone and frequent personal visits. The sharing of economic resources among members is a central focus of tribal life. . . .” [p.6] (Jena Choctaw PF 1994, 5, 6)
- ▲ “There is evidence for cross-family group attendance at Mohegan funerals held at Fort Shantok [cemetery] and weddings on Mohegan Hill from 1941 to 1966.” (Mohegan FD 1994, 14). *Note: See also the general conclusion of “limited evidence of social interaction” through activities involving the Mohegan Congregational Church and the Mohegan burial grounds (FD 1994, 12).*

- ▲ “There is direct evidence for the maintenance of social community such as the holding of an annual homecoming since 1979, which draws a large number of Mohegan, from all the primary family groups.” (Mohegan FD 1994, 15)
- ▲ “The continuation of important social relationships among the Snoqualmie in this era [1914-1956] was manifest in regular social gatherings of the tribe. Important instances of these were annual gatherings . . . on the Fourth of July, Memorial Day . . . and Thanksgiving. . . . Each was an annual event, attended by a substantial portion of the Snoqualmie. . . . The annual general council meeting was attended by most of the Snoqualmie.” (Snoqualmie PF 1993, 9). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*
- ▲ “The petition contains substantial information that the Utah residents living off the Navajo Reservation . . . maintain substantial interaction with those on the Navajo Reservation This consists of visiting back and forth based on substantial kin ties, changes of residence between the two areas over the past 40 years, as well as participation in the political processes of the tribe.” (San Juan Paiute PF 1987, viii)
- ▲ The petitioner’s comment on the proposed finding “provided a detailed description of ‘how the pattern of residence and kinship incorporates those who live outside the town of Gay Head, and how it serves to keep them informed on political and community matters.’ An extensive description of the communication network is provided demonstrating how the principal Gay Head Wampanoag families maintain social contact. These networks connect the Gay Head Wampanoag Indians living in Gay Head with their relatives who live in Boston, New Bedford, and other areas such as Cape Cod.” (Wampanoag of Gay Head FD 1987, 7). *Note: This conclusion revised the PF (PF 1986, 3).*
- ▲ The petitioner’s comment on the proposed finding provided information about members’ activities. “There were five major social events described in the rebuttal including two birthdays, one retirement, and two funerals. The rebuttal pointed out that events of this nature can bring together several hundred members of the Gay Head Wampanoags. . . . Assemblies of this size provide additional evidence that the group maintains active social relations.” (Wampanoag of Gay Head FD 1987, 7). *Note: This conclusion revised the PF (PF 1986, 3).*
- ▲ “The tribe’s annual August meeting can be documented back to 1851. . . . Attendance is high. Members claim ‘all’ Narragansetts attend the event. Many members living away from the core community in Washington County return on a regular basis for this event. . . .” (Narragansett PF 1982, 11)
- ▲ The “portion of the tribe [living on or near traditional tribal land] has maintained close social contact. Another portion of the tribe migrated to Texas in the 1920’s and

1930's in search of work. Nonetheless, they have consistently been considered members by those in the Marksville area and have maintained informal ties, returning at an undetermined frequency for tribal meetings, weddings, funerals and other events." (Tunica-Biloxi PF 1980, 3)

- ▲ "Tribal members meet regularly for social functions and tribal government purposes. A substantial number of the band attend the same church weekly." (Grand Traverse Band PF 1979, 5)

Evidence that has NOT been accepted under the criterion:

- ▼ "After 1977, the petitioner has submitted evidence, notably the ghost supper sign-in sheets, to show that individuals of the part of the petitioner descending from Indian Village continued to interact often with other Indians. . . . However, these interactions are not within a social group that is separate and distinct from a larger Indian society in Emmet and Cheboygan Counties." (Burt Lake Band PF 2004, 59; see also, 51-52, 54-55). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ A researcher's "report on Indian homesteaders is helpful in understanding some of the activities of a subset of the petitioner's ancestors. . . . It does not address what the majority of the petitioner's ancestors were doing during this same time period (approximately 1870-1920), or offer evidence to support interaction between the ancestors living in the Chimacum area and the Monroe/Sultan area." (Snohomish FD 2003, 31)
- ▼ What the interviews "describe [*re*: 1935-1950], specifically in the Chimacum area, is a predominantly non-Indian rural community in which there were a number of people of part-Indian descent. The parties, get-togethers, and excursions described in the interviews were predominantly family and extended-family gatherings." (Snohomish FD 2003, 32)
- ▼ ". . . OFA conducted interviews with 25 members of STI [petitioner] in August of 2003." ¶ "The interviews did not demonstrate that most members of the [contemporary] group maintain contact with each other outside of formal functions sponsored by the group. . . . [M]ost of the people interviewed do not know or regularly associate with other members other than close family members. . . ." (Snohomish FD 2003, 33). *Note: See also the PF:*

"Members of the [contemporary] Snohomish organization do not appear to have a wide range of contacts or shared experiences with other members of the organization. Participation by members is generally limited to formal organization activities. . . . Social contacts are usually limited to social events related to the annual meeting." (Snohomish PF 1983, 14)

- ▼ “The oral histories described a group of the petitioner’s ancestors, who socialized often before Dario Marine’s death in 1969.” [p.65] ¶ “The visiting among the Marines in the 1940’s and early 1950’s included Avelina [Marine]’s grandchildren and their children. . . . When the fourth generation [the great-grandchildren of Avelina and Raphael Marine] discussed these social events, they remembered them as children, not adults. There was little data in the record after 1965 to indicate continued contact among the members of the fourth and fifth generations.” [p.66] ¶ “Based on their experiences together as young people associated with the Pleasanton Indian community, the Marine siblings and others interacted and socialized in the 1920’s and 1930’s. It appears that the extent and frequency of interactions diminished from one generation to the next, becoming insignificant for many of the group after 1950.” [p.67] (Muwekma FD 2002, 65-67).
- ▼ The record contains “statements which imply that the families are not interacting or in close contact from 1970 to when they enrolled in the petitioner between 1995 and 2000. . . .” ¶ “The documents from 1984-1994 mention people from only a few families, primarily the families of the chairwoman and her mother’s siblings. After 1994, more families join the Muwekma formal organization. . . . The new evidence did not demonstrate that these families had ties to the petitioner during the preceding decades, 1970-1990, or even earlier.” ¶ “Documents from 1971 to 2000 only rarely discuss any activities outside of those specifically planned and carried out by the membership organization. . . . The evidence other than godparenting and funerals refers only to what occurs in these petitioner-sponsored events and is too limited in scope and participation to demonstrate community.” (Muwekma FD 2002, 52). *Note: See also, PF 2001, 22-25. The PF concluded that: “a predominant portion of the petitioner’s members have not been part of a community as recently as seven years ago” (PF 2001, 25).*
- ▼ “. . . the petitioner submitted evidence from several reburial and sacred ceremonies. . . . Evidence of who participated made up a large proportion of the record. The BIA turned to the many photographs and their captions in the submission to analyze who exactly attended such reburials [since ca. 1984]. This evidence was analyzed to determine the extent and nature of the membership’s involvement with significant issues and events. This analysis found that the available evidence demonstrated that the people involved were actually limited to a small segment of the petitioner, and they were generally closely related to the petitioner’s named leader.” (Muwekma FD 2002, 57). *Note: See also, PF 2001, 22.*
- ▼ “The petitioner makes an argument that its organization sponsors informal activities. However, the activities [since 1984] it uses as examples are not the kind of ‘informal activities’ generally accepted as evidence under 83.7(b)(1)(iii), which refers to ‘informal social interaction,’ that is activities and interactions initiated by the

petitioner's members and NOT sponsored by the formal organization" [p.97] ¶ "The evidence submitted does not show members interacting without the central leadership present." [p.98] (Muwekma FD 2002, 97-98)

- ▼ ". . . the petitioner's argument is limited to suggesting the *possibility* of social interaction because of the number of Chinook descendants living in a single geographical area, and the *possibility* that Chinook descendants residing in separate geographical areas could have visited each other by steamboat or ferry. . . . These arguments that social interaction would have been possible among the petitioner's ancestors in 1900 and 1920, standing alone, do not meet the requirements of criterion (b)." (Chinook RFD 2002, 80-81)
- ▼ "For this time period [post-1950] there is a [*sic*] insufficient evidence regarding actual social interaction among a predominant portion of the petitioner's membership." (Chinook RFD 2002, 95)
- ▼ ". . . the petitioner submitted . . . excerpts from Catholic Church records [1876-1899] compiled in an attempt to show that some of their ancestors were interacting with other Indians." [p.19] ¶ "The BIA found that only seven of these 13 records cited more than one family line. . . . [These records] do not show on-going interactions between Duwamish people who belong to various family lines and who live in various localities. The evidence by itself or combined with other evidence does not describe a network of interaction tying together the DTO [petitioner] ancestors." [p.20] ¶ "These occasional events do not show that these individuals were meeting regularly which would indicate that they were part of the Indian communities where the events took place. . . . The record does not demonstrate that the individuals attended the mission church on a regular basis." [p.21]" ¶ [The petitioner "extracted" a list of students at the Catholic St. George School for the years 1903 and 1939.] "Of these 42 separate names, only two appear on both the 1915 list and the 1926 list [of Duwamish]. . . . [The] others on this school list. . . . most likely were members of the reservations associated with this school. This document does not show that there was interaction between the reservation Duwamish and the petitioner's ancestors." [p.22] (Duwamish FD 2001, 19-22)
- ▼ "The petitioner submitted "a listing of 35 individuals 'not on any [Duwamish] lists but appearing to be connected to individuals who are'. . . . BIA research shows that . . . all but two of the individuals and the people to whom they are connected are first degree relatives, meaning they are siblings, parents, and children. The evaluation assumes that these individuals . . . are interacting by virtue of their close relationships; however, because no relationship across family lines are shown, either to individuals on the 1915 and 1927-34 lists, the evidence does not meet the requirements of criterion (b)." (Duwamish FD 2001, 26-27)



- ▼ “The petitioner submitted a selection of papers, mostly created in the late 1930's, pertaining to Kitty Bigelow’s inheritance of Dr. Jack’s homestead. . . .” [p.27] ¶  
“The lack of clarity, the long period that elapsed after his death before heirs sought to clarify the inheritance, and the confusion about their kin relationships does not support the contention that the individuals involved were close socially. These letters concern an individual allotment and do not demonstrate tribal relations or interactions outside a family line.” [pp.28-29] (Duwamish FD 2001, 27-29)
- ▼ “The petitioner submitted an article by their researcher that states that some 63 percent of individuals had ‘contact with one or two Duwamish households (outside their treaty families) in the past ten years.’ This describes a situation of very little, if any, contact. The 63 percent apparently includes people who have had only a single contact in ten years, perhaps in a formal meeting or during a telephone call possibly initiated by the petitioner’s governing body. This is not the extent and type of regular, significant social contact and interaction, which would show that the petitioner forms a community.” (Duwamish FD 2001, 29)
- ▼ “Autumn hunting and fishing by members of a single family line . . . is not evidence of tribal activity and does not demonstrate interaction widely distributed among the tribal members or across family lines.” (Duwamish FD 2001, 30)
- ▼ “First, evidence to support his [petitioner’s researcher’s] picture of active family or kinship based interactions ‘that permeate the social world of the Duwamish’ beyond their own family lines has not been submitted. Second, the type of kin-based interactions he describes are typical of human behavior everywhere and do not distinguish tribal groups from others.” [p.37] ¶ “. . . this petitioner presents as evidence for §83.7(b) only the everyday interactions of individuals in their own families which does not show that a community exists encompassing the petitioner’s membership as whole.” [p.38] (Duwamish FD 2001, 37-38)
- ▼ “The petitioner’s researcher . . . postulated that the Duwamish interacted with other Indians. . . . The only evidence he gave for this opinion was to assert that a small number (7 of 390) of the petitioner’s members had significant interactions with other Indians. . . .” ¶ “The BIA’s analysis showed that a small group of six or seven individuals, representing only one family line, was primarily involved in these kinds of activities. . . . The activities of a smattering of individuals from one family does not provide sufficient evidence that the petitioner meets the requirements of 83.7(b).” (Duwamish FD 2001, 38-39)
- ▼ “In order for there to be ‘significant rates of informal social interaction which exist broadly among the members of a group,’ there must first be a group. . . . [T]he ancestors of the current STI [petitioner] membership did not, historically, constitute either a single tribe or a group whose history could be traced through time. . . .” ¶

Many of the persons claimed as ‘Steilacoom Indians’ by the petition belonged to other local tribes. There was no documented interaction between these Indians . . . and the petitioner’s known ancestors.” [p.9] ¶ “. . . there was no evidence that broad interaction took place among the various identifiable subgroups of people whose descendants subsequently became members of the STI.” ¶ “There was evidence showing that the non-Indian former HBC [Hudson’s Bay Company] employees who married Indian women in the mid-19<sup>th</sup> century . . . associated with one another. However, . . . the association came through the husbands rather than through any common tribal identity of their Indian wives.” ¶ “Similarly, there was evidence showing that members of Red River immigrant families from Manitoba, Canada, associated with one another. . . . However, the elements which bound them as relatives, friends, and neighbors did not stem from any association with the Steilacoom Indians, but had already existed before they left Canada.” [p.10] (Steilacoom PF 2000, 9, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “No evidence was located to demonstrate broad informal social interaction [currently] among STI members as a whole. Activities are sponsored by the formal STI organization, with limited participation among the membership.” (Steilacoom PF 2000, 10). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “There is no evidence that the petitioner’s ancestors interacted with each other outside the annual meetings of the general membership, or that the present membership has done so to any significant degree from 1925 to the present.” (Duwamish PF 1996, 9)
- ▼ “The petition documentation includes references to the petitioner’s participation, as an organization, in commemorative events and pow-wows. . . . participation has been only by a few individual officers of the organization. Thus, participation by the organization’s leadership in pow-wows and other commemorative events is not evidence of the maintenance of internal social cohesion.” (Duwamish PF 1996, 10)
- ▼ “There are significant social ties between RMI [petitioner] families in the core geographic area [a 10-mile area including the three principal RMI settlements]. . . .” ¶ “Evidence concerning the maintenance of social relations with those RMI resident outside the core geographic area is much more limited. . . .” (Ramapough PF 1993, 10)
- ▼ “Most social interaction between Miami members resident in the core geographical area occurs between members of the same extended kinship group. . . . [I]t does not appear that most or even many of the members of a given extended kinship group have significant interaction with many members of other such groups. Thus, the extended kinship groups are only loosely linked to each other.” ¶ “Among a small portion of the Miamis, interaction appears to be more frequent than among other

- portions of the membership. . . . This portion consists of two overlapping informal networks. . . .” [p.11] “. . . it can be estimated that the two networks constitute at most 300 people, a minority of 1400 Miamis in the core geographic area.” [p.12] (Miami FD 1992, 11-12)
- ▼ “The annual reunion is one of the few sources of social contact, beyond immediate kinsmen, among core geographic area Miamis. It is primarily a social occasion. . . . [T]he annual reunion is limited in time. Attendance records establish that over the past 37 years, at least 22 percent of the core geographic area members have attended at least one annual reunion. . . . In a given year, no more than 5 or 10 percent of the attendees are from outside of the core geographic area. . . . Because of the limited nature of the annual reunion, it does not provide evidence of extensive social ties or frequent social contact among the Miami membership.” (Miami FD 1992, 12)
  - ▼ “A limited description of community activities is given [by a commenter] to show existence ‘as a functioning community,’ such as powwows, teaching crafts, dancing at public functions, and the procurement of grants. These are at best limited functions, documented only for the past seven years, and contain no indication of extensive participation by the ‘members’ listed on the roll.” (Lower Muskogee Creek FD 1981, 4)
  - ▼ “Considerable evidence exists that the group does not form a stable community within which tribal relations are maintained. . . . [T]here have been major changes in membership enrollment. More than half of the group who were enrolled in 1977 are not currently enrolled and more than half of those currently enrolled were not enrolled in 1977. There is strong evidence that membership has been gained by recruiting individuals who have had no previous ties with each other or with the group.” (Lower Muskogee Creek PF 1981, 3)

**(b)(1)(iv) A significant degree of shared or cooperative labor or economic activity:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Since 1992, the MBPI [petitioner] have undertaken significant economic activities as a group. With participation among its membership, they have bought or optioned parts of their original reserve lands, which the group now manages. These activities provide evidence under 83.7(b)(1)(iv).” (Match-e-be-nash-she-wish Band PF 1997, 10)
- ▲ “. . . the Methodist church at Pine Creek provided a focus for activities which encompassed most of the group from the 1840's until at least 1960. From 1900 through 1959 . . . the Pine Creek church organized Methodist camp meetings which

hosted up to 3,000 guests and received Potawatomi groups from throughout Michigan . . . indicating that the group meets the standard under 83.7(b)(2)(iv) for that time period.” (Huron Potawatomi PF 1995, 9-10).

- ▲ “Leader Levi Pamp organized work teams of adult men who pruned orchard trees, picked fruit, harvested corn, and performed other agricultural functions on nearby non-Indian farms. Women and children grouped together to pick berries, manufacture baskets for commercial sale, and work in small garden plots, indicating the existence of community under 83.7(b)(1)(iv).” (Huron Potawatomi PF 1995, 10-11)
- ▲ “Extensive economic cooperation in agriculture and grazing exists between family groups in both [Paiute] areas.” (San Juan Paiute PF 1987, viii)

Evidence that has NOT been accepted under the criterion:

- ▼ “. . . the available evidence does not indicate that the families [in the Sultan area ca. 1870-1920] described in the [researcher’s] report acted together as a group. . . . For example, the document discusses the importance of hop picking among several of the [Snohomish] homestead claimants, but the report does not indicate that anyone organized ‘crews’ to travel and pick the hops. The report also does not indicate that the families either picked hops together with the other Indian families mentioned, or with any of the ancestors of STI [petitioner] members living in other areas.” (Snohomish FD 2003, 31)
- ▼ “The activities of a business owned and operated by a single family of the petitioner is not evidence for community under 83.7(b) if the business is not run by the petitioner.” (Muwekma PF 2001, 24)
- ▼ “The petitioner cites the 1900 and 1920 censuses as evidence to show that the petitioner’s ancestors ‘shared work and community’ as fishermen and oystermen because they ‘worked together in crews’ . . . . However, the evidence shows that a very high percentage of residents of any nationality or ethnicity in Bay Center and along the Columbia River during this period were engaged in fishing occupations and the Chinooks’ participation in fishing did not distinguish them from others. Additionally, the census data does not indicate that the Chinook were engaged in shared, cooperative labor as opposed to individual labor for wages. . . . The newspaper articles describing fishing crews in Bay Center between 1920 and 1940 show that fishing crews were made up of close family members. None of this evidence demonstrates that the petitioner’s ancestors’ fishing activities were organized along tribal lines.” (Chinook RFD 2002, 80)
- ▼ “Participation by STI [petitioner] members in commercial fishing in the 1970’s was

by invitation of federally acknowledged tribes, and did not involve a significant degree of shared or cooperative labor among the STI membership.” (Steilacoom PF 2000, 11). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “Besides annual meetings that occurred during their childhoods in the 1940’s and 1950’s, the only other activities recalled by today’s members of the petitioner were shared gift giving, cooperative hunting, and summertime berry picking. These activities took place, however, among brothers, sisters, aunts, uncles, nieces, and nephews, not among members outside of their own extended families.” (Duwamish PF 1996, 9)

**(b)(1)(v) Strong patterns of discrimination or social distinctions by non-members:**

- “Demonstration of community under the regulations requires that the tribe be a social community which is distinct from other populations in the area. This requires that they maintain a significant degree of social cohesion within the group and also that members maintain at least a minimal social distinction from non-members. Minimal social distinction means that they identify themselves as distinct and that they are identified as different by non-members. Evidence of more than a minimal distinction is not required to demonstrate that criterion (b) is met, as it can be met by directly demonstrating the existence of significant levels of social interaction and social relationships. Evidence of strong social distinctions, beyond a minimal degree of identification, such as patterns of social discrimination, is good evidence to demonstrate the existence of social cohesion within the group. Social distinction which is more than minimal may result from either externally imposed discrimination or internally defined and maintained social relationships and social pressures.” (Snoqualmie PF 1993, 21)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The petitioner submitted letters from the BIA agency official overseeing the trust fund accounts of some [of] the petitioner’s ancestors. These accounts were set up to contain the trust money earned from timber allotments on Quinault Reservation. . . . The agents treated the Bay Center allottees with comparative largess . . . while at the same time disbursing only small amounts under \$300 to individuals living on Quinault. . . . These documents provided evidence that the petitioner’s ancestors were treated distinctly from reservation Indians.” (Chinook RFD 2002, 82-83). *Note: See RFD 2002, 35, 76.*
- ▲ “The tone of some early news articles and of two articles concerning automobile accidents . . . provides evidence that social distinctions were being made between the Chinook descendants and non-Indians. . . . This tone provided some corroboration

that social distinctions were being made in the greater Bay Center community until 1930. These distinctions predicate racial discrimination that underlies the kind of separate social sphere found in Bay Center at least until 1930.” (Chinook RFD 2002, 83). *Note: See RFD 2002, 35, 76.*

- ▲ “The Bay Center cemetery layout shows segregation between the Indian descendants buried there and the non-Indians. . . . The individuals buried on the large Indian fringe are the same people named in the newspaper gossip columns and were part of the Indian descendant social network. This, therefore, corroborates the finding that a distinct social network existed in and around Bay Center.” (Chinook RFD 2002, 83). *Note: See RFD 2002, 35, 76.*
- ▲ “Evidence also exists that strong social distinctions of the Métis from non-Indians existed in the past [1930’s to the 1950’s] in the form of partial residential segregation in Montana’s towns and cities, partial school segregation, and job discrimination. . . . The Métis were also substantially distinct socially and culturally from the reservation Indians of the state. . . . [T]his evidence under the provisions of section 83.7(b)(1)(v), when combined with other evidence, is sufficient to meet criterion (b).” (Little Shell PF 2000, 23-24). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Members of the non-reservation family lines were identified on the 1920 Federal census and on employment registers of the Ship Harbor canneries in the 1920’s as Indian or part-Indian. This evidence supports a finding that they were socially distinct from non-Indians.” (Samish FD 1995, 6). *Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- ▲ “The local population considered the Choctaw to be different from the rest of the population and treated them accordingly. . . . When the Choctaw arrived in town as a group on a Saturday night, they were often subject to harassment from the general population and in particular from the town marshal.” (Jena Choctaw PF 1994, 4)
- ▲ “Efforts to educate the Indian children . . . provide evidence that local, state, and Federal officials treated the tribe differently from other residents of the parish. The Indian children were not allowed to attend the White schools. . . . Local authorities and private individuals made efforts to create a school specifically for the Indian population [in the 1930’s].” (Jena Choctaw PF 1994, 4)
- ▲ “In 1880, when a school district was formed at Hillburn, a segregated school was established for the RMI. . . [it] existed until 1943, when segregation was abolished. A similar school existed at Stag Hill between 1903 and 1945.” (Ramapough PF 1993, 8)

- ▲ “When social scientists first began to study the RMI [petitioner] ancestors in 1908 their distinctiveness was based on what was perceived as a unique racial identity, but not an identification of them as an Indian community” [p.8] ¶ “RMI ancestors had come to be known as ‘Jackson Whites’ by 1878. The label is of unknown origin and was disliked by RMI ancestors. It is still considered an insult to current members of the RMI. Nevertheless, the fact that outsiders used this term to identify them as a separate population is significant in the context of this petition.” [p.9] ¶ “Turn-of-the-century journalists, archaeologists, and cultural anthropologists, who used the label ‘Jackson White’ [*sic*] speculated about the possible tribal origins for the RMI ancestors. . . . These attributions of tribal identity were based on folk legends . . . or assumed because of inaccurate stereotypes about physical characteristics and lifestyles of Indians.” [p.11] (Ramapough PF 1993, 8, 9, 11)
- ▲ “The Snoqualmie clearly meet the minimal requirements of the regulations concerning distinction, identifying themselves and being identified by outsiders as Snoqualmie.” (Snoqualmie PF 1993, 21). *Note: See also, FD 1997, 9-10.*
- ▲ “The primary context in which social distinction occurs is in the relationships between the San Juan Paiutes on the Navajo Reservation and their Navajo neighbors. . . . [T]he San Juan Paiutes are clearly socially distinct from the local Navajo. . . . Lists made by Navajos . . . identify essentially the same body of people as Paiute as is identified in the petition and in ethnographic and other documentary sources.” ¶ “The two locations are identified by local Navajos as Paiute settlements. . . . Distinctions from the Navajos are made in terms of social status, economic ability, desirability as marriage partners, lack of clan affiliation, historical origins, and past history of Paiutes as slaves or menial workers for Navajos.” ¶ “The San Juan Paiutes have not been incorporated into the kinship relationships which are primary for traditional Navajo social organization. . . .” ¶ “There are few non-Indians in the communities in which most of the membership resides, and few San Juan Paiutes reside in non-Indian communities.” (San Juan Paiute PF 1987, viii-ix). *Note: See also the FD:*

As new evidence: “A brief ethnographic study of the Navajo Mountain Paiutes in 1933 indicated that while the Paiutes at Navajo Mountain were influenced by Navajo culture in some ways, they constituted a distinct group from the Navajos.” ¶ [Also as new evidence:] “The [petitioner’s] response presented extensive new evidence describing distinct San Juan Paiute beliefs and cultural practices, including ceremonies, that have been maintained. It also confirmed, and described in more detail, the proposed finding’s conclusion that Paiutes did not participate in or use Navajo religious ceremonies except for curing ceremonies.” (San Juan Paiute FD 1989, 6)

- ▲ The petitioner’s comment on the proposed finding “presented a discussion and

analysis of social columns in the newspaper. When Gay Head Wampanoags were the social reporters for the *Vineyard Gazette* . . . the news was almost exclusively about Gay Head Wampanoags to the exclusion of the non-Indians. When the social reporters were non-Indian, the social news focused on the non-Indians to the virtual exclusion of the Gay Head Wampanoags. . . . [These columns] demonstrated the existence of the social boundaries between the Indians and non-Indians in Gay Head.” (Wampanoag of Gay Head FD 1987, 7)

- ▲ “Around 1900, social distinction of Indians developed into a system of segregated Indian schools and churches, based in the Indian settlements.” (Poarch Band of Creeks PF 1983, 4)
- ▲ “At the time of ‘detrribalization’ in 1880, the State of Rhode Island clearly defined a community of individuals of Narragansett descent who were maintaining significant tribal ties.” (Narragansett PF 1982, 9)
- ▲ “The Timbi-Sha have retained a considerable degree of cultural distinction from surrounding non-Indian populations. . . . A clear distinction is maintained with neighboring Indian groups, which recognize it as a distinct Indian group.” (Death Valley Shoshone FD 1982, 47 F.R. 50109)
- ▲ “Peshawbestown is viewed by band members and nearby communities as a distinct Indian community and is referred to as such in newspapers and county documents. State road signs mark the boundaries of the community.” (Grand Traverse Band PF 1979, 5)

Evidence that has NOT been accepted under the criterion:

- ▼ “The petition contained no evidence of strong patterns of discrimination or other social distinctions by non-members in the past. This was most clearly shown by the fact . . . [that] the ancestral families and current members of the STI have intermarried primarily with local non-Indian families. . . . [There was] limited anecdotal evidence of prejudice against non-whites in schools from the 1930’s through the 1970’s. This was not, however, evidence of patterned discrimination. The STI submitted no evidence that the families of the petitioner have at any time been excluded from membership in certain churches or social organizations because of their Indian background.” ¶ An “analysis of population distribution [of STI members at present] indicated that they are not subject to limited housing or residential locations or other restrictions resulting from identity as STI members.” (Steilacoom PF 2000, 11). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “Very few members of today’s petitioner reported discrimination based on Indian ancestry from the 1930’s to the present.” (Duwamish PF 1996, 10)



- ▼ “What evidence is available [for the modern community] does not indicate that there are currently strong social distinctions made by non-Indians. Snoqualmie interact extensively with non-Indians and in many contexts. There was no direct evidence to demonstrate whether there were differences in the degree and kind of interaction with Indians versus with non-Indians. Many Snoqualmie attend non-Indian churches. . . . There are no barriers to intermarriage from the point of view of non-Indians nor do the Snoqualmie presently exhibit a preference for marriage with Indians or place a lower value on marrying a non-Indian.” (Snoqualmie PF 1993, 21-22). *Note: See, however, the conclusion about more than “minimal” social distinction (PF 1993, 21; FD 1997, 9-10).*
- ▼ “There are no cultural differences between the Miamis and the surrounding non-Indians. . . . There are no separate Miami churches, clubs or other institutions and Miamis participate fully in non-Indian churches, clubs, and other social institutions. . . . Systematic discrimination clearly does not occur.” (Miami FD 1992, 14). *Note: The FD also concluded that “there have been no significant cultural differences for several generations” (FD 1992, 10).*
- ▼ “Yet this community [on French Prairie in Oregon (1832-1877)] was viewed as distinct from other populations in the area due to the fact that it was French-Canadian and Roman Catholic and not because it had a sizeable Indian population.” (Tchinouk PF 1985, 8). *Note: See also, FD 1986, 51 F.R. 2438.*
- ▼ “No instance was presented, and none could be found, in which the ULN [petitioner] members could be distinguished as an Indian group from other citizens in a particular area.” (United Lumbee PF 1984, 3)
- ▼ The petitioner “is an organization formed in 1969. . . . The initial membership was considerably broader than the current membership, because many of the initial members left the organization to become part of other organizations. Thus the membership is not, and has not been, a distinct Indian community with significant social distinctions between members and non-members.” (Principal Creek Nation PF 1984, 2)
- ▼ “Documentary and oral historical materials, as well as marriage and residence patterns, indicate that [historically] these Indian descendants were socially and physically members of non-Indian communities. . . . [T]hey and others made a clear distinction between themselves and off-reservation Indians living in their vicinity in the early part of the [20th] century. Similarly, in the 20th century at least, social contacts with the reservation Snohomish were minimal and they made a definite distinction between these ‘Indians’ and themselves.” [p.11] ¶ “[Contemporary] Members generally do not indicate a distinction between themselves and other

surrounding populations except for the claim of Snohomish Indian ancestry.” ¶  
 “Little distinction is made between members and non-members. Socially and culturally, members are part of the non-Indian neighborhoods in which they reside. . . .” [p.14] (Snohomish PF 1983, 11, 14)

**(b)(1)(vi) Shared sacred or secular ritual activity encompassing most of the group:**

Evidence that has NOT been accepted under the criterion:

- ▼ “The evidence [*re*: godparenting and Catholic baptism] does not provide evidence under sections 83.7(b)(1)(vi) . . . or 83.7(b)(1)(vii). . . . even though godparenting involves religious/sacred obligations. . . . [E]vidence of its [petitioner’s] religious practices does not demonstrate that ‘the petitioning group comprises a distinct community’ as 83.7(b) requires.” (Muwekma FD 2002, 93)
- ▼ “The petition did not submit and BIA researchers did not locate any evidence that, at any point in time, . . . the ancestral families or current members of the STI [petitioner] had any shared sacred or ritual activity that encompassed most of the group.” (Steilacoom PF 2000, 11-12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(1)(vii) Cultural patterns shared among a significant portion of the group:**

- “The regulations distinguish between public displays of heritage that are merely symbolic displays and significant internal group activities (83.7(b)(1)(vii)[]).” (Muwekma FD 2002, 56)
- “Individual rituals which follow a distinct cultural pattern, even those considered to be ‘Indian,’ when learned, performed or undertaken individually rather than as a group do not on their face provide evidence that the individuals are part of a community which practices these activities in a community context, which is significant in showing that the petitioner meets criterion 83.7(b).” (Duwamish FD 2001, 33)
- “The belief that preserving heritage is important . . . is not good evidence unless this belief is made real by the activities of the petitioner’s members or constituents or unless it is distinct and specific and distinguishes DTO [petitioner] beliefs from others.” (Duwamish FD 2001, 35)
- “The regulations and their past applications have not penalized petitioners who have by and large acculturated (taken on the culture of a dominant society). . . . The issue is whether they have maintained on their own a separate and distinct social

community.” (Duwamish FD 2001, 41)

- “The usage of BIA facilities, such as schools and hospitals, by STI [petitioner] families in the later 19<sup>th</sup> and 20<sup>th</sup> centuries does not fall into this category of evidence.” (Steilacoom PF 2000, 12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “These [cultural] differences must be more than symbolic expressions of identity.” (Snoqualmie FD 1997, 8). *See also the PF:*

“To be meaningful as evidence concerning the maintenance of a cohesive, distinct social community, cultural differences should extend beyond purely symbolic expressions of identity. An example of the latter is the revival and performance of traditional style dances, in contexts such as parades or performances before non-members, as a means of affirming identity, but without the context of beliefs, worldview and supporting social and economic obligations that the dance had in its original cultural and social setting.” (Snoqualmie PF 1993, 20)

- A third party’s “argument concerning the Shaker Church is based on an incorrect interpretation of the regulations that cultural differences need to be exclusive to the [petitioning] group, as opposed to distinguishing it from non-Indians, and that they must . . . represent the traditional, pre-European culture.” (Snoqualmie FD 1997, 8)
- “The criterion does not require a demonstration of cultural distinctiveness, but of the existence of a distinct social community. Cultural distinctiveness, where it exists, is an example of positive evidence for the existence of a distinct social community.” (Mohegan FD 1994, 16)
- “While maintenance of cultural differences is not a requirement of the acknowledgment regulations, nor a necessity to demonstrate a distinct community, the existence of such differences is, by its very nature, a good demonstration of significant social distinction. It is also strong evidence that there exists, and historically has existed, significant social cohesion as well as internal political processes which have acted to maintain distinct cultural elements within the community against pressures from non-Indian society to acculturate to non-Indian society.” (Snoqualmie PF 1993, 20)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The cultural differences that existed between the Métis and their Anglo-American and reservation Indian neighbors until the 1930’s or 1940’s provide substantial evidence for demonstrating the existence of communities in the past among subgroups of the petitioner’s ancestors. For the contemporary period, cultural

foodways have been accepted as evidence of distinct cultural differences. The use of the Michiff language by a significant portion of the petitioner's members or ancestors also is evidence of a distinct cultural difference, even though there appear to be few young adult speakers. . . . The evidence about past and current cultural differences under the provisions of section 83.7(b)(1)(viii) [*sic*], when combined with other evidence, is sufficient to meet criterion (b)." (Little Shell PF 2000, 24). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ The group "continued customary use of the Potawatomi language (a majority of the adult members were Potawatomi speakers) as late as 1972, thus providing a significant level of evidence for community as specified under criterion 83.7(b)(1)(vii) to that date." (Match-e-be-nash-she-wish Band PF 1997, 7-8)
- ▲ "The Choctaw language was used almost exclusively by members of this Indian community until the late 1930's. The use of the Choctaw language continued in many households until the late 1950's, sustained in part by the high degree of in-group marriage." (Jena Choctaw FD 1995, 60 F.R. 28480). *Note: See also, PF 1994, 4, 5.*
- ▲ "The RMI [petitioner] . . . spoke an apparently distinct dialect of Jersey Dutch . . . at least as late as 1910. . . . This difference reflects their degree of separation as a community." (Ramapough PF 1993, 8)
- ▲ "There is strong evidence that a substantial portion of the Snoqualmie maintained the traditional culture in this period [1914-1956] or were members of the Indian Shaker church, i.e., otherwise maintained a distinct culture from non-Indians. A substantial proportion of the membership continued to speak Snoqualmie. . . . Some traditional longhouse religion ceremonies were still held in the 1930's. . . ." [pp.9-10] ¶ This level of distinct culture includes religion and language, fundamental and essential parts of the culture, and is thus strong evidence in itself that the Snoqualmie were a distinct social group." [p.10] ¶ [From 1956 to 1981,] A significant portion of the membership maintained cultural differences from non-Indians. The clearest evidence of this is Snoqualmie participation in the Shaker Church, the Indian Smokehouse religion (a modified revival of traditional religion) and probably some continued traditional religious beliefs among the oldest generation. The Snoqualmie participating in these religions were probably a significant minority of the tribe. . . ." [p.13] (Snoqualmie PF 1993, 9-10, 13). *Note: For the FD, under section 83.8, the petitioner was evaluated "at present."*
- ▲ "There is good evidence [since 1981] that a substantial minority of the Snoqualmie maintain significant cultural differences from non-Indians, and some evidence that a larger proportion maintains other, more limited cultural differences. There is good evidence that such individuals have high prestige within the Snoqualmie.

Approximately 15 percent of the membership participates in an Indian religion. Further, participants are drawn from several of the family lines, i.e., important cultural differences are not narrowly confined to a small portion of the membership. Cultural differences of this nature are particularly strong evidence because religion is a fundamental part of a culture's belief system. These are very strong, significant differences, even though only a minority of the population currently maintains them.” (Snoqualmie PF 1993, 19-20). *Note: The FD restated this conclusion (FD 1997, 7).*

- ▲ “The Timbi-Sha Shoshone have retained a considerable degree of cultural distinction from surrounding populations. The Shoshone language is still spoken widely in the group.” (Death Valley Shoshone PF 1982, 5)

Evidence that has NOT been accepted under the criterion:

- ▼ “. . . the content and customs of godparenting in this case do not appear ‘different from the non-Indian populations with whom it interacts’ as required by section 83.7(b)(1)(vii).” (Muwekma FD 2002, 51; see also, 93)
- ▼ The “petitioner’s evidence does not . . . demonstrate a distinct religious practice. The petitioner’s members . . . have not for many decades attended a single parish church. No church building is under its control and is the center of programs designed by and for its members. Even if a predominant portion of the membership follows a single religion, the fact that they attend at least twelve different parish churches . . . does not qualify as ‘maintaining [a] distinct cultural pattern’ within the meaning of sections 83.7(b)(1) or 83.7(b)(2).” (Muwekma FD 2002, 94)
- ▼ An article by the petitioner’s researcher “states that 79 percent of respondents (N=175) said that they had participated in tribal meetings, Indian spiritual practices, bingo, bone games, powwows, Indian naming, canoe races, conferences, potlatches, and other gatherings. . . . What the petitioner must show is that the ‘bingo, bone games, powwows, Indian naming, canoe races,’ and other activities were organized as group activities of the petitioner and that these activities were significant in people’s lives, not merely symbolic statements about one’s heritage. This evidence was not provided.” (Duwamish FD 2001, 30)
- ▼ “The petitioner’s anthropologist refers to a 1986 survey he did of 54 adults, which he says demonstrated their shared ‘Duwamish identity’ . . . . The ‘shared symbols’ to which he refers are . . . too general to be meaningful evidence for the community criterion 83.7(b). For example, questions asked whether the respondent cared about the environment and how much and how often he ate salmon. Individuals would be hard pressed not to intuit the ‘correct’ meaning or the ‘typically Indian’ answer. None of these expected answers would be distinctly Duwamish.” [p.31] ¶ “Enjoying salmon at home on a monthly or even weekly basis does not demonstrate a special

shared tribal identity and does not distinguish the petitioner from most inhabitants of the Pacific Northwest of any heritage.” ¶ “Another of the petitioner’s researchers . . . makes statements based on a survey which he says shows a number of ‘cultural values’ which include attitudes such as ‘commitment to Duwamish way of life, attendance at Duwamish gatherings, skin color, preference for Indian food’ . . . Even if it were known who the respondents were and how the sample was taken, the responses would not reveal significant information about the petitioner. . . . because most of the survey questions are overly general and reveal little about a specific Duwamish community.” ¶ “Finally, this evidence deals primarily with self declarations of what people believe and not actual evidence about their activities, which is necessary to document criterion (b).” [p.32] (Duwamish FD 2001, 31-32)

- ▼ A petitioner’s researcher states that a “survey” of “interviews with 14 present or former council members” reveals that they “described ‘Duwamish cultural activities in which they participated’.” [p.33] ¶ The researcher’s “sample of 14 individuals who are all council members is not representative of the membership in general and the data do not indicate that these [cultural] activities were undertaken as a tribe.” [p.34] ¶ These “survey results, do not provide evidence that a substantial portion of petitioning group’s members participate in shared and distinctive activities.” [p.35] (Duwamish FD 2001, 33-35)
- ▼ “Few members are actually involved in heritage activities, and the activities that a few individuals from a single family line undertake are not significant in the lives of most DTO members. Nondescript beliefs about the importance of heritage can not substitute for actually preserving heritage . . . or participating oneself in projects that preserve heritage.” (Duwamish FD 2001, 35). *Note: See also PF 1996, 11.*
- ▼ “The evidence showed that a small number of members repeatedly participated in symbolic displays of their Indian heritage for non-Indians, rather than interacting among themselves. . . . Purely symbolic displays of Indian heritage are not evidence that the petitioner meets criteria [*sic*] 83.7(b).” (Muwekma PF 2001, 25)
- ▼ “No significant data was submitted or located which indicated cultural patterns which differentiated STI [petitioner] members from non-Indian populations.” (Steilacoom PF 2000, 12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petition documentation includes references to the petitioner’s participation, as an organization, in commemorative events and pow-wows. Participation in public events such as these, however, does not clearly function as more than merely symbolic identification of the group or organization as Indian. It is not evidence in itself of actual differences in cultural beliefs or social organization.” (Duwamish PF 1996, 10)

- ▼ “There is no evidence that there were significant cultural differences between the RMI [petitioner] and other populations in the area, at any time period. . . . The RMI ancestors lived lives similar to their non-RMI neighbors in the Ramapo Mountains.” (Ramapough PF 1993, 8). *Note: The PF noted an exception for a language dialect.*

**(b)(1)(viii) A named, collective Indian identity continuously over 50 years:**

- “The STI [petitioner] incorporated in 1974 and . . . has asserted a ‘Steilacoom’ identity for the organization. . . . [T]he existence of a formal organization is not in itself sufficient to show collective group identity.” (Steilacoom PF 2000, 12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The MBPI have had a named, collective Indian identity continuously from the 1820's to the present, a period of significantly more than 150 years, thus showing a significant level of evidence for community listed under criterion 83.7(b)(1)(viii).” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “. . . the HPI have had a named, collective Indian identity continuously since 1842, a period of significantly more than 50 years, thus meeting criterion 83.7(b)(1)(viii).” (Huron Potawatomi PF 1995, 9). *Note: See also the comments on the continued identification of a “home community” (PF 1995, 12).*

Evidence that has NOT been accepted under the criterion:

- ▼ “A collective Indian identity put forth by the petitioner, rather than by outside experts, may be used as evidence [under section 83.7(b)(1)(viii)]. However, this type of identification does not appear in the record until 1971. . . .” [pp.60-61] ¶ “The oral histories show that the Marine descendants use the term ‘the Family,’ or ‘the Families[,]’ and seem to be referring to an entity made up of their close and distant Indian kin. . . .” [p.61] ¶ “The term may refer to an entity which is actually larger than the petitioner.” [p.62] ¶ “The use of the terms ‘the family’ and ‘the families’ did not appear to be used before 1984, and its meaning and usage is ambiguous. . . . Further, the use of this term by some ten individuals, most born before 1950, does not demonstrate widespread usage.” [p.63] (Muwekma FD 2002, 60-63)
- ▼ “There was no named, collective identity between 1854 and 1925. . . . Since there were no membership lists of the 1925-1941 claims organizations, the evidence in the record was not adequate to determine to what extent the membership of that period overlapped with that of the post-1951 Steilacoom claims organization.” (Steilacoom PF 2000, 12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(1)(ix) A demonstration of historical political influence under § 83.7(c):**

- “. . . this kind of evidence [83.7(b)(1)(ix)] may not be used to demonstrate community at present, [as] only ‘historical political influence . . . shall be evidence for demonstrating historical community.’” (Muwekma FD 2002, 76)
- “The Charley family lived at Georgetown. . . . This was a reservation at the time . . . [of] the Shoalwater Bay Indian Tribe, a federally recognized tribe. The Charley family’s political activities were sometimes referred to in documents the petitioner submitted. . . . However, the lack of evidence showing the Charleys were part of the petitioner’s ancestors’ social group or that they were interacting with the petitioner’s ancestors limits how that evidence is weighed under criteria (b) and (c). Basically, the activities of leaders and members of a recognized Indian tribe, or others without linkage to the petitioner, cannot be used as evidence for demonstrating that the petitioner meets criterion (b). Therefore, the activities of Shoalwater Bay families, such as the Charleys, do not provide evidence for the petitioner to meet criterion (b) at any time in the 20<sup>th</sup> century.” (Chinook RFD 2002, 95)
- “The proposed finding noted that the significant, non-coercive political processes such as occurred among the Snoqualmie ‘require and are based on the existence of social ties and communication in order for them to operate.’ Where such political processes ‘are clearly established by the evidence’ they provide evidence for the existence of a social community.” (Snoqualmie FD 1997, 6). *Note: The PF added that, “This evidence must be evaluated together with evidence directly concerning social community” (PF 1993, 18; see also, 14).*

**Evidence that has been ACCEPTED in combination with other evidence:**

- ▲ “. . . political processes often generate communications and interactions, and can be used to describe social connections between the petitioner’s members in order to demonstrate that the petitioner meets criterion (b). . . . [Fieldwork by the BIA] found that members . . . base their political positions on knowledge they gain not only from formal meetings and CIT [petitioner] publications, but also from rumors they hear during informal discussions in everyday social situations. . . . Such knowledge is gained through lifetimes of association. The high level of knowledge of tribal activities gathered outside formal meetings and publications provides supporting evidence that the petitioner meets 83.7(b) at present.” (Cowlitz FD 2000, 11-12)
- ▲ “There has been a high level of involvement in the political process since 1966, which involves most of the Mohegan adults. This broad-based and extensive political participation of Mohegan adults . . . is indirect evidence for the existence of a social



community.” (Mohegan FD 1994, 15)

- ▲ “The Snoqualmie between 1914 and 1956 maintained strong processes through which political influence was exercised. This included a chief whose influence affected many areas of members' lives. Political influence within the group which is as strong as this requires, and indicates the existence of, a substantial degree of social relationships between the members. Thus the demonstration of political processes which are this strong is good supporting evidence of the existence of a social community.” [p.11] ¶ “There is clear evidence, discussed in more detail under criterion (c), that throughout the 1970's there were political activities within the Snoqualmie whose nature indicates they were based on an underlying social community. . . . These political activities provide evidence for community because they involve the mobilization of the members. . . . They indicate social divisions along the lines of these opinions.” [p.14] (Snoqualmie PF 1993, 11, 14). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*
- ▲ Since 1981, “Conflicts between ‘families’ are considered a prominent element of general council meetings, the major context in which political decisions are reached by the Snoqualmie.” [p.16] ¶ “Aspects of present-day Snoqualmie political process which most clearly indicate the existence of supporting social processes include the expression of differences of opinion along generational and other lines concerning such issues as fishing rights and the form of leadership and the mobilization of opinion to seek the ouster of a chairman whose behavior was not acceptable.” [p.18] (Snoqualmie PF 1993, 16, 18). *Note: The FD cited “a substantial body of additional evidence” of the existence at present of “social relationships as a basis for political processes. . . .” (FD 1997, 6).*

Evidence that has NOT been accepted under the criterion:

- ▼ “. . . the petitioner claims that most of the evidence under 83.7(b) is under 83.7(b)(1)(ix). . . .” [p.76] ¶ “No new evidence indicates that a widely representative group of individuals was participating in the petitioners’ activities in the first half of the 1990’s.” [p.89] ¶ “The petitioner states that at ‘the tribal level, Muwekma interaction as a whole consists primarily of political functioning’. . . . The petitioner has submitted little if any evidence of ‘political functioning’ of the membership. It submitted the political activities of only the chairwoman and a handful of other people directed outside of the petitioning group. Information about how the group itself functions is not contained in the evidence.” [p.98] (Muwekma FD 2002, 76, 89, 98). *Note: The petitioner was evaluated under section 83.8 “at present.” Although the petitioner cited section (b)(1)(ix), the FD noted that it provides only for demonstrating “historical community.” See pp.76-90, 95-99 for a discussion of political activities as evidence considered for criterion (b).*

- ▼ “The petitioner did not meet criterion 83.7(c) at any point in time. . . . Therefore, there was no carry-over from 83.7(c) to 83.7(b).” (Steilacoom PF 2000, 12). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(1) Other evidence that the petitioner meets the definition of “community”:**

**(b)(1) Other evidence – acknowledgment activities:**

- “. . . acknowledgment activities, by themselves and without additional evidence of how a predominant portion of members actually interact or can be presumed to interact with one another, have not been considered sufficient to demonstrate the existence of community. . . . because general acknowledgment activities are common to *all* petitions.” [p.39] ¶ “. . . acknowledgment activities by themselves are not evidence of community.” [p.95] (Chinook RFD 2002, 39, 95)

**(b)(1) Other evidence – claims organizations:**

- “. . . mere participation in claims does not provide evidence under sections 83.7(b)(1) or 83.7(b)(2).” (Muwekma FD 2002, 95)
- The final determination’s “treatment of the claims organizations and their activities improperly departed from precedent. The evidence of claims activities . . . must be weighed without the assumption that claims activities automatically provide affirmative evidence for demonstrating that the petitioner meets criterion (b). This weighing includes the analysis of claims activities to determine whether they are significant in showing actual social interaction of a predominant proportion of the petitioner’s membership.” (Chinook RFD 2002, 76)
- “. . . by their very nature, descendency rolls compiled for claims purposes are not in themselves dispositive for issues . . . of community affiliation.” (Match-e-be-nash-she-wish Band FD 1998, 12)

Evidence that has NOT been accepted under the criterion:

- ▼ “Two of the interviews directly addressed one of the main issues of the PF: namely that the character of the 1926 Snohomish claims organization was that of a claims group which included many people of non-Snohomish Indian ancestry. These interviews indicated that William Bishop and other people invited or encouraged people of non-Snohomish Indian ancestry to enroll in the group, possibly on the basis of residency in the Chimacum area.” (Snohomish FD 2003, 33). *Note: See also, PF 1983, 13.*

- ▼ “The evidence indicates that families that were enrolled [ca. 1966-1970] under the California Judgment Act organized their responses family-by-family. . . . The record did not demonstrate that a person or group directed or organized this effort on behalf of . . . Ohlone descendants.” [p.78] ¶ “No evidence . . . indicated that various extended families acted in concert. . . . The evidence indicates that each family mounted its own [claims] application process.” [p.95] (Muwekma FD 2002, 78, 95). *Note: The evaluation concerned the possible carry over of evidence from criterion (b) to criterion (c) prior to “at present.”*
- ▼ “Claims organizations formed in 1922 and 1935 encompassed the broader Indian population in the Umpqua Valley area, . . . treating the Sutherlin area as one of several districts.” (Tchinouk PF 1985, 9)

**(b)(1) Other evidence – geographical concentration:**

- “Precedent in the interpretation of the regulations has not required that members live in ‘close proximity to one another.’ Where they do live in close proximity . . . meaning a ‘village like setting’ or ‘exclusive neighborhood,’ the BIA evaluators have been able to assume that interaction has existed without requiring other evidence.” (Duwamish FD 2001, 36). *Note: The petitioner was evaluated under the 1978 regulations (see PF 1996, iv; FD 2001, 1)*
- “The geographical distribution of members, however, is not so concentrated that a presumption of significant social interaction may be made on geographical evidence alone.” (Snoqualmie FD 1997, 8). *Note: See also, PF 1993, 11, 15.*
- “If a petitioner demonstrates that its members continue to live in an exclusive Indian village . . . this would be sufficient . . . to meet the criterion. . . .” (Chinook PF 1997, 8). *Note: The petitioner was evaluated under the 1978 regulations (see PF 1997, 1).*
- “Geographical dispersion of a group’s membership does not foreclose tribal existence, but neither does concentration in a broadly defined geographical area provide evidence for it. While a concentration of many members within, for example, a 50-mile radius creates an opportunity for these individuals to interact on a regular basis, it is not evidence that such interaction has occurred.” (Samish FD 1995, 5). *Note: See also, PF 1982, 14. Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- A third-party response contended that the petitioner failed to meet the criterion “because they did not live in a specific area, but were spread out over a wide area in southeastern Connecticut. . . .” This response “misinterpreted the intent of

Criterion b, which requires demonstration of social community, not residence in a specific area in the sense of an exclusive territory.” (Mohegan FD 1994, 16)

- “The regulations. . . . do not require that the group or substantial portions of it live in a geographic area which is exclusively or almost exclusively occupied by members, e.g., a village or neighborhood. Such exclusive geographic settlement is sufficient evidence in itself to demonstrate that a group constitutes a distinct social community which meets the requirements of criterion (b).” (Snoqualmie PF 1993, 8).
- “. . . broad geographical distribution [of members] . . . makes the maintenance of community social ties more difficult and does not allow the presumption of such ties.” (Miami FD 1992, 7)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Approximately 53% of the membership resides within 20 miles of Jena, Louisiana; 72% resides within 30 miles of Jena.” (Jena Choctaw PF 1994, 6)

*Evidence of residence in “a specific area” prior to the 1994 regulations:*

- ▲ “The petitioner is based on land which was traditionally and aboriginally Mohegan.” ¶ “In 1902 it was reported that half of the Mohegan no longer resided within the traditional community. Since that time the percentage of non-resident members has increased steadily.” [p.2] ¶ “Of the 1,032 Mohegan on the current membership list, at least 889 live in southeastern Connecticut.” [p.4] (Mohegan PF 1989, 2, 4). *Note: See also the FD:*

“The Mohegan have continued to maintain a concentrated community in the vicinity of Mohegan Hill to the present. According to the 1993 membership list (N=974), at least 7% of their members live in the geographical core [a 1.5-mile radius around Mohegan Congregational Church, which basically encompasses the Mohegan reservation which was sold in 1861]. . . . In addition, . . . 34% of the MT [petitioner] lives within the social core area [a 10-mile radius around the Mohegan Congregational Church]. A minimum of 89% of the members have at least one significant social connection to the social core.” (Mohegan FD 1994, 14). *Note: Definitions of “geographical” and “social” core areas are found at p.12.*

- ▲ “In the late 1950’s and the 1960’s several important Mohegan families moved back to Mohegan Hill, and took on the social and political roles formerly filled by aging Mohegan and members of the . . . family subgroups which died out. The migration of some Mohegan families back to Mohegan Hill during the 1950’s and 1960’s is important as evidence that the Mohegan homeland continued to have significance even for those Mohegan who had moved away.” (Mohegan FD 1994, 14)

- ▲ “The Snoqualmie throughout the post -treaty period and into the first decade of the 20th century continued to be a highly distinct social community. They maintained geographically distinct settlements, exclusively or almost exclusively occupied by members of the group.” (Snoqualmie PF 1993, 8). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*
- ▲ “The preponderance of ethnohistorical data indicates that the area south of the San Juan and Colorado Rivers, east of the Little Colorado River and west of Black Mesa was aboriginally Southern Paiute territory. . . . The northeast region around Navajo Mountain and Paiute Canyon and the southeast region around Willow Springs, Cedar Ridge and Tuba City have clearly been identified as part of the home territory of the San Juan Band of Southern Paiutes since 1850. . . .” [p.vi] ¶ “Population reduction, loss of territory and outmigration probably significantly reduced the size of the San Juan Paiute band between 1860 and 1920.” ¶ “Documentary and ethnographic sources report the existence of the two main San Juan Paiute settlements throughout the 20th century to the present.” [p.vii] ¶ “Sixty-five percent of the membership of the San Juan Paiute Band today reside on the Navajo Reservation. . . .” [p.viii] (San Juan Paiute PF 1987, vi-viii). *Note: The PF includes a recitation of the sources which described the two distinct settlements (PF 1987, vii). Note: See also the FD:*

“None of the cited evidence or arguments [submitted by a third party] provided a basis for changing the proposed finding that the San Juan Paiute band had occupied distinct areas, as a community, since first sustained contact, and that those areas had become reduced as the Navajo population in the area sharply expanded beginning in the 1870’s.” ¶ “A review . . . indicates that the basic conclusions concerning the extent and exclusiveness of San Juan Paiute territory at first sustained contact were correct.” (San Juan Paiute FD 1989, 7; see also, 5)

- ▲ “The Proposed Finding presented evidence to show that a substantial portion of the Gay Head Wampanoags lived in a specific area or a community viewed as American Indian . . . and that the tribe’s members were descendants of an Indian tribe which historically inhabited the area.” (Wampanoag of Gay Head FD 1987, 5). *Note: See also the PF:*

The Wampanoag petitioner “is based on land which was traditionally and aboriginally Wampanoag. The area which now comprises the town of Gay Head has been viewed consistently throughout history as an Indian community or, more precisely since the late 18th century, as a community of ‘Indians and people of colour.’ This perception continues today, despite the fact that non-Indians now constitute the majority of its population.” ¶ “Since at least 1807, a substantial portion of the Gay Head Indian descendants have not resided in Gay Head. . . . The current resident Indian population of 78, which has remained fairly stable over the

past 40 years, represents only about 15 percent of the total membership” of the petitioner.” (Wampanoag of Gay Head PF 1986, 2). *Note: See also, FD 1987, 6-7.*

- ▲ The Poarch Band of Creeks “is derived from a community which developed in the latter part of the 18th century in the Alabama-Tensaw River lands.” [p.3] ¶ “Between 1840 and 1850, a portion of the Alabama-Tensaw community moved inland 15 to 20 miles. . . .” ¶ “. . . [and] developed, by the end of the nineteenth century, into five settlements. . . .” ¶ “Two of the nineteenth-century hamlets at Head of Perdido and Hog Fork, still exist, as does another, Poarch Switch, which formed in the 1920’s from residents of the earlier settlements. . . . The three settlements form a clearly identifiable “core” community at Poarch. A significant portion of the membership resides in . . . neighboring areas of Alabama and west Florida . . . and maintains extensive social and kinship relationships with the home community.” [p.4] (Poarch Band of Creeks PF 1983, 3-4)
- ▲ “There has been a significant resident population in this area [Charlestown township] from earliest [European] contact to the present day. . . . Almost all of those persons listed in the ‘detrribalization rolls’ of 1880 and 1881 . . . were resident at Charlestown or in these neighboring areas [within about a 10-mile radius of Charlestown]. Currently, most tribal members reside in Washington County and the community of Charlestown township serves as the core of the contemporary tribe. Emigration from this area continues to be limited.” [p.9] ¶ “A substantial portion of the tribe inhabits a specific area with a majority of members living in Washington County, Rhode Island. . . . The tribe has resided in this area continuously from earliest historical times.” [p.11] (Narragansett PF 1982, 9, 11)
- ▲ “The present-day Death Valley Timbi-Sha Shoshone Band is clearly derived from several traditional Western Shoshone local political units located in Death Valley and neighboring mountain ranges.” [p.4] ¶ “By 1940, the constituent groups were centered in the Furnace Creek area, one of their traditional living sites. The community continues to serve as the core of the contemporary group. About 26 members live permanently in the village during most of the year, migrating annually, as was traditionally done, to the mountains in the summer. . . . [and] sixty-five percent of those living outside of Furnace Creek live in towns or on reservations in the Sierras or Nevada. These areas, which are ones traditionally visited by the group, are the closest settlements to Death Valley.” ¶ “The group is composed of families that can be shown to have inhabited the area since at least the earliest period of contact with non-Indians.” [p.5] (Death Valley Shoshone PF 1982, 4-5)
- ▲ “Although the number of members actually residing on the Tunica tribal land has gradually decreased over the years until now only 15 of the tribe live there, 40% of the total tribe live on or near the land. . . . This portion of the tribe has maintained close social contact.” (Tunica-Biloxi PF 1980, 3)

- ▲ “The community has maintained itself as a cohesive and socially distinct group. . . . Fifty-nine percent live in Jamestown itself or elsewhere on the northern Olympic Peninsula within 35 miles of the settlement.” (Jamestown Clallam PF 1980, 3)
- ▲ “. . . a substantial number of its members live within a proximity which allows the group to meet, associate, and conduct tribal business regularly. At least a third of the current adult membership lives in Peshawbestown or in other traditional areas on the Leelanau Peninsula, and over half (54%) live within the Grand Traverse Bay area.” (Grand Traverse Band PF 1979, 5)

Evidence that has NOT been accepted under the criterion:

*Evidence of residence in “a specific area” prior to the 1994 regulations:*

- ▼ The petitioner’s researcher “maintains that the ‘Sackman logging community’ was a Duwamish Indian community.” ¶ “The PF discussed at length the Sackman logging community. The PF found that the Sackmans were not generally interacting with other Duwamish Indians. . . . Evidence for the PF showed that the community where the Sackmans lived and worked from 1860 through 1890 was a multi-racial logging community, not an Indian or Duwamish community. People of Asian, African, and European heritage and Indians, including mixed-bloods, from several tribes lived there and worked for Daniel Sackman.” (Duwamish FD 2001, 19). *Note: The petitioner was evaluated under the 1978 regulations (see FD 2001, 1).*
- ▼ “. . . the PF found that these three reliable sources (Indian census, Federal census, and Roblin report) showed the petitioner’s ancestors were widely dispersed and that geographical data does not demonstrate that the petitioner meets criterion (b). Other data would have to be submitted.” ¶ The petitioner’s “compilation/chart [of the 1910 Federal census] shows that virtually everyone on it was living only with very close relatives of their own family line, e.g. in nuclear families. The data does not show interactions across family lines. In addition, the 21 families lived in 16 separate enumeration districts. No more than two families lived in any one enumeration district. . . . According to the chart, the distribution of the individual ancestors on the census indicates first, that unrelated families were not living near one another in groups or settlements, and second, that there were no distinct off-reservation communities of Duwamish at this time.” (Duwamish FD 2001, 24; see also, 26). *Note: The petitioner was evaluated under the 1978 regulations (see FD 2001, 1).*  
*Note: See also the PF:*

“There is no evidence of the existence of a social core among the petitioner’s current members, either as a network of interacting individuals and families or as a geographically-defined community. . . . Even among the 10 percent of the members

who reside in Seattle and Bremerton, the highly urbanized areas surrounding Puget Sound, there are no distinct settlements or areas exclusively occupied by members. In short, there are no geographical concentrations of members that could in themselves imply the existence of social interaction among members. Thus, geographical information alone provides no evidence that shows the significant social interaction required to demonstrate the existence of a community.” (Duwamish PF 1996, 8-9). *Note: The petitioner was evaluated under the 1978 regulations (see PF 1996, iv).*

- ▼ “Evidence that a majority of the petitioner’s membership lives in a two- or three-county area which has a higher percentage of non-Indians than Indians, and in which the Indian descendants are widely dispersed among the non-Indian population, does not fulfill the requirements of the criterion.” (Chinook PF 1997, 20). *Note: The petitioner was evaluated under the 1978 regulations (see PF 1997, 1).*
- ▼ “The present Indiana Miami membership is derived from those families that were allowed to remain after removal westward in 1846 or were allowed to return in the succeeding 10 years.” ¶ “Four groups of kinsman had land after removal. . . .” ¶ “These subgroups . . . formed small, land-based social and economic communities. . . . About two-thirds of the Indiana Miami population was resident on the lands in the 1880’s, with the balance largely resident nearby.” ¶ “A combination of factors forced the Miamis off their lands beginning in the 1880’s.” [p.4] ¶ “Significant outmigration from remaining Miami lands, and the nearby towns where the Miamis had settled began between 1910 and 1920.” [p.5] ¶ “Approximately 36 percent of the membership is resident within the four-county area which is more or less the historic (early 19th century) territory of the Miami tribe. . . . There are no distinct territorial areas which are largely or exclusively Miami. . . .” [p.6] (Miami PF 1990, 4-6). *Note: See also, FD 1992, 7-9, 13.*
- ▼ “While Federal census and county records show there has been some residential clustering and interaction among the principal families in the group from 1850 to the present at various and somewhat scattered locations in southeastern Alabama, these family enclaves have never been regarded by others as being American Indian communities.” (MaChis Creek PF 1987, 3)
- ▼ “. . . the Tchinouk Indians descend from the Chinook Indians who historically inhabited the Columbia River Basin.” ¶ “The Tchinouk families became part of a collection of mixed-blood and full-blood families which settled on lands near Sutherlin, Oregon . . . beginning in the 1870’s.” ¶ “There was no evidence found that this collection of families was identified as a distinct community. . . .” ¶ “No specific location is predominantly occupied by the Tchinouk families and there is no identified or distinct community of them.” (Tchinouk PF 1985, 8-9)



- ▼ The petitioner “submitted evidence showing that a substantial portion of their membership does not inhabit a specific area or lives [*sic*] in a community or communities viewed as American Indian and distinct from other populations in the area. Moreover, independent research conducted by the B.I.A. reached the same conclusion. . . . There are no residential clusters of members. . . . [T]here are no communities of SECC [petitioner] members who are distinct from other populations in the area. . . .” (Southeastern Cherokee PF 1985, 5). *Note: Similar conclusions were reached for the Northwest Cherokee and Red Clay Inter-Tribal Band petitioners.*
- ▼ “. . . there are no ULN [petitioner] communities and no group of members inhabiting a specific area or living in a community viewed as American Indian. . . . The petitioner submitted no evidence that its members descended from an Indian tribe which historically inhabited a specific area.” (United Lumbee PF 1984, 2; see also, 4). *Note: See also, FD 1985, 50 F.R. 18746.*
- ▼ “No Indian community ancestral to the PCN [petitioner] was found in the areas where many of the members’ ancestral families lived in the later 19th or early 20th centuries. . . .” (Principal Creek Nation PF 1984, 3)
- ▼ “The membership [currently] is scattered geographically around the Puget Sound area, with little concentration of members within any locality.” ¶ “The present membership is derived from 38 different family lines which originated in a variety of geographical areas.” [p.10] ¶ “[Agent] Roblin’s 1916-1918 survey of non-reservation, unenrolled Indians . . . clearly indicates that no off-reservation Snohomish Indian community existed at the time. . . . The population listed as Snohomish was widely scattered around Puget Sound” [p.12] ¶ “There is no [contemporary] geographical concentration or concentrations of members which form an identifiable Snohomish community around which the group is oriented. . . .” [p.14] (Snohomish PF 1983, 10, 12, 14). *Note: For the FD, the petitioner chose to be evaluated under the revised 1994 regulations (see FD 2003, 2).*
- ▼ “While most of the members of the petitioning group resided in the Pueblo-Colorado Springs area during the 1976-77 period, there is no evidence to indicate that the MTD [petitioner] was anything more than a group of disparate individuals. . . . It has no Delaware or Munsee antecedents.” ¶ “. . . the MTD did not inhabit a specific area or live in a community viewed as American Indian. . . .” (Munsee-Delaware PF 1982, 3)

**(b)(1) Other evidence – knowledgeable outside observers:**Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “After a 1957 field visit, an anthropologist identified the Mohegan as existing as a social group.” (Mohegan FD 1994, 14)
- ▲ “Additional evidence that the Snoqualmie after 1914 continued to form a distinct social community is that knowledgeable outside observers characterized the Snoqualmie in various ways as a distinct social group or tribe. . . . [Indian Service agent] Roblin, based on extensive acquaintance with non-reservation populations which were Indian or of Indian descent, clearly distinguishes between the character of the Snoqualmie as having maintained a distinct social group . . . in contrast to other populations which he characterized as individuals of Indian descent who had socially and culturally assimilated into the non-Indian population. Observations by Indian agents dealing with the Snoqualmie that they were a distinct social group or tribe appeared in the record as late as 1953, when the Tulalip agency observed that assimilation of ‘this band has not been very rapid.’ These observations support and confirm the substantial direct evidence of the maintenance of a distinct social community.” (Snoqualmie PF 1993, 10). *Note: For the FD, under section 83.8, the petitioner was evaluated “at present.”*

Evidence that has NOT been accepted under the criterion:

- ▼ “The first ethnographic description of the petitioner’s ancestors was published in 1911, based on the 1907 field research of anthropologist John Swanton, who described clearly separate and distinct settlements. . . .” ¶ “Although the six settlements listed by Swanton in 1911 were misidentified as ‘Houma,’ it is clear that the settlements were each separate and distinct from the surrounding populations.” (Houma PF 1994, 13). *Note: The PF concluded that the evidence did not show that the petitioner met the criterion as a single community. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(1) Other evidence – membership requirements:**

- “A blood degree requirement for membership in a group establishes a requirement for the maintenance within the group as a whole of at least a minimal degree of social ties, since it is a measure of how close kinship ties of a given individual are with other members of the tribe. The higher the blood degree of an individual, the higher the number of relatives that individual is likely to have within the tribe and the closer his relationship to them. . . . blood degree is a valid measure of the overall social ties based on kinship within the membership of group. . . . A membership criterion only

requiring descendency provides no evidence in itself for the maintenance of social community. . . .” (Snoqualmie PF 1993, 13)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The proposed finding concluded that the 1/8th blood degree requirement of the STO [petitioner] embodies a significant social distinction from non-members and provides some evidence of community cohesion. . . . [T]he implementation of these membership requirements show that the Snoqualmie maintain more than a minimal social distinction between members and non-members. . . .” (Snoqualmie FD 1997, 9). *Note: The PF concluded that the petitioner’s membership requirements “maintain clear social boundaries on their membership which make them distinct. . . .” (PF 1993, 21; see also, 13).*
- ▲ “In 1973, the CTI [petitioner] Tribal Council passed resolutions, approved by the General Council, to exclude from voting membership . . . individuals who (1) were enrolled with other Indian tribes, and/or (2) had a blood quantum of less than 1/16 Cowlitz Indian. These provisions adjusted the formal membership requirements to reflect the existence of the known social community. They indicated that the CTI was a community, and not just a claims organization or an organization of descendants.” (Cowlitz PF 1997, 29-30). *Note: The petitioner was evaluated under section 83.8 “at present”; see the comment in the FD about evidence prior to 1981 (FD 2000, 10).*
- ▲ “The STO [petitioner] maintained a 1/8 Samish blood degree membership requirement until 1974, when it was changed to lineal descendency. Blood degree was a political issue between the reservation and non-reservation family lines in the 1970’s. This conflict is evidence that the STO had made significant distinctions between members and non-members and that membership had been based on more than descendency alone.” (Samish FD 1995, 6). *Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1).*
- ▲ “The traditional, unwritten definition of membership in the band includes social affiliation and participation with other band members as a criterion of membership. To be considered a member requires recognized San Juan Paiute descent and also ‘participation’. . . . Thus the membership by definition is limited to persons maintaining substantial social interaction with other tribal members.” (San Juan Paiute PF 1987, viii)
- ▲ “Membership requirements clearly distinguish between Death Valley families and other nearby Shoshone and Paiute groups.” (Death Valley Shoshone PF 1982, 5)

Evidence that has NOT been accepted under the criterion:

- ▼ “The petitioner’s researcher questioned ‘six council members and two executive officers’ about whether they would maintain a requirement of Duwamish ancestry for membership. Because they answered yes, he believes this shows ‘a rigid descent boundary.’ That eight individuals share conclusions concerning a requirement of descent does not in itself rise to the standard of maintaining a distinct community under the regulations.” (Duwamish FD 2001, 32)
- ▼ “The present criteria for Miami membership only require that Miami ancestry be shown. There are no other requirements, such as maintenance of social contact, blood degree or residence. . . . Because of the way that membership is granted, inclusion on the membership list does not provide evidence one way or the other that the Miami membership forms a community. . . .” (Miami FD 1992, 8)

*Evidence of residence in “a specific area” prior to the 1994 regulations:*

- ▼ “Since there are no restrictions on tribal affiliation placed on new members, the part of this criterion which requires members to be ‘descendants of an Indian tribe which historically inhabited a specific area’ cannot be met.” (Southeastern Cherokee PF 1985, 5)

**(b)(1) Other evidence –oral history interviews:**

- “Oral histories [*re*: the period before 1900] . . . are not first person accounts. . . . Past decisions have not accepted oral history evidence without corroborating documentary evidence.” (Burt Lake Band PF 2004, 41). *Note: This discussion concerned “oral history taken from non-eyewitnesses” and oral history about events prior to the informant’s own lifetime. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “. . . OFA utilized available documentary evidence to supplement oral histories. . . .”  
¶ “The information gained from all interviews and oral histories was evaluated in conjunction with primary and secondary documentation in order to obtain the most complete ‘picture’ possible.” (Snohomish FD 2003, 26)
- “The individuals being interviewed [*re*: 1920-1971] actually observed and experienced events during these years, which increases the reliability of the information provided.” (Muwekma FD 2002, 48). *Note: See also an emphasis on the importance of “first person witnesses” (FD 2002, 52).*
- “The petitioner’s researcher asked very few, if any, questions about the post-1971 period. . . . and as a result these interviews did not provide useful information for

demonstrating present day community.” [p.48] ¶ “People born after 1950 are not the subject of the ethnographic interviews, even though younger interviewees could establish facts about recent years.” ¶ “. . . these recent interviews and videotapes were limited and not representative of the petitioning group’s membership which also decreases their usefulness.” ¶ “The presence of the petitioner’s chairwoman, half-hour lectures by the petitioner’s researcher, and the coaching of interviewees by the interviewer, gave the viewer the impression that the videotapes were not open-ended interviews using standard ethnographic methodology.” [p.49] (Muwekma FD 2002, 48-49)

**(b)(1) Other evidence – social institutions:**

- “Participation in religious institutions, whether derived from Native American or Christian traditions, have been accepted as evidence under criterion 83.7(b) if a representative distribution of members of the petitioning group interact with one another in a distinct institution which is predominantly under the control of the petitioners.” (Duwamish FD 2001, 34)
- “Separate family burial grounds is [*sic*] not the same as maintaining a burial ground for the group. . . .” (Chinook PF 1997, 15)
- “Demonstration of social community does not require the demonstration of separate institutions, but such evidence can be used as strong support for the existence of social community.” (Mohegan FD 1994, 12)
- Social institutions “are strong evidence that significant social interaction and relationships exist within the community. Social institutions may include churches, clubs, and other organizations which are exclusively made up of group members. . . . To be most strongly significant, these institutions . . . should not be shared with non-members of the group (that is, non-members do not participate in them).” (Miami FD 1992, 9)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The group maintained distinct community social institutions and practices. As late as the 1930’s, these institutions included the traditional funeral practices and mourning periods of the Choctaws. Group activities included maintenance of the White Rock Indian Cemetery. The cemetery . . . is still used exclusively by the tribe today.” (Jena Choctaw PF 1994, 4; see also, 6). *Note: See also, FD 1995, 60 F.R. 28480.*
- ▲ “New evidence . . . demonstrates that two institutions that were important to the

Mohegan before 1941 have continued to be important to them through the present. These two institutions are the Mohegan Congregational Church and the Mohegan burial grounds.” ¶ [Since 1831, the Mohegan Congregational Church] “has served as a focal point of Mohegan social and political activity. It has never been a place used only for holding religious services.” [p.12] ¶ “The support shown by the Mohegan for the church demonstrates that it is a tribal concern, since not all of the Mohegan are Congregationalists.” [p.13] ¶ “. . . the church’s leadership is Mohegan, and the wide majority of people who attend are Mohegan or Mohegan marital kin. . . . Their cemetery committee, which was formed after 1944, is functioning as part of the tribal council and has successfully enforced its rules regarding the burial of non-Mohegan there. This is a clear indicator that they know who their group members are.” [p.15] ¶ Evidence demonstrates “the continued maintenance of Mohegan Congregational Church and the traditional Mohegan burial grounds as separate institutions.” [p.17] (Mohegan FD 1994, 12-15, 17). *Note: See also, PF 1989, 3.*

- ▲ “Although there are no longer segregated schools, there are still several churches which are exclusively or largely Indian.” (Poarch Band of Creeks PF 1983, 4)
- ▲ “Several tribal institutions indicated the degree of tribal cohesion present among the Narragansetts and the strength of the ethnic boundary. Two of the most important are the Narragansett Indian Church and the annual August meeting. The Narragansett Indian Church, and the church organization, has been a significant community institution since around 1746. The church was formed as an independent community-controlled institution by members of the Narragansett community. . . . The governing body of the church presently consists of a board, the members of which are also members of the tribe. The land on which the church was constructed is tribal land, not land owned by a particular denomination.” ¶ “In addition to its religious role, the church performs a variety of other functions within the Narragansett community. . . .” (Narragansett PF 1982, 10)

Evidence that has NOT been accepted under the criterion:

- ▼ “There are no [contemporary] organizations, such as churches or community groups, which involve a number of STI [petitioner] members.” (Snohomish FD 2003, 33-34). *Note: See also the PF:*

“The groups they [members] are active in are part of the non-Indian society, such as the Lion’s Club and Daughters of the Pioneers of the State of Washington.” (Snohomish PF 1983, 14)
- ▼ “The Muwekma petitioner’s evidence does not show . . . group control of a religious institution. . . . No church building is under its control and is the center of programs designed by and for its members.” (Muwekma FD 2002, 94)

- ▼ “No significant data was submitted or found that allowed the BAR to determine the breadth or depth of Mohegan community support for the Tantaquidgeon Indian Museum. . . .” (Mohegan FD 1994, 15; see also, 12). *Note: See also the PF:*

“The Tantaquidgeon Indian Museum in Mohegan was built in 1931 on private property near the Mohegan Church. . . . it has never been a tribal institution in the sense of being run by the group.” (Mohegan PF 1989, 5)

- ▼ “The Miamis no longer have social institutions . . . which are important throughout the membership.” (Miami FD 1992, 9)

### “SUFFICIENT EVIDENCE” UNDER 83.7(b)(2):

Evidence is sufficient if evidence is provided to demonstrate “**any one of the following**”:

- “Section 83.7(b)(2) evidence may stand alone without the support of other evidence to demonstrate that the petitioner meets criterion (b).” (Muwekma FD 2002, 45)
- “The 1994 regulations also list, in section 83.7(b)(2), the type of evidence that would be sufficient by itself to demonstrate that the petitioner meets the criterion at a specific time.” (Chinook RFD 2002, 75)
- “This pattern of interaction only within one’s own extended family does not meet the requirements of section 83.7(b)(2)(i)-(v). . . .” (Muwekma PF 2001, 38). *Note: This point was made in a discussion under criterion (c) of the possible carry over of evidence from section 83.7(b)(2) to 83.7(c).*
- “This section [83.7(b)(2)] of the regulations lists four types of evidence. Any one of these four types of evidence is sufficient, in itself, to meet criterion 83.7(b).” (Match-e-be-nash-she-wish Band PF 1997, 6-7)

### (b)(2)(i) 50 percent of the members reside in a geographical area:

- “A distinct geographical community is not required to meet criterion 83.7(b).” (Snoqualmie FD 1997, 9)
- “The term ‘geographical community’ is used as a designation for people living in a village-like setting. It is accepted by the regulations as a high level of evidence if more than 50% of the petitioner’s members live in such a setting. This means that the BIA is willing to assume that people who share kinship ties and live in a limited,

homogeneous, isolated geographical area are interacting with each other in significant ways. . . .” [p.22] ¶ “Petitioners are *not*, however, *required* to provide evidence at this high level. If there is no evidence for the existence of . . . a geographical community, the regulations provide for other forms of evidence that fulfill the requirement for community” [p.23] (Ramapough FD 1996, 22-23)

Evidence that has MET the criterion at a specific time:

- ▲ “. . . the geographical evidence presented in the petition was sufficient to meet the criterion from 1811 to 1854, since the majority of the Lower Band Chinook Indians continued to live in Indian villages with named leaders.” (Chinook RFD 2002, 77). *Note: See also, PF 1997, 9.*
- ▲ “. . . at least through 1920, more than 50 percent of the group resided in a geographical area almost exclusively composed of group members. . . . The group thus met the geographical criterion under 83.7(b)(2)(i), as documented by Federal census records for 1910 and 1920. . . .” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “The pattern of over 50 percent group endogamy is consistent with evidence which indicates close residential patterning for the RMI [petitioner] ancestors for much of the same period [1870 to 1950].” [p.24, for 83.7(b)] “. . . from 1870 to about 1950, the RMI . . . met criterion 83.7(b) at the high level of evidence, based on the high rate of endogamy (over 50 percent) and the high percentage of members living in a geographical community (over 50 percent).” [p.25, for 83.7(c)] (Ramapough FD 1996, 24, 25). *Note: See also the PF:*

“Community cohesion is established post-1850 by the existence of geographically distinct, exclusive residence areas. . . .” (Ramapough PF 1993, 8).
- ▲ “. . . the group meets the geographical criterion under 83.7(b)(2)(i) at least through 1934, on the basis of the Federal census records for 1910 and 1920 . . . and the list of the Pine Creek residents compiled in 1934.” (Huron Potawatomi PF 1995, 9). *See also: FD 1995, 60 F.R. 66315.*
- ▲ The petitioner’s “ancestors met the high level of geographical evidence for community between 1830 and 1880 because at least fifty percent of the petitioner’s ancestral group lived in a geographic area exclusively inhabited by their ancestors, which extended from just north of modern Montegut to Isle Jean-Charles on Bayou Terrebonne. . . . as evidenced by the Federal census schedules, maps, and other period documents. . . .” (Houma PF 1994, 12; see also, 16). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*



“Residence patterns from 1880 to 1940, show that the majority of the UHN ancestral population lived in geographically distinct ‘village-like’ settlements, which were exclusively inhabited by the petitioner’s members.” [p.14] “. . . the petitioner continued to meet criterion 83.7(b)(2)(i) for that period [1880-1940] as separate communities, but not as a whole.” [p.16] “. . . from 1880 to 1940, at least six component settlements . . . individually met the requirement of criterion 83.7(b)(2)(i).” [p.17] (Houma PF 1994, 14, 16-17). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT met the criterion:

- ▼ “Today, petitioner’s members live dispersed in Santa Clara, Alameda, and neighboring counties. That some 400 people may live amongst several million means that they no longer live in a geographical community and do not meet section 83.7(b)(2).” (Muwekma FD 2002, 58). *Note: See also, PF 2001, 21.*
- ▼ “The Proposed Finding and Historical Technical Report identified clusters of Chinookan descendants on the 1900 census. . . . The Historical Technical Report demonstrated that no census enumeration district was predominantly Chinook, and found limited evidence of predominantly Chinook neighborhoods.” [p.78] ¶ [Despite some evidence of the existence of separate geographical settlements at Bay Center and Dahlia, the petitioner’s] “additional evidence from the 1920 census does not show that a majority of the petitioner’s ancestors lived in majority Indian areas at that time. . . .” [p.79] ¶ [Therefore,] “this geographical evidence by itself does not meet the requirements of criterion (b).” [p.80] (Chinook RFD 2002, 78-80). *Note: See also, PF 1997, 15, 17, HTR 24-31.*
- ▼ “. . . even if one accepts that roughly one-third of the petitioner’s members continue to live in Pacific and Wahkiakum Counties [in 1953], this is not a pattern that in itself demonstrates that the petitioner meets criterion (b).” (Chinook RFD 2002, 94)
- ▼ The petitioner “argued that the petitioner’s members and their ancestors comprised a distinct community during the years from the 1930’s until the 1950’s because the majority of them lived in exclusive ethnic ‘enclaves’ during that period. . . .” ¶ “Some evidence indicates that, for a period of time, clusters of the petitioner’s ancestors lived in settlements in which the other inhabitants were Métis from the Turtle Mountain and Rocky Boy’s reservations and Indians from other Montana reservations. . . . While this fact alone does not meet the requirement of section 83.7(b)(2)(i) . . . [it] provides strong evidence for the existence of a distinct community in that area.” [p.21] ¶ “. . . no single form of evidence . . . is sufficient standing alone. . . .” [p.22] (Little Shell PF 2000, 21, 22). *Note: The PF noted in its discussion of criterion (c) that the petitioner did not meet the requirements of section 83.7(b)(2) (PF 2000, 33). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “No single area where STI [petitioner] ancestral families lived in the later 19<sup>th</sup> and early 20<sup>th</sup> centuries contained over 50 per cent of the STI ancestors alive at that time or was ‘exclusively or almost exclusively composed of members of the group.’ [¶] The petitioner characterized the STI ancestors as having resided in identifiable residential ‘pockets’ . . . but BIA research did not confirm this. . . . When STI ancestors did reside in these ‘pockets,’ they did not comprise or dominate the neighborhoods, or reside in the same area as other STI extended family lines.” (Steilacoom PF 2000, 8). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “There is no distinct settlement area [at present] occupied exclusively or almost exclusively by STO [petitioner] members.” (Snoqualmie FD 1997, 9)

**(b)(2)(ii) 50 percent of marriages in the group are between members of the group:**

- “Marriage is used as an indicator of social cohesion because people are assumed generally to associate with the people they marry and because marriage establishes kin ties across family lines. Therefore, if a group has a high rate of marriage among its members, it is taken as evidence of continued association between members.” (Snohomish FD 2003, 28)
- The Department “has never required proof of legal marriage if other evidence indicates that couples were joined for several years and if they had children together.” (Muwekma FD 2002, 59 n.23)
- “To determine rates of marriage within a group requires a definition of the group which is independent of the phenomenon or variable, in this case marriage, that is to be measured. That kind of definition of a group has not been adequately established here. Absent this baseline information, a general marriage rate based on all the petitioner’s ancestors would not necessarily demonstrate social cohesion as a single community. Consequently, it could not be concluded on the basis of present knowledge whether . . . [marriages] were marriages within a pre-existing group or not.” (Little Shell PF 2000, TR 175). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The petitioner’s researcher “followed draft acknowledgment guidelines which stated that in-marriages count ‘twice’ because they affect two members of the group. This approach has not been adopted, however, in any previous acknowledgment determinations. The acknowledgment regulations plainly refer to the percent of *marriages*, not the percent of *members* of the group. . . .” (Little Shell PF 2000, TR 178). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has MET the criterion at a specific time:

- ▲ “The conclusion that the RMP [Ramapo Mountain People] distinct community met criterion 83.7(b) from 1870 to 1950 at a high level of evidence is based on the more complete data on group endogamy found by BIA researchers in the *Ramapo Presbyterian Church Register*. . . . The pattern of over 50 percent group endogamy is consistent with evidence which indicates close residential patterning for the RMI ancestors for much of the same period [1870-1950].” (Ramapough FD 1996, 24). *Note: See also the comment under 83.7(c) about a regulatory standard in 83.7(b)(2) of “at least 50 percent endogamy among the group’s members” (Ramapough FD 1996, 25). Note: See also the TR:*

“. . . the *Ramapo Presbyterian Church Register* for the years 1868 to 1919. . . . strengthened the evidence for . . . group endogamy, with marriage records providing evidence that the petitioner met criterion 83.7(b) at a sufficient level (83.7(b)(2)(ii)) for marriages which took place between 1901 and 1918. While the BAR had no statistical evidence for the duration of the marriages that took place during this period, it presumed that the majority continued for approximately 30 years on the average.” (Ramapough FD 1996, TR 82-83; see also, 79). *Note: Ramapough PF 1993, ATR 21.*

- ▲ “In the case of the Jena Band of Choctaw Indians, 85% of the marriages of members were with other members of the group from 1820 until 1950. . . . After 1950, essentially all new marriages involved a non-Indian spouse. It would be a decade, however, before these new marriages to non-Indians outnumbered continuing marriages between Choctaws. Until 1959, 50% of the 14 marriages within the community had both Choctaw husbands and wives. . . . Therefore, the petitioner meets the criterion for community through 1959 with high evidence based on its continuing high degree of in-group marriages.” (Jena Choctaw PF 1994, 3). *Note: Appendix I, and Tables III and IV in GTR 13, 15. Note: See also, FD 1995, 60 F.R. 28480.*

Evidence that has NOT met the criterion:

- ▼ “The petitioner attempted to make this case [a demonstration of the existence of a historical community] by calculating rates of Métis-to-Métis marriages among the petitioner’s ancestors.” [p.20] ¶ “This case is different . . . in that this petitioner’s members and their ancestors lived in geographically-separate settlements, . . . none of which were shown to be an original core settlement.” [p.21] ¶ “. . . no single form of evidence . . . is sufficient standing alone. . . .” [p.22] (Little Shell PF 2000, 20-21, 22). *Note: The PF also noted that: “The two geographical regions of settlement, the Highline and the Front Range, were substantially separate from each other in terms of residence and intermarriage prior to the 1950’s” (PF 2000, 17). The PF noted in*

*its discussion of criterion (c) that the petitioner did not meet the requirements of section 83.7(b)(2) (PF 2000, 33). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ On the basis of a “partial reconstruction,” a count of “marriages extant in the years between 1883 and 1936 of all of the Eastern Pequots that could be identified. . . . found that of 167 total marriages, 54 (39 percent) were with other Eastern Pequot. . . . [which] does not reach the 50% rate of endogamous marriage sufficient in itself to demonstrate community under 83.7(b)(2)(ii).” (Eastern Pequot PF 2000, 90). *Note: The stated figure of 39 percent should be 32 percent.*
- ▼ The petitioner’s “list included 163 marriages where the bride or groom’s surname was one of the surnames common to the RMI [petitioner]. . . . The compiler did not cite any documentation for the information presented.” ¶ “This list of marriages does not establish endogamy among the RMP [Ramapo Mountain People] prior to 1870. It is a list of individuals, some of whose descendants formed an endogamous RMP community in later generations, but some of whom have not been documented to be ancestors of the petitioning group.” [p.66] ¶ “In 42 instances in the list of 163 marriages, the maiden name of the wife is not given, nor is her association with or descent from any of the RMP families indicated. Without proof of the wife’s family of origin, it cannot be assumed that the bride lived in the same community as the groom. . . . Since the list is incomplete, undocumented, and includes the marriages of persons who are not shown to be ancestors of the petitioning group, the material does not establish the existence of community at a sufficient level from 1750 to 1850 under 83.7(b)(2)(ii) through the use of community endogamy.” [p.67] (Ramapough FD 1996, TR 66-67).
- ▼ A table of “HPI [petitioner] New Marriages by Decade” showed that the percentage of “in-group” marriages was below 50 percent in every decade since the 1930's. (Huron Potawatomi PF 1995, GTR 36). *Note: The PF therefore reached conclusions about section 83.7(b)(1)(i).*
- ▼ “From about 1810 to 1880, the ancestral group’s members married widely with their neighbors (UHN [petitioner] and non-UHN), and there is no evidence of a widespread pattern of endogamy which would meet the high levels of evidence required by the regulations at 83.7(b)(2)(i) [(b)(2)(ii)]. An analysis of the partial evidence provided by the petitioner for two distinct UHN communities showed that fifty percent or more of the marriages within the separate communities were endogamous from 1880 to 1940. There is, therefore, limited but inconclusive evidence suggesting that marriage patterns may have distinguished the UHN petitioner from both the white and African American populations also living in the region from 1880 to 1940. . . . More complete evidence concerning marriage patterns, for all of the UHN component communities, needs to be submitted . . . before the petitioner or its component

communities can meet a high level of evidence for 83.7(b).” (Houma PF 1994, 12).

*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(2)(iii) 50 percent of the group members maintain distinct cultural patterns:**

Evidence that has MET the criterion at a specific time:

- ▲ “A majority of all the group’s members, children and adults, were Potawatomi speakers through early 1957, thus meeting criterion 83.7(b)(2)(iii) to that date. . . .” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “. . . the group continued customary use of the Potawatomi language as late as 1960, thus meeting criterion 83.7(b)(2)(iii) to that date.” (Huron Potawatomi PF 1995, 10). *See also: FD 1995, 60 F.R. 66315.*

Evidence that has NOT met the criterion:

- ▼ The petitioner shows “that a high percentage of its membership practices Roman Catholicism.” [p.93] ¶ The “petitioner’s evidence does not . . . demonstrate a distinct religious practice. The petitioner’s members . . . have not for many decades attended a single parish church. No church building is under its control and is the center of programs designed by and for its members. Even if a predominant portion of the membership follows a single religion, the fact that they attend at least twelve different parish churches . . . does not qualify as ‘maintaining [a] distinct cultural pattern’ within the meaning of sections 83.7(b)(1) or 83.7(b)(2).” (Muwekma FD 2002, 93-94)
- ▼ “The petitioner submitted as its primary evidence under section 83.7(b) a survey [1997] of members’ participation in godparenting, funerals, weddings and other activities with one another. This evidence, depending on the levels of interaction shown by the survey, could be evidence under section 83.7(b)(1)(ii) . . . or section 83.7(b)(2)(iii). . . .” [p.20] ¶ “. . . the survey has major flaws. Principally, the respondents from one or two families were greatly over-represented and others were greatly under-represented. . . . This means that the survey was relatively useless in defining possible patterns of interaction among petition members or a general network of interaction for the entire membership. . . .” [pp.20-21] ¶ “The survey did not demonstrate broad-based patterns of interaction. . . .” [p.21] (Muwekma PF 2001, 20-21)
- ▼ The petitioner “argued that surviving cultural differences at the present meet the requirements in section 83.7(b)(2)(iii). . . .” [p.21] ¶ “With the exception of language, the cultural differences cited by the petitioner’s researchers are not

significant enough to meet the requirements of section 83.7(b)(2)(iii). . . . Language differences are highly significant cultural differences, but the evidence established that the Michiff language is not now spoken by 50 percent of the membership. . . . Thus, the petitioner’s argument does not meet the requirements of section 83.7(b)(2)(iii), and is not sufficient by itself to meet criterion (b).” [p.22].” (Little Shell PF 2000, 21-22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(b)(2)(iv) There are distinct community social institutions among “most” members:**

Evidence that has MET the criterion at a specific time:

- ▲ “. . . the Methodist church at Pine Creek provided a focus for activities which encompassed most of the group from the 1840's until at least 1960. From 1900 through 1959 . . . the Pine Creek church organized Methodist camp meetings which hosted up to 3,000 guests and received Potawatomi groups from throughout Michigan . . . indicating that the group meets the standard under 83.7(b)(2)(iv) for that time period.” (Huron Potawatomi PF 1995, 9-10).

Evidence that has NOT met the criterion:

- ▼ The petitioner’s evidence about “godparenting” practices “does not demonstrate ‘community’ at a level required in the regulations because the godparenting network does not encompass ‘most of the members’ . . .” [p.51] ¶ “The practices of godparenting revealed in the documents and the oral histories do not demonstrate after 1911-1913 that godparenting defined a distinct community or may be used as evidence standing alone under 83.7(b)(2) to meet criterion (b).” [p.92] ¶ “Because many of the godparents named since 1950 . . . are not members of the petitioning group, any network defined by godparent-godchild links would not be distinct to the petitioner, as required by the regulations.” [p.93] (Muwekma FD 2002, 51, 92-93). *Note: The petitioner asserted “that godparenting or ‘compadrazgo’ relationships tie together their members in a network of obligations which meets the requirements of community” (FD 2002, 67; see also, 93). Note: The evidence relating to “godparenting” was discussed in the FD at pp. 50-51, 67-75, and 92-93.*

**(b)(2)(v) The group has met criterion (c) using evidence described in § 83.7(c)(2):**

- No examples

**SECTION 83.8(D)(2):****Requirements of the criterion as modified by previous Federal acknowledgment:**

- “The section 83.8 regulations reduce the burden of evidence on previously acknowledged petitioners by requiring them to show only that a predominant portion of their group comprises a distinct community at present.” (Muwekma FD 2002, 45). *Note: See also, PF 2001, 19-20. Note: See FD 2002, 12, 106, 139).*
- Statements in the final determination “might be interpreted as implying a general presumption of continued existence for petitioners who previously have been unambiguously federally acknowledged. The previous discussion corrected and clarified that there is no such presumption. . . .” (Chinook RFD 2002, 77; see also, 51)
- “Under the 1994 regulations, criterion 83.7(b) has been evaluated as modified by section 83.8(d)(2), which requires previously acknowledged petitioners to demonstrate only that its members form a distinct community ‘at present’.” (Chinook RFD 2002, 96; see also, 75). *Note: The RFD evaluated the evidence under both the 1978 and 1994 regulations. Note: See RFD 2002, 64, 100, 105).*
- “Thus, under 83.8(d)(2), the regulations require that the Cowlitz demonstrate that they meet the criterion for community (83.7(b)) only for the present day, or modern, community. They do not need to demonstrate that they meet the criterion for community from 1878-80, the last point of unambiguous Federal acknowledgment, until the present.” (Cowlitz FD 2000, 10). *Note: See also, PF 1997, 20.*
- “Under 83.8, a demonstration of meeting the criterion for community is only required for the present day, or modern, community. Community need not be demonstrated from 1953, the last point of unambiguous Federal acknowledgment, until the modern community.” (Snoqualmie FD 1997, 5). *Note: See FD 1997, 11.*
- “The language of section 83.8 requires the previously acknowledged petitioner as it exists today to meet the criteria for community. . . . As modified by 83.8(d)(2), demonstration of historical community is not required.” (Match-e-be-nash-she-wish Band PF 1997, 6). *Note: See FD 1998, 17.*
- “As modified by 83.8(d)(2), demonstration of historical community is not required.” (Huron Potawatomi PF 1995, 9)

**Evaluation of historical community:**

- “The petitioner seeks . . . to utilize the cross-over provision at 83.7(c)(3), which permits use of 83.7(b)(2) evidence to establish 83.7(c). A petitioner may argue this if it does not meet section 83.7(c) as modified by section 83.8(d)(3). . . . [Since the petitioner did not meet 83.8(d)(3),] this case also requires an evaluation under criterion 83.7(b) from the last point of Federal acknowledgment (1927) to the present to determine if the petitioner meets criterion (c) during the same time period. . . .” (Muwekma FD 2002, 46)
- “Although a demonstration of historic community under 83.7(b) was not required for this finding, nonetheless the evidence . . . indicated that community did exist historically among the MBPI [petitioner]. . . . Until early 1957, this historical community meets and demonstrates the evidence levels listed under section 83.7(b)(2).” [p.6] ¶ “The petitioner is only required, as a previously recognized tribe, to demonstrate ‘modern community.’ An understanding of how recently this petitioner could demonstrate community using ‘sufficient’ levels of evidence, however, provides context for evaluating their modern community. It also allows the petitioner to meet criteria 83.7(c) for political influence and authority under 83.7(c)(3) until 1957.” [p.8] (Match-e-be-nash-she-wish Band PF 1997, 6, 8)
- “When the petitioner is proceeding under 83.8(d)(2), the BIA may examine evidence pertaining to criterion 83.7(b) for earlier periods. This does not constitute a requirement that the petitioner demonstrate historical community. Rather, the data may be used both to provide context for the development of the observed contemporary situation under 83.8(d)(2), and to contribute to the discussion of criterion 83.7(c). . . .” (Cowlitz PF 1997, 20-21)
- “Although the above analysis of historical community was not required under section 83.8(d), it was undertaken . . . because the extensive evidence for HPI [petitioner] historical community until 1960 had an impact on the analysis of evidence for criterion 83.7(c). . . .” (Huron Potawatomi PF 1995, 10)

**83.8(d)(2) Comprises a distinct community “at present”:**

- “. . . the community at present encompasses at least ten years before the date the petition is considered complete and put on the list awaiting active consideration. That decade would be 1988 to 1998 for this case. However, the evaluation often extends back more than a decade, so that the evolution of the current leadership and other issues are described and the context set for evaluating later activity. In this case, the petitioning group first asserted its claims to participate in repatriation and reburial in 1984. Therefore, 1984 will be the start date for the evaluation of the present



community under section 83.7(b) as modified by section 83.8(d)(2).” (Muwekma PF 2001, 20). *Note: The FD referred to this period as “the last 15 years” [p.49], “1985 to the present” [p.52], and “1986 to the present” [p.55] (FD 2002, 49, 52, 55).*

- “The proposed finding and final determination define the period for the Cowlitz modern community as 1981 to the present, starting some ten years before the documented petition. . . . However, some discussion in both documents extends to the early 1970’s. . . . This material provides useful background for evaluating later evidence on community. . . . The pre-1981 data did not in the proposed finding, and does not in this final determination, provide actual evidence for meeting 83.7(b) at present.” (Cowlitz FD 2000, 10).
- “Modern community has been defined for purposes of the . . . proposed finding and final determination as being from 1981 to the present.” (Snoqualmie FD 1997, 5)
- A section header referred to “Modern community: 1986-1996.” (Match-e-be-nash-she-wish Band PF 1997, 8)
- “For purposes of section 83.8(d)(2), ‘modern’ [community] is defined as covering, essentially, the last ten years – in this case, 1984-1994.” (Huron Potawatomi PF 1995, 10)

Evidence that has MET the criterion at a specific time:

- ▲ “The petitioner demonstrated community for the proposed finding. The petitioner has submitted more and updated evidence to show that they meet the requirements of criteria (b) [*sic*] for the modern period.” (Cowlitz FD 2000, 12).
- ▲ The petitioner “meets the requirements of community from 1981 to the present under criterion 83.7(b) as modified by section 83.8(d)(2).” (Snoqualmie FD 1997, 10)
- ▲ “Because the evidence demonstrates that a predominant portion of the petitioner’s membership comprises a distinct community at present, we conclude that the petitioner meets criterion 83.7(b) as modified by criterion 83.8(d)(2).” (Match-e-be-nash-she-wish Band PF 1997, 10; see also, 8-10). *Note: The PF includes a recitation of the various forms of evidence met by the petitioner. See also, FD 1998, 9, 13.*

Evidence that has NOT met the criterion:

- ▼ “The petitioner has not demonstrated that it meets the requirements of criterion 83.7(b) as modified by section 83.8(d)(2) which requires the petitioner to demonstrate that it comprises a distinct community ‘at present’. . . .” (Muwekma FD 2002, 99; see also 100). *Note: The FD concluded that “the petitioner does not meet 83.7(b) at*

*present, utilizing either the evidence described at 83.7(b)(2) which is sufficient in itself or evidence described at 83.7(b)(1) which must be combined” (FD 2002, 46).*

- ▼ “. . . the petitioner does not meet the requirements of community ‘at present,’ and therefore does not meet the requirements of criterion 83.7(b) as modified by section 83.8(d)(2).” (Chinook RFD 2002, 96; see also, 94)



## Criterion 83.7(c)

### The text of criterion 83.7(c):

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

(1) This criterion may be demonstrated by some combination of the evidence listed below and/or by other evidence that the petitioner meets the definition of political influence or authority in § 83.1. (i) The group is able to mobilize significant numbers of members and significant resources from its members for group purposes. (ii) Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance. (iii) There is widespread knowledge, communication and involvement in political processes by most of the group’s members. (iv) The group meets the criterion in § 83.7(b) at more than a minimal level. (v) There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions.

(2) A petitioning group shall be considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders and/or other mechanisms exist or existed which:

(i) Allocate group resources such as land, residence rights and the like on a consistent basis; (ii) Settle disputes between members or subgroups by mediation or other means on a regular basis; (iii) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior; (iv) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(3) A group that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time.” (59 F.R. 9293)

### The definitions in section 83.1:

“*Political influence or authority* means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group.” (59 F.R. 9293)

“*Autonomous* means the exercise of political influence or authority independent of the control of any other Indian governing entity.” (59 F.R. 9293)

**The text of section 83.8(d):**

“To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that: . . .

(3) The group meets the requirements of the criterion in § 83.7(c) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in § 83.7(c) from the point of last Federal acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in § 83.7(c). . . .

(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d)(1) and (3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in § 83.7(a) through (c) from last Federal acknowledgment until the present.” (59 F.R. 9293)

**The text of criterion (c) from 1978 to 1994:**

“(c) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.” (43 F.R. 39361)

**Compilation of precedents:**

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:****“political influence or authority over its members”:**

- The proposed finding “assumed that ‘exclusive Indian villages’ maintained traditional patterns of political authority.” (Chinook RFD 2002, 101). *See also: PF 1997, 27.*
- “An unacknowledged group without a land base cannot be expected to exercise political influence or authority in many of the ways that exist within reservation tribes.” (Cowlitz PF 1997, 42)
- A third party argued “that the STO [petitioner] should be required to demonstrate the same political functions as a recognized tribe with sovereignty over a land base. The Department rejects this as requiring a standard for demonstrating tribal existence which substantially exceeds the regulations. . . .” (Snoqualmie FD 1997, 16)
- “The ALJ’s [administrative law judge’s] discussion concerning Samish political participation . . . states in part that ‘to be a member of a tribe is a political affiliation and it is essentially a matter of intention on the part of the individual tribal member’ . . . . The Department continues to affirm its position that an ‘intent’ to be part of the political processes of a tribe which is not carried out or acted upon is not valid evidence for the existence of political influence within a tribe under the meaning of the regulations.” (Samish FD 1995, 10)
- “There is no evidence of an ancestral UHN [petitioner] community, Indian or non-Indian, prior to 1830. . . . Without a community, there is no entity in which political influence may be exercised.” (Houma PF 1994, 18; see also, 22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The regulations require the exercise of political influence as a distinct, autonomous group, which means that this influence must be exercised within a particular social community.” (Ramapough PF 1993, 16)
- “Authority, in the sense of being able to require action or to enforce decisions over strong opposition, does not need to be demonstrated. It is also not necessary that political influence be exercised in all or most areas of the members’ lives or their relationships with other members. Nonetheless, the political influence of the group or its leaders must not be so diminished as to be of no consequence or of minimal effect.” (Miami FD 1992, 15)
- “. . . political influence, where coercive authority is not exercised, requires social connections and obligations as its basis.” (Miami FD 1992, 15)

- “The type of decisions and authority exercised [within the San Juan political system] went beyond those of an extended family.” (San Juan Paiute FD 1989, 8)

A bilateral political relationship:

- “This [example] illustrates the existence of . . . a bilateral political relationship, a requirement of criterion (c).” (Snoqualmie PF 1993, 29)
- “It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. . . . If a small body of people carries out legal actions or makes agreements . . . the membership may be significantly affected without political process going on or without even the awareness or consent of those affected.” (Miami FD 1992, 15)

Informal political influence:

- “The regulations require neither formal organization nor principal political leaders to demonstrate that a group maintained political influence over its members.” (Burt Lake Band PF 2004, 61). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The exercise of political influence is not based on formal titles. . . . Anyone in the group, male or female, may exercise political influence, whether they are identified as a ‘chief’ or not.” (Mohegan FD 1994, 27)
- “Political connections between leaders and members may be informal. . . .” (Miami FD 1992, 15)

**“an autonomous entity”:**

- “. . . [tribal] unity is not required under the regulations before the [petitioning] group amalgamated.” (Cowlitz FD 2000, 13)
- The State of Connecticut argued that the Mohegan petitioner did not meet the “autonomous entity” requirement of criterion (c) because: “First, . . . the Mohegan had once been subject to the Pequot Indians for a few years in the first half of the 17th century. Second[,] the Mohegan had their affairs governed by a group of overseers appointed by the State of Connecticut (1769 to 1872).” [pp.26-27] ¶ “Neither of these points means the petitioner fails to meet the criteria. First, the time period during which the Mohegan lived with the Pequot is so brief as to be inconsequential. Second, the autonomy requirement is solely concerned with autonomy from other Indian tribes, not non-Indian systems of government that were

imposed on the Mohegan. . . . [T]he overseer system of the state of Connecticut is not an Indian tribe.” [p.27] (Mohegan FD 1994, 26-27)

- “There was no indication that Navajo institutions had significantly influenced Paiute economic decisions. . . .” ¶ “Only a small portion of the resident Paiutes, less than 20 percent, had voted consistently over the six-year span for which there were records. . . . and 73 percent of the adults in the band, had never been registered or had never voted. . . .” ¶ “. . . the Paiutes had not been involved in Navajo chapter political or decision-making processes. . . .” ¶ [p.9] “Overall, San Juan Paiute participation in the Navajo political system, with the exception of voting, has been occasional and by isolated individuals. It has not been continuous and there is little evidence of any participation at all before 1968. There is no significant evidence that a continuous political affiliation with the Navajo Tribe has existed among the San Juan Paiute membership. [¶] The San Juan Paiutes have maintained tribal political influence within the band since earliest sustained historical contact. This has been, and is, autonomous of influence by the Navajo Tribe. Band members have not significantly participated in or become affiliated with the Navajo political system..” [p.10] (San Juan Paiute FD 1989, 9-10)

Autonomous entities within a tribe:

- “The best ethnographic evidence indicates that the San Juan Paiutes in the 1850's were a single socially unified and distinct body that consisted of at least two political units with separate leadership. Among the Southern Paiutes in general, more strongly unified bands and the emergence of clearly defined leaders of entire bands resulted from pressures created by white settlement of Southern Paiute territory beginning after 1850. Parallel pressures on the San Juan Paiute were created by the influx of large numbers of Navajos into their territory beginning in the late 1860's. . . . A Federal government commission investigating Southern Paiute affairs in 1873 considered the San Juan Band to be a single political unit.” (San Juan Paiute PF 1987, ix)
- “Ancestors of the Poarch Band of Creeks began as an autonomous town of half-bloods in the late 1700's with a continuing political connection to the Creek Nation. The Poarch Band remained in Alabama after the Creek Removal of the 1830's. . . .” ¶ “The Band has existed as a distinct political unit since before the Creek War of 1813-14.” (Poarch Band of Creeks FD 1984, 49 F.R. 24083)
- “The Jamestown Clallam Band and the communities from which it was formed were autonomous political units within the Clallam Tribe. The formation of the community in 1874 was through the efforts of the antecedent Clallam communities in the Dungeness area.” (Jamestown Clallam PF 1980, 3). *Note: See also the FD:*



“Evidence indicates the Jamestown Clallam community and its predecessors have existed autonomously since first contact. . . . (Jamestown Clallam FD 1980, 45 F.R. 81890)

Amalgamated political entities (tribes or groups that combined):

- After the late 1880's, “Federal documents show that the two entities [Upper and Lower Cowlitz bands] amalgamated. Their individual band chiefs and leadership clearly acted together in the early 1900's.” (Cowlitz FD 2000, 14). *Note: See also the PF:*

“There is evidence that by 1860, some of the Upper Cowlitz had intermarried with the Lower Cowlitz. There is no evidence, however, that the two bands were united under a single political leadership.” (Cowlitz PF 1997, 33)

- “The Niantic tribe . . . remained neutral [during King Philip’s War] and survived [after 1675], taking in remnants of the Narragansetts and other Northeastern tribes. The combined group was soon referred to as the Narragansetts.” (Narragansett PF 1982, 11). *Note: See also the FD:*

“Evidence indicates that the Narragansett community and its predecessors have existed autonomously since first contact, despite undergoing many modifications.” (Narragansett FD 1983, 48 F.R. 6177)

- “The original [Shoshone] groups, which were historically linked, gradually combined into one beginning around 1920. . . .” (Death Valley Shoshone FD 1982, 47 F.R. 50109)
- “The component tribes were allied in the 18th century and became amalgamated into one in the 19th century through common interests and outside pressures from non-Indian cultures. [¶] The tribe and its components have existed as autonomous political units since first contact.” (Tunica-Biloxi FD 1981, 46 F.R. 38412).
- “The Grand Traverse Band is an amalgamation of the aboriginal bands of Ottawas and Chippewas living in the Grand Traverse Bay area which initially cooperated in a loosely organized alliance and which can be considered to have become amalgamated into a single entity by the time of the Durant roll in 1908.” (Grand Traverse Band PF 1979, 6). *Note: See also the FD:*

“Evidence indicates these bands, and the subsequent combined band, have existed autonomously since first contact. . . .” (Grand Traverse Band FD 1980, 45 F.R. 19322). *See also: PF 1979, 1.*

Political participation by members of federally recognized tribes:

- “The ALJ [administrative law judge] specifically included the activity of the members of recognized tribes in evaluating the STO [petitioner]. . . . [W]e find that the political participation of the petitioner’s members who are also enrolled in a recognized tribe is valid evidence for meeting criterion 83.7(c) in this case.” [p.9] ¶  
 “. . . in the present case, the political participation of a minority portion of a petitioner in a recognized tribe does not violate the bar to autonomy under 83.7(c) nor the prohibition in section 83.3(d) against recognizing ‘splinter groups’ because a minority of the petitioner’s membership is involved. Where, as in the present case, most of the petitioning group is not maintaining a political relationship with a recognized tribe, and the petitioner is maintaining internal political processes independent of a recognized tribe, the autonomy of these processes is not violated by the additional political affiliation of a minority of its members.” [pp.9-10] (Samish FD 1995, 9-10).

**“from historical times until the present”:**

- “The recreation of a political organization in the present, after many years without any such formal or informal organization, is not sufficient under the regulations which require that petitioners demonstrate continuous existence of their political entity. . . .” (Muwekma PF 2001, 36)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ A third party “argued that the ten-year hiatus of meetings [1939-1950] constituted a significant interruption of continuous tribal existence. Like other petitioners, Cowlitz activity during the war [WWII] years was extremely low due in part to gas rationing, war industry migration and military service. Nevertheless, at least three documents exist in the record to show that individuals continued to communicate and some leaders met at an individual’s home. When regular meetings recommenced, the same general population attended as before the war and the same group of leaders presided.” (Cowlitz FD 2000, 15)
- ▲ “Evidence of the passage of leadership from one generation to the next [since 1973] demonstrates that political organization meets criteria (c) [*sic*] at present.” (Cowlitz FD 2000, 17)
- ▲ The evidence demonstrates “that the four political issues of concern to the Mohegan from 1897 to 1941 have remained the same from 1941 to the present.” ¶ “The evidence for the period from 1941 to 1966 remains limited. . . . [I]n comparison to the decades leading up to 1941 and after 1966, there was a fluctuation in political

activity and, for the political activities which did occur, there is a paucity of documentation.” [p.28] ¶ “We conclude that the Mohegan . . . have continued to maintain political influence over their membership throughout history to the present. In reaching this conclusion, it is recognized that the evidence for political influence and leadership is unbroken, though limited, from 1941 to 1966. . . . [The evidence of political influence before 1941 and after 1966] is further strengthened by the continuity of political issues, process, and leadership from the mid-1800's to 1941 and from 1966 to the present. For these reasons, we are accepting a lower level of political activity from 1941 to 1966 than would otherwise be allowed.” [p.29] (Mohegan FD 1994, 28-29). *Note: See p.20 on 1941-1966 oral history evidence.*

- ▲ “Research indicates that the Grand Traverse Band has consistently evidenced a decision-making process characteristic of a cohesive group. . . .” ¶ “We conclude that the Grand Traverse Band has maintained a viable political structure from at least treaty times until the present and therefore meets” criterion (c). *Note: The vacated Samish FD explained that: “In the Grand Traverse Band case, continuity of political process was inferred for some eras on the basis of clear, strong political process at the beginning and end of an era, together with limited data about political process within those time spans. There further was clear evidence of a very strongly defined, cohesive community within which this political process occurred.” (Samish FD 1987, 22).*

Evidence that has NOT been accepted under the criterion:

- ▼ “Almost half of the petitioner’s members descend from a portion of the historical Cheboygan band, which . . . formed an exclusively Indian settlement at Burt Lake, and almost half descend from John B. Vincent (1816-1903), who was never documented as part of that historical band or as a resident of that settlement. . . . There is no evidence in the record for this petition of any interactions, whether political or not, between Indian Village descendants and Vincent’s descendants as part of any entity prior to 1984. Therefore, there is no evidence for the exercise of political influence in any entity composed of both groups of descendants before 1984. Also, there is no evidence that Vincent’s descendants were part of another Indian entity that exercised political influence and later amalgamated with Burt Lake. The petitioner does not meet criterion (c) before 1984.” (Burt Lake Band PF 2004, 61). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner makes the argument that the organization formed in 1950 was a reorganization of the 1926 organization. The evidence . . . does not support the petitioner’s thesis. The 1950 organization differed from the 1926 organization in that it had very few members from the Tulalip Reservation community. . . . Further, the organization[s] differed not only in membership, but also in purpose.” (Snohomish FD 2003, 42; see also, criterion (a) discussion)

- ▼ “The record for this case lacks examples . . . of an internal political process, either formal or informal, among the petitioner’s ancestors, or of formal or informal political leadership or influence over the petitioner’s ancestors as a group between 1855 and 1925. . . .” ¶ “There is evidence of some leadership by George Charley during the late 1920's on behalf of a federally recognized tribe and a portion of the petitioner’s ancestors at Bay Center, but not on behalf of the petitioner’s ancestors along the Columbia River. There is also very limited evidence that a claims organization existed in the late 1920's and early 1930's, but no evidence that it had any internal political process which resulted in group decisions. There is almost no evidence of political activities or leadership between the early 1930's and 1951. Thus, there is insufficient evidence that the petitioning group exercised political influence over its members between 1855 and 1951.” (Chinook RFD 2002, 104). *See also: PF 1997, 27, 29.*
- ▼ “Thus, to the extent that the record for this case contains limited evidence of political influence among the petitioner’s ancestors, it was confined to a brief period of about two years out of the 29 years between 1896 and 1925, and related mostly to a historical organization (Satiacum’s 1915 organization) which has not been shown to be a precursor to the DTO petitioner.” (Duwamish FD 2001, 51)
- ▼ The PF concluded that, “The available evidence did not demonstrate continuity between a 1915 Duwamish organization and the DTO [petitioner] formed in 1925.” [p.44] ¶ The petitioner’s argument, that a “1915 membership list was an initial list which later expanded into a fuller membership list by an ongoing process of enrollment, would have merit if the individuals on the 1915 list had remained on the later list in 1926. The technical reports for the PF demonstrated, however, that this was not the case.” [p.49] ¶ A revised analysis shows that, “Of those 280 individuals [named on the 1915 list and remaining alive by 1926], 70 appeared on the 1926 list, accounting for 25 percent of the 1915 members. . . .” [p.54] ¶ [and that] “two-thirds . . . of the 1926 membership who were alive in 1915 were not part of that earlier [1915] organization.” [p.55] ¶ “One approach to measuring continuity between the 1915 and 1926 lists would be to ask how many people on the 1915 list had a close kin relationship to someone on the 1926 list, and vice versa.” [p.56] ¶ Such an analysis shows that, “39 percent . . . of the 1915 membership . . . were present themselves or had close kin in the 1926 or 1927-34 membership.” ¶ Also, “38.5 percent . . . of the 1926 or 1927-34 membership are represented personally . . . or by close relatives . . . on the 1915 list.” [p.57] ¶ Thus, “by including close relatives in the analysis, a larger proportion, but still not a majority, of members . . . were linked to both organizations. . . .” [p.64] (Duwamish FD 2001, 44, 49, 54-57, 64; see also, 53). *See also: PF 1996, 14-15, HTR 52-55, ATR 95-103.*

- ▼ The petitioner attempts “to demonstrate continuity between the present-day DTO [petitioner] and an Indian tribal organization in the past using only analogies of a general nature, rather than a systematic sequence of documentary evidence which show[s] actual continuity. . . .” (Duwamish FD 2001, 62; see also, 52)
- ▼ “. . . evidence was not submitted which demonstrates that the petitioner represents a formalization of an informal political entity, rather than a creation of a totally new organization where none had previously existed.” (Muwekma PF 2001, 36)
- ▼ “Generally, because there was no identifiable entity in the later 19<sup>th</sup> and early 20<sup>th</sup> centuries that comprised the petitioner’s ancestral [family] lines, there were no identifiable group leaders or governing bodies prior to 1925. Insofar as the petition mentioned individual 19<sup>th</sup> century Steilacoom Indians as leaders, there was no evidence that most STI [petitioner] ancestral families associated with them. Insofar as it mentioned identified STI ancestors as leaders, there was no evidence that their influence extended beyond their own family line.” (Steilacoom PF 2000, 14; see also, 16). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner is a voluntary organization of Duwamish descendants, formed in 1925. . . . The evidence shows that this organization was not a continuation of the historical Duwamish tribe. The available evidence shows that the leaders of the historical Duwamish tribe maintained tribal political influence over members until 1896. . . . [and] political relationships among members may have continued to exist as late as 1917.” [p.12] ¶ “. . . the 1925 organization led by Peter James was neither a continuation of, nor a successor to, the 1915 organization led by Satiacum. . . . The goals of the two organizations differed markedly.” [p.14] ¶ “Because the two membership lists from 1915 and 1926 differed so much, they must be viewed as lists for two separate organizations.” [p.15] (Duwamish PF 1996, 12, 14, 15)
- ▼ The “petition did not present evidence that the RMP [Ramapo Mountain People] maintained any political influence or authority from historical times (from the time of first sustained contact with non-Indians) to 1870. The petition also did not present evidence that established a reasonable likelihood that the RMI [petitioner] had maintained political authority from 1950 to the present.” (Ramapough FD 1996, 26). *Note: See also the PF:*

“The RMI [petitioner] did not exist as a community until the 1850's. . . . [and is not] derived from, a tribe existing at first sustained contact with Europeans. . . . [T]herefore they don’t meet the requirements of criterion c for continuous exercise of tribal political influence since first sustained contact.” (Ramapough PF 1993, 16)
- ▼ “There is no evidence of an ancestral UHN [petitioner] community, Indian or non-Indian, prior to 1830. . . . It is, therefore, impossible for the petitioner to demonstrate

that it has exercised political influence over its members from historical times to the present. Without a community, there is no entity in which political influence may be exercised.” [p.18] ¶ “For the period from 1880 to 1930. . . . There are no descriptions of political influence being exercised over the petitioner’s ancestral communities as a whole. . . . There is no specific evidence that can be used to understand the political process that may have been operating.” [p.20] ¶ “Since 1940, there is some evidence for kin-based leadership structures and processes within the separate lower bayou communities. But the evidence presented is not sufficient to meet the regulations for criterion 83.7(c) because it is sparse. . . . There is no evidence for a bilateral political relationship between the UHN council and the petitioner’s members from the time of their formal organization in 1972 to the present.” [p.22] (Houma PF 1994, 18, 20, 22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “The period after the early 1940's contrasts strongly with the previous period. . . . [The available evidence] does not establish that the Miami met the requirements of criterion c after the early 1940's.” (Miami FD 1992, 17)
- ▼ “. . . there is no evidence to show that the group evolved politically or socially from the Creek Nation which occupied the area aboriginally.” (MaChis Creek PF 1987, ATR 16)
- ▼ “The Tchinouk families have been part of a series of organizations between 1922 and the present. These organizations have not been continuously existent. . . .” (Tchinouk PF 1985, 9)
- ▼ “In the absence of a historically continuous community, . . . the recent governmental structure or authority of the SECC [petitioner] is not relevant. . . .” ¶ “. . . no tribal political influence or authority has existed ‘throughout history until the present’ within the SECC. . . .” (Southeastern Cherokee PF 1985, 7)
- ▼ “The [petitioner’s] organization was founded in 1976 and did not evolve from an earlier tribal political body.” (United Lumbee PF 1984, 4)
- ▼ “The PCN [petitioner] is a recently formed organization. . . .” ¶ “No earlier leaders were cited by the petitioner except for the decade before the formation of the PCN [in 1969].” ¶ The PCN “is not historically derived from such a body [within which political authority has been exercised and decision-making processes carried out].” (Principal Creek Nation PF 1984, 3)
- ▼ “Part of the LMC [Lower Muskogee Creek]–Florida argument is based on the idea that the CNEOM [Creek Nation East of the Mississippi] organization that intervened in [Indian Claims Commission] Docket 21 . . . was in effect a single tribe which

represented all Eastern Creeks and was the tribe from which the LMC–Florida separated in 1973. . . . A large portion of the current LMC [petitioner] membership do not appear to have been a part of the CNEOM organization. . . . [¶] Since the LMC-Florida argument which states that Docket 21 determined that CNEOM constituted a tribe dating from the time of Removal is invalid, the ‘transfer of authority’ in 1973 cannot be used to support their claim to a continuous political existence on this basis.” (Lower Muskogee Creek FD 1981, 7). *Note: A later F.R. notice clarified that this FD denied Federal acknowledgment of the LMC-Florida as the “Creeks East of the Mississippi” (47 F.R. 14784).*

**“to be understood in the context of the history . . . of the group” (§83.1):**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Although evidence between 1938 and 1950 is sparse, when considered in historical context under 83.6(e), it does show political activity at a level to demonstrate the group meets criterion 83.7(c).” (Cowlitz FD 2000, 15)
- ▲ “The regulations provide that the historical context of events is to be taken into account in the evaluation. The data did not indicate that persons formerly enrolled with MBPI [petitioner] were, as a group, choosing to join any other single tribe according to a pattern. Rather, they were individual choices. . . . The context was analyzed in light of the out marriage patterns in Michigan tribes, [the] fact that base rolls are being compiled for several Michigan tribes . . . and the fluidity of Michigan membership patterns. . . . [T]he analysis of the 48 persons who disenrolled from MBPI between 1994 and 1998 indicated that their disaffiliation had minimal relevance for the MBPI’s modern community and the disenrollments did not change the character of the group.” (Match-e-be-nash-she-wish Band FD 1998, 13)

Evidence that has NOT been accepted under the criterion:

- ▼ “There is no doubt that all of these factors would have affected the group [1935-1950], as they affected other groups in the Puget Sound area. Regardless of the reasons why, there is no evidence of any political activity during this period.” (Snohomish FD 2003, 41)

**EVIDENCE UNDER 83.1:**

This criterion may be demonstrated by evidence that **“meets the definition”** in § 83.1:

**(§83.1) “a tribal council, leadership, internal process or other mechanism”:**

- “The BIA is willing to look at a wide variety of forms by which leadership may have been exercised in a petitioning group.” [p.15] ¶ “The . . . regulations do not make any requirement that a petitioner have a ‘secular government’ . . .” [p.16] (Match-e-be-nash-she-wish Band FD 1998, 15, 16).
- “Evidence that an individual provided leadership for her own family is not sufficient to demonstrate that she was a leader for the petitioner’s ancestors as a whole.” (Chinook PF 1997, 28)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Since the Chehalis River treaty negotiations in 1855, there has been an unbroken named sequence of Cowlitz leaders.” [p.32] ¶ “. . . the OIA [Office of Indian Affairs] officially ‘appointed’ [Atwin] Stockum as chief of the Lower Cowlitz in 1878.” [p.33] ¶ “. . . Stockum survived to see the establishment of the Cowlitz Tribal Organization in 1912.” ¶ After his death, “the Cowlitz Tribal Organization was headed by elected presidents. . . .” [p.35] ¶ “The leaders who initiated the 1950 Cowlitz reorganization effort were the same as those who had held office at the time [1939] the prior organization ceased to hold regular meetings. . . .” ¶ “Since 1950, there has been an uninterrupted sequence of . . . elected leadership in what was known from 1950 through 1973 as the Cowlitz Tribe of Indians (CTI), and since 1974 has been formally designated as the Cowlitz Indian Tribe (CIT).” [p.38] ¶ “In 1967, an informally functioning executive committee was expanded by resolution of the general membership at the annual meeting into a formal tribal council. . . . However, the annual membership, or General Council, meetings have remained the primary political center.” [p.39] (Cowlitz PF 1997, 32-39; on the General Council since 1967, see also, FD 2000, 16)
- ▲ The petitioner “maintained a named sequence of leaders. . . . from 1870 through 1903. . . .” ¶ Since 1879, “the group maintained political authority and/or influence through the indigenous leadership of the Methodist mission churches. . . .” [p.11] ¶ “In 1992, . . . the MBPI [petitioner] formed a non-profit organization and established a procedure for electing a secular governing body. [¶] In early 1993, the MBPI elders elected D.K. Sprague as president, a role he has continued to perform to the present.” [p.15] (Match-e-be-nash-she-wish Band PF 1997, 11, 15). *Note: The petitioner met criterion (c) until 1870 because of previous Federal acknowledgment and until 1957 because it met section 83.7(b)(2) until that date.*



- ▲ “The historical Samish tribe as it existed off-reservation until after 1900 . . . had well-established traditional leaders. The next generation of traditional leaders . . . moved to the reservations. . . . They remained active until as late as the 1940's. . . . Contemporary with them were other, off-reservation leaders.” ¶ “After 1951, a formal council was established. . . .” (Samish FD 1995, 7)
- ▲ “From the foundation of the Pine Creek settlement in 1842, the Huron Potawatomi have had clear leadership. . . .” ¶ “[In 1934], administration of tribal affairs was publicly assumed by a three-man committee which, until 1948, doubled as the Board of Elders of the Pine Creek Methodist Church. . . . The church committee continued to function until the establishment of a formal tribal government with officers and council in 1970.” [p.14] “Since the incorporation of HPI [petitioner] in 1970, there has been an elected President [or Chairman] . . . and council.” [p.15] (Huron Potawatomi PF 1995, 14, 15). *Note: The petitioner met criterion (c) until 1934 because it met section 83.7(b)(2) until that date.*
- ▲ “A traditional leader or chief conducted the affairs of the Indian community, led the group in burial practices, and conducted marriages until the late 1930's. Although the traditional leader's role was less active after World War II, he continued to organize community support to meet the needs of the membership. In addition, informal leaders exhibited political influence within the Choctaw community during the 1950's and 1960's which continued after the death of the last traditional leader in 1968. Since 1974, the Jena Choctaw have elected their leaders. . . .” (Jena Choctaw FD 1995, 60 F.R. 28480) “[In 1974,] the tribal formally organized. . . . [and] agreed to adopt a legal charter and to elect its leaders.” (Jena Choctaw PF 1994, 8)
- ▲ “The Mohegan governed themselves through a sachem and council form of government leadership from the time of contact with Europeans until 1769. Important group decisions were made by the chief in consultation with the members of the council. After 1769, the Mohegan refused to appoint the sachem that the colony of Connecticut's government wanted, so the sachemship came to an end. The Mohegan continued to govern their affairs from 1769 to the late 1930's through some form of council.” [p.18] ¶ “Until 1970, the majority of Mohegan had followed John Hamilton as their claims representative (elected in 1933 to this position) and Harold Tantaquidgeon as their chief. . . . [T]hey were both supported by the majority of Mohegan until 1970 to perform their respective tasks.” [p.28] “The function of the tribal council was assumed by Native Mohegans, Inc., begun . . . in 1973. Native Mohegans, Inc. served as the Mohegan council until 1980, when the Mohegan Indian Tribe of Connecticut was incorporated with a constitution and by-laws.” [p.25] (Mohegan FD 1994, 18, 25, 28; see also, 19-20)

- ▲ “Between 1843 and 1847, a chief of the entire Snoqualmie tribe emerged. . . .” [p.23] ¶ “Political influence through either formal or informal leaders or group decision-making processes was maintained throughout the latter part of the 19th century and the first decade of 20th century.” ¶ “Between 1914 and 1916, a political reorganization of the Snoqualmie tribe took place. The first stage of the reorganization was the naming of Jerry Kanim as chief.” ¶ “The second stage of the reorganization was the institution of a formal governing council, with a chairman and council elected by the members, and a general council of the members as a whole.” [p.24] ¶ “The tribal council and the general council played roles which were mainly contributory to the political influence exercised by Kanim [1914-1956] within the Snoqualmie. . . .” [p.26] ¶ “The general membership meeting (general council) has played a major role in Snoqualmie political processes from at least the 1960's until the present. It is the final arbiter of political issues and conflicts.” [p.28] (Snoqualmie PF 1993, 23-28). *Note: For the FD, the petitioner met criterion (c) until 1953 because of previous Federal acknowledgment until that date.*
- ▲ “Patnish, a leader who was probably leader of the entire band. . . . may have functioned as leader of the band as early as the late 1860's.” [p.ix] ¶ “From approximately the 1880's to the 1930's, the leader of the entire band was Pakai. . . . A line of successors to Pakai as band leader is known to the present day.” ¶ “The traditional system was based on consensus decision-making and noncoercive leaders. . . .” [p.x] (San Juan Paiute PF 1987, ix-x)
- ▲ “. . . the Gay Head Wampanoags were essentially self-governing prior to 1870 when the Commonwealth of Massachusetts incorporated Gay Head as a township and it lost its status as an Indian district.” [p.8] ¶ After 1870, “The Gay Head Wampanoag Indians adapted principal elements of the town governmental structure which was imposed on them and, within the limits possible, they have used and continue to use this structure to serve the best interests of tribal members. Political influence and authority has also been maintained over members through organizational bodies . . . which have functioned outside of and/or parallel to the town government. . . .” [p.8] ¶ “. . . the town government functioned as the tribal government until the WTCGH [petitioner] was organized in 1972. . . .” ¶ “All but one of the town selectmen have been tribal members, and that individual was the spouse of a tribal member. . . . [W]e conclude that the town government provided the primary – but not the sole – structure by which the tribe maintained political influence and authority over their resident members.” In other ways, “the tribe maintained limited political influence or authority over non-resident members.” [p.9] (Wampanoag of Gay Head FD 1987, 8, 9)
- ▲ The Poarch Band “was governed by a succession of military leaders and prominent men in the 19th century. From the late 1800's through 1950, leadership was clear but informal. A formal leader was elected in 1950.” (Poarch Band of Creeks FD 1984, 49)

F.R. 24083). After 1970, a “council [of Eastern Creek descendants] was narrowed and developed into a governing body for the Poarch community alone.” (Poarch Band of Creeks PF 1983, 5)

- ▲ “. . . a council form of government, probably based on earlier councilors to the chief sachem, replaced the monarchy around 1770.” “Between 1792 and 1880, the group. . . was subject to a varying and generally loose degree of oversight by the [State] General Assembly . . . and often functioned without strict regard for the rules set up by the assembly.” “An act of the Rhode Island General Assembly in 1880 purportedly dissolved the tribal authority . . . [of the Narragansetts, but] the council was subsequently revived” between 1892 and 1901. “Between 1901 and 1934, there clearly existed several individuals recognized as legitimate group leaders.” By 1934, a “younger group easily established control over the church and set up a new corporation as the tribe’s governing body. . . .” “The NTI corporation and the church . . . had virtually identical composition until the 1960’s. . . . Between 1940 and 1951, the church was the primary organizational focus. . . .” “After approximately 1970, the governmental functions of the NTI emerged more strongly.” (Narragansett PF 1982, 12-14)
- ▲ “Traditional leaders survived as late as the 1940’s. A formal council was created in 1937, with Bureau assistance. . . .” (Death Valley Shoshone FD 1982, 47 F.R. 50109). *See also: PF 1982, 5.*
- ▲ “The Tunica tribe was governed by a succession of chiefs in a formally organized political system. . . . A corporate form of organization was adopted in 1974 and continues to the present.” (Tunica-Biloxi FD 1981, 46 F.R. 38412)
- ▲ “Since 1874, when the Jamestown community was formed, there has been a definite leadership which was chosen by the community and acknowledged by the Government. This consisted initially of a chief and an informal group of leading men and later, after about 1910, of an elected chairman and council. These functioned on an essentially continuous basis until a written, governing document was drawn up in 1975.” (Jamestown Clallam PF 1980, 3)
- ▲ “The band’s non-profit corporation, Leelanau Indians, Incorporated, is presently functioning as a tribal government until a constitutional government is installed.” (Grand Traverse PF 1979, 6)

Evidence that has NOT been accepted under the criterion:

- ▼ “The petitioner submitted no evidence to demonstrate the Burt Lake community’s political processes in making decisions, resolving conflicts, promoting the general welfare, maintaining order within the community, organizing work details at their

church, influencing missionary priests, dealing with various levels of governments or regional Indian groups, and similar actions.” (Burt Lake Band PF 2004, 62). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “In 1971, Rupert Costo and the AIHS [American Indian Historical Society] dealt with the Galvans as group leaders. . . . This evidence of the treatment of the Galvans as leaders differs from the oral history evidence that describes a 1965 meeting of Ohlone descendants about the cemetery as one that challenged the leadership claimed by the Galvans and resulted in a failure of the group to coalesce behind them. . . . [I]t appears from the available evidence that the Galvans were not accepted as leaders by the group after being designated by Costo and the AIHS.” (Muwekma FD 2002, 119)
- ▼ “The petitioner emphasizes the [historical resources inventory] form’s reference to ‘tribal chiefs,’ but that was explicitly a reference to persons of ‘historical importance,’ not to any existing leaders in 1974.” (Muwekma FD 2002, 120)
- ▼ The petitioner argues “that Benjamin Michael Galvan was its chairman and leader from either 1965 or 1971 until 1984. . . . The petitioner’s narrative for criterion (c) for the period between 1966 and 1984 does not provide any examples of Galvan’s leadership. . . . The petitioner’s statement about the formal organization of the petitioning group in 1984 does not mention any role by Galvan. . . . No primary document other than his obituary is known to have referred to Galvan as a tribal chairman.” ¶ “The petitioner . . . provides no documentary evidence . . . [of] Galvan’s leadership. . . .” [p.121] ¶ “Activities of Benjamin (Ben) Michael Galvan are discussed in the oral histories, but only for the period including the cemetery clean up activities and the transfer of title to the cemetery between about 1965 and 1971. . . . In the oral histories, no one named him as chairman or as a leader of a group. . . . [T]hus, his role was limited to a single function. Ben Galvan and his brothers were not mentioned in the oral histories as leaders in any non-cemetery endeavor before 1965 or after 1971.” [p.122] (Muwekma FD 2002, 121-122; see also, 130-131, 134)
- ▼ “No direct evidence demonstrates that the ‘elders’ council’ met or performed significant functions. The activities of the ‘elders’ council’ were not explained in the petitioner’s documents. The petitioner did not submit meeting records, or indicate what special role this body may have performed. . . . The single example of a videotape of an ‘elders’ council’ meeting was for the purpose of interviewing an elderly woman, rather than passing on policy or strategy as the petitioner claims.” (Muwekma FD 2002, 135-136)
- ▼ The petitioner “cites precedent that other petitioners . . . have demonstrated that they have exercised political influence through a church organization or a non-profit corporation. The evidence in the Muwekma petition, however, does not demonstrate

that its members or ancestors utilized a specific church or. . . . that a non-profit corporation or a for-profit business firm associated with members or ancestors of the petitioner's members performed the functions of a tribal government. . . . Therefore, these cited precedents are not applicable to the evidence available about the Muwekma petitioner." (Muwekma FD 2002, 137)

- ▼ Between 1856 and 1925, "no document submitted by the STI [petitioner] or located by BIA researchers provided the name of any person who was described as a contemporary leader of the Steilacoom Indians. . . . No documentation was located . . . to verify that the off-reservation Steilacoom maintained any type of organization in post-treaty times." [p.16] ¶ "[Some] initiatives discussed by the petition [1929-1935] . . . [showed] that some of the ancestors of persons who are now STI members were participating in a variety of different initiatives, none under Steilacoom leadership." [p.18] (Steilacoom PF 2000, 16, 18; see also, 14). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ "No earlier leaders were cited by the petitioner except for the decade before the formation [in 1969] of the PCN [petitioner]." (Principal Creek Nation PF 1984, 3)

**(§83.1) "influencing or controlling the behavior of its members":**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ Traditional leaders between 1905 and the 1940's "were influential among the Samish, and more generally on the reservations, as spiritual and cultural leaders as well as leaders in pursuing hunting and fishing rights." (Samish FD 1995, 7)
- ▲ "[Chief] Kanim's personal leadership also took the form of counseling members and settling disputes between individual Snoqualmie." (Snoqualmie PF 1993, 25)
- ▲ "Among the observed functions of the political system were reinforcement of standards of behavior, settlement of intragroup disputes. . . ." (San Juan Paiute PF 1987, x)
- ▲ "These [informal] leaders exercised influence in maintaining social control, organized community efforts such as church and school building in the settlements, saw to the employment of community members, were religious church leaders, and fulfilled other functions." (Poarch Band of Creeks PF 1983, 5)
- ▲ The Band has "a decision-making process . . . which has and continues to effectively resolve internal problems. . . ." (Grand Traverse Band PF 1979, 6)

Evidence that has NOT been accepted under the criterion:

- ▼ In 1981-1982, “[Rosemary] Cambra and Ruth Thompson Orta became involved in a dispute about what they believed was Philip Galvan’s intervention to deny them access to Mission records. . . . No statements in the oral histories indicate that group leaders were called upon to resolve this conflict among members of three extended families. . . . No evidence in the record indicates that the actors in this quarrel . . . turned to informal political processes in an attempt to deal with the problem. Orta. . . called upon non-Indian church leaders to resolve the problem.” (Muwekma FD 2002, 123-124)
- ▼ “The petitioner points to ‘Chief Kanim’s personal leadership,’ in the Snoqualmie petitioner, as precedent to its own case. That leadership ‘took the form of counseling members and settling disputes between individual Snoqualmie.’ The Muwekma petitioner, however, submitted no evidence that its named leaders actually counseled members and settled disputes among its individual members.” (Muwekma FD 2002, 133; see also, 138). *Note: See, Snoqualmie PF 1993, 25.*
- ▼ The petitioner’s researcher “does not provide specific examples of the exercise of Duwamish political influence between 1896 and 1915. Rather, [he] simply asserts that after the death of Chief William in 1896, his nephew William Rogers replaced him as chief between 1896 and 1915.” (Duwamish FD 2001, 47)
- ▼ “The petitioner notes that newspaper articles of the 1980's and 1990's reported on-going arguments between Andrew Galvan and Rosemary Cambra over Indian cultural resource issues. It declared that resolving the dispute ‘between Mr. Galvan and the tribe,’ at an unspecified date, showed that the petitioner settled disputes between members and subgroups. . . . There is an absence of information in the petition documentation, however, about such conflict resolution. . . . There is also indication that these disputes concerning monitoring and repatriation of skeletal remains have not been resolved.” (Muwekma PF 2001, 37)
- ▼ “None of the formal organizations that the Tchinouk were part of for varying periods after 1922 were concerned with other than specific questions, such as treaty claims. They did not exercise tribal political influence over their members nor otherwise broadly influence their members.” (Tchinouk PF 1985, 10)
- ▼ “The present leadership does not control or affect the operation of local units. . . .” (United Lumbee PF 1984, 4)
- ▼ “The present leadership of the group disclaims any political activity[,] asserting that it is simply an Indian-interest group concerned with civic activities and Indian affairs.” (Kaweah PF 1984, 2)

**(§83.1) “making decisions for the group which substantially affect its members”:**Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “From 1904 through 1934, evidence of continuous political leadership includes the smooth shifting of leadership from the federally-recognized chieftainship and political influence of Atwin Stockum and Captain Peter, to a council of elected officers.” ¶ “After the death of Atwin Stockum, the Cowlitz Tribal Organization was headed by elected presidents. . . .” (Cowlitz PF 1997, 35)
- ▲ “. . . William Lewis exercised his authority [as traditional leader] by making decisions concerning burials in the White Rock Indian Cemetery. . . .” (Jena Choctaw PF 1994, 7)
- ▲ In 1944, there was a “controversy over the burial of a non-Mohegan [father-in-law] at Fort Shantock. . . . Burrill H. Fielding (then chief) and his daughter . . . were said to be the ones who persuaded the rest of the Mohegan to go along with the burial. . . . The end result of the controversy was the formation of a cemetery committee which has functioned through the present, making decisions concerning eligibility for burial in the cemetery.” (Mohegan FD 1994, 20)
- ▲ “That the Mohegan continued to govern their affairs through some form of council in the years between 1769 and 1903 is evidenced by several documents either submitted to or generated by the Connecticut General Assembly or the New London County Court.” [p.6] ¶ “[Ethnologist Frank] Speck observed in 1903 that the tribal group was governed by a chief and an advisory council of three which held meetings. . . .” [pp.6-7] (Mohegan PF 1989, 6-7)
- ▲ “Among the observed functions of the political system were . . . allocation of farming and grazing lands. . . .” ¶ “Although much of the land used by the San Juan Paiutes on the [Navajo] reservation is held under a permit system now jointly administered by the BIA and the Navajo Tribe, the actual use of the land is allocated by internal political processes within the band.” (San Juan Paiute PF 1987, x)
- ▲ “. . . the Gay Head Wampanoags used their control of the town government to serve the best interests of tribal members.” [p.9] “. . . the tribe used its control of the town government to monopolize economic resources in the cliff area, the cranberry bogs, and Herring Creek.” [pp.9-10] ¶ “. . . town officers supported Indian interests in . . . the West Basin Road controversy of 1965. . . . The primary benefit of this project . . . [was] to protect and enhance the Indian scalloping industry.” ¶ When State funding was halted, “the Gay Head Wampanoags rallied behind . . . Leonard Vanderhoop, the

chairman of the Board of Selectmen, who led a successful campaign to have State funding restored. Thus, the West Basin Road was completed. As the petitioner notes, this controversy ‘is a clear example of . . . the ability of tribal members to manipulate the town government for the benefit of the tribe’.” ¶ “A further example . . . is the issue of ownership of the common lands at Gay Head. . . . Throughout this controversy [after 1972], the town government demonstrated its desire to serve the best interests of the Indians, including its willingness to turn the common lands over to the tribe before being challenged legally in 1976, and its refusal in 1981 to appropriate funds for the town’s legal defense against the land suit filed by the tribe.” [p.10] (Wampanoag of Gay Head FD 1987, 9-10)

- ▲ After 1971, the NTI [petitioner] corporation “pursued a land claim suit against the state and individuals, and provided various programs to the membership such as education, social services, and feeding the elderly.” (Narragansett PF 1982, 14)
- ▲ “Between 1940 and 1951, the [group’s] church was . . . meeting regularly, holding regular services, controlling the annual meeting and its funding and organization, and playing the major role in the building of a community meeting place known as the longhouse. . . . It also took care of funerals and helped the sick.” (Narragansett PF 1982, 14)
- ▲ “Between 1792 and 1880, the group was consistently described as governing its own internal affairs.” “. . . the council exercised such functions as defending the group against encroachment on its land, caring for the poor, renting tribal and individual land, determining membership, determining the division and inheritance of individually held tribal lands, and maintaining the Narragansett school.” (Narragansett PF 1982, 12)
- ▲ In the early 1900’s, elected chiefs “apportioned land among members. . . . The apportionment of the land later became a function carried out by community meeting.” (Tunica-Biloxi PF 1980, 4)
- ▲ “The band’s non-profit corporation, Leelanau Indians, Incorporated. . . . is administering a Federal grant for the bands; is administering the lot assignment in Peshawbestown; and is performing other substantial government functions including involvement in litigation to protect the band’s fishing rights.” (Grand Traverse PF 1979, 6)

Evidence that has NOT been accepted under the criterion:

- ▼ “During the early 1980’s, the petitioner says, ‘the Muwekma Ohlone families . . . explored the creation of a committee to formalize a Costanoan/Ohlone Tribal Organization. The petitioner lists the ‘traditional leaders’ who were involved ‘with



the problem of formal organization,' but that list does not include Benjamin Michael Galvan [whom the petitioner claims was its chairman and leader from either 1965 or 1971 until 1984]. The petitioner neither explains why he was not involved, nor explains how authority and leadership were transferred to others, or were assumed by others." [p.124] ¶ "As the Proposed Finding pointed out, the petitioner did not submit information documenting and explaining how officials were placed in their positions in the petitioner's organization . . . or describing the sequence of events leading to a change of the people in those positions. Nor did the petitioner submit information indicating that the petitioner's membership was involved in such decisions. The succession and transition of named leaders has neither been explained nor documented by the petitioner for this Final Determination." [p.125] ¶ "Ricardo Martinez was listed as the 'President of Muwekma' . . . in 1984 letter. . . . The petitioner . . . makes no explanation of how Rosemary Cambra took his place as the Muwekma chairman." [p.129] ¶ ". . . the available evidence does not demonstrate the existence of a political process or decision-making process within the petitioning group. . . . For example, the submitted evidence provides no description of the process by which the petitioning group formed a formal organization in 1984 or adopted a constitution in 1991." [p.136] (Muwekma FD 2002, 124-125, 129, 136). *See also: PF 2001, 35-36.*

- ▼ After the early 1940's: "There were no clear-cut examples of decision-making or exercise of influence that by their nature would be considered political, such as dispute resolution, allocation of resources, or influence on members' behavior." (Miami FD 1992, 18)
- ▼ "The PCN [petitioner] is a recently formed organization and not a community within which political authority is exercised or formal and informal decision-making processes carried out." (Principal Creek Nation PF 1984, 3)
- ▼ "Research failed to produce any evidence that there was a group over which a political or tribal authority could be asserted or that there was an organization or social mechanism to assert such authority." (Lower Muskogee Creek PF 1981, 3). *See also: Munsee-Thames Delaware PF 1982, 3.*

**(§83.1) "representing the group in dealing with outsiders":**

- ". . . an assumption cannot be made that passage of those acts [Acts of 1911, 1912, and 1925 relating to Chinook claims or allotments] reflected political organization and activity on the part of the petitioning group." (Chinook RFD 2002, 100)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ The proposed finding “assumed that the authority of leaders to conduct treaty negotiations was evidence of the existence of political influence and authority over a historical village, band, or tribe.” (Chinook RFD 2002, 101). *See also: PF 1997, 27.*
- ▲ “Throughout the 1920's and 1930's, Federal officials maintained contact with elected Cowlitz leaders such as John Ike Kinswa. . . . This intermediary role is evidence of leadership, since the BIA consulted with them on their knowledge of the community. . . .” (Cowlitz PF 1997, 36)
- ▲ Off-reservation leaders between 1905 and 1950 “were particularly important in dealing with non-Indian institutions on behalf of the Samish.” (Samish FD 1995, 7)
- ▲ “. . . Williams Lewis exercised his authority [as traditional leader] by . . . acting as spokesman for the Choctaw community to outside authorities, such as the LaSalle Parish School Board.” (Jena Choctaw PF 1994, 7)
- ▲ “Through an elected chief and a tribal council [after 1974], the tribe was able to establish relationships and conduct business with non-Indian authorities in terms that those authorities were prepared to understand.” (Jena Choctaw PF 1994, 7)
- ▲ “Loretta Schultz was a leader who represented the Mohegan to outsiders from the 1930's to the 1950's. She was the elected Mohegan representative to the American Indian Federation in the late 1930's.” (Mohegan FD 1994, 21)
- ▲ Chief Kanim “dealt with external authorities concerning the welfare of individuals, interceding for those in legal trouble or needing economic assistance such as employment.” (Snoqualmie PF 1993, 25)
- ▲ Between the 1840's and 1890's, leaders of the Indiana Miami “exercised influence over economic activities, provided economic assistance, intervened on behalf of members with non-Indian authorities and represented the tribe in dealings with outsiders in matters of consequence such as treaties and protection of the tax-free status of the land.” (Miami FD 1992, 16). *Note: See also the PF:*

“There is sufficient evidence to indicate that in the mid-19th to the early 20th centuries Miami leaders often acted in concert with a ‘council’ to exert political influence over the group’s members and interact with outsiders. Actions for the overall tribe, such as a treaty negotiation in 1854, were generally decided in council of the several subgroup leaders. Indian Miami delegations were sent to Washington in 1854, 1869, and during the 1880s. These delegations were authorized to conduct business relating to the entire Indiana Miami group, and there is correspondence into

the early 20th century indicating a council's involvement. [¶] From the 1840's to the 1890's, the leaders . . . [dealt with] major issues – who was entitled to be on the Miami roll, the 1881 payment of the principal sum due under the 1854 treaty and the taxation of Miami land. . . . [and] recovering through an 1895 suit in the U.S. Court of Claims annuities wrongfully paid to individuals not entitled to be on the Miami roll.” (Miami PF 1990, 9)

- ▲ “Tribal leaders served as spokesmen for the entire tribe and were concerned with external affairs, such as dealing with non-Indians or other Indian tribes.” ¶ “Among the observed functions of the political system were . . . decision-making concerning relations with non-Indians, Navajos, and other Indians.” (San Juan Paiute PF 1987, x)
- ▲ “The council's functions widened . . . in 1970 to include a variety of community services which the local leadership had previously negotiated for with local non-Indian authorities.” (Poarch Band of Creeks PF 1983, 5)
- ▲ “Spokesmen for the group existed and have been dealt with by the Federal Government from the early 1960's on.” (Death Valley Shoshone FD 1982, 47 F.R. 50109). *Note: See also the PF:*

“Spokesmen for the village who were dealt with by the Park Service and, subsequently, the BIA, Indian Health Service and other agencies, existed from at least the middle 1960's onward.” (Death Valley Shoshone PF 1982, 6)

- ▲ “These leaders have functioned in the group's relations with the Federal Government and with other Indian groups.” (Jamestown Clallam PF 1980, 3)
- ▲ The Band, and earlier bands, had “a series of leaders who represented the band in its dealings with outside organizations.” (Grand Traverse Band FD 1980, 45 F.R. 19322). *Note: See also the PF:*

The Band has “a decision-making process . . . [which] promote[s] the band's interests outside the Indian community.” “Tribal political leaders and their accomplishments and contacts with local, state and Federal officials have been documented from treaty times until the present.” (Grand Traverse Band PF 1979, 6)

Evidence that has NOT been accepted under the criterion:

- ▼ “During the first half of the 20th century, there were some examples in the available evidence of representation of a Burt Lake or Cheboygan band to outsiders [by a variety of individuals]. . . . However, the available documentation and oral history interviews contain little evidence of group activity or political process leading to or

supporting these efforts. . . .” (Burt Lake Band PF 2004, 69). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “Although the petitioner presents Jonas Shawanese as representing its interests in his 1956 meeting with the Governor, it has not demonstrated that such representation was authorized by the Burt Lake descendants centered on Indian Road, or that they knew about the meeting. . . . None of the documentary accounts of the 1956 meeting, its preparation, or its aftermath, mention any role by ancestors of the petitioning group or of people associated with Indian Road at the time. . . . The petitioner has not submitted evidence to demonstrate that Shawanese was acting at the direction of Burt Lake band members.” (Burt Lake Band PF 2004, 71). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petition includes some correspondence between individual members of STI [petitioner] and Indian agents regarding obtaining certification as Indians. Available evidence does not indicate any correspondence between a leader, a council or group of members writing to the agency in order to request information or to assist individual members. . . .” (Snohomish FD 2003, 41)
- ▼ “The petitioner’s attempt to make a letter co-signed by Rupert Costo and Philip Galvan, as president and secretary of the AIHS [American Indian Historical Society], . . . into a request by an Ohlone group or a ‘Muwekma Tribe’ is unpersuasive. The statement referred to by the letter was entitled a ‘Statement of an Ohlone Indian,’ and thus was presented as an individual statement rather than a group position. No supporting documentation suggests that the letter had been written in response to a group decision by the petitioning group, and Representative Edwards and the National Park Service treated the letter as a request by the AIHS, not by an Ohlone group.” (Muwekma FD 2002, 118)
- ▼ The petitioner argues that “a letter from [Rosemary] Cambra to the state’s Native American Heritage Commission in November 1981. . . . provides an example of ‘the exercise of political authority by some of the leadership’ of the petitioning group . . . [and] the ‘influence of Elders as leaders,’ and that it provides evidence under section 83.7(c)(1)(iii). . . . In the letter, however, Cambra indicated that she ‘would like to write a family history. . . .’ Although she portrayed this effort as offering benefits ‘for Ohlone people’ . . . she did not claim to be acting other than as an individual. . . . This letter provides no evidence of widespread involvement by any group members . . . and no evidence that Cambra was acting on behalf of a group. . . .” (Muwekma FD 2002, 123)
- ▼ “The petitioner cites as precedent . . . a leader dealing with external authorities on behalf of the group or its members. This precedent is applicable to the Muwekma petitioner only since the mid-1980’s. . . . However, in contrast to this precedent, the

evidence does not show that a Muwekma leader represented the group to outsiders with the support of a group decision-making process.” (Muwekma FD 2002, 136-137; see also, 134)

- ▼ “The petitioner has provided documentation [for the late 1920's and early 1930's] . . . almost exclusively about George Charley. This evidence consists mostly of the correspondence of the superintendent of the Taholah Agency who was advocating and helping to prepare litigation on behalf of George Charley and his fishing crew. . . . The correspondence of Superintendent Sams made it clear that he was working to protect the alleged fishing rights in the Columbia River of the federally recognized Quinault and Shoalwater Bay Indians, . . . not the fishing rights of off-reservation individuals of Chinook ancestry.” (Chinook RFD 2002, 102)
- ▼ The petitioner’s examples for the period 1987-1994 “include the group’s involvement with a variety of projects, almost all of which were run by governmental and non-governmental organizations such as the State of Washington, Wahkiakum County Port District, National Congress of American Indians, National Park Service, Fort Clatsop Memorial, and other groups of similar composition and purposes. . . . [The petitioner] provided virtually no discussion of how the Chinook petitioner was organized to make decisions concerning these projects, who was involved beyond the petitioner’s leadership, and other information . . . to demonstrate that these projects were significant to a representative proportion of the membership and that members were knowledgeable about their leaders’ activities.” (Chinook RFD 2002, 103)
- ▼ The petitioner submitted an “article [that] discusses the Sackman logging settlement, headed by a white man, Daniel Sackman, who married an Indian woman. . . . [and] propounds the view that Daniel Sackman acted as an intermediary between the Indians and non-Indians. . . . The petition did not give specific examples of Daniel Sackman acting as a mediator. The activities of a non-Indian spouse on behalf of a family does not provide evidence that the petitioner had leaders or political processes.” (Duwamish FD 2001, 47)
- ▼ The petitioner’s researcher “contends that a Duwamish group ‘mounted a successful political program to secure direct [congressional] appropriations’ for its members. . . . The evidence does not support [the] contention that these were ‘nine special appropriations . . . exclusively benefitting the Duwamish Tribe,’ much less benefitting the DTO petitioner or its possible antecedents. More to the point, [the petitioner’s researcher] offers not a shred of evidence that the petitioner or its members participated in a political program or political activity in order to secure appropriations from Congress.” (Duwamish FD 2001, 47-48)
- ▼ The petitioner’s researcher “contends that the Duwamish cooperated with visiting anthropologists and scholars in order ‘to carry out a commitment to preserve their

history and culture in the years after 1896'. . . . [He] does not describe the participation of the informants for these scholars as anything other than individual participation by a few individuals. He describes the activities of outside researchers, not the activities of a group and its leaders.” (Duwamish FD 2001, 48)

- ▼ “The petitioner claims political influence within the group during the 1940's based solely upon a membership card in an Indian organization. According to the petitioner, in 1947, ‘Ernest Thompson, Jr. became a member of the California Indian Association representing the interests of the Muwekma families.’ The petitioner has submitted only a copy of Thompson’s membership card. A membership card alone cannot demonstrate that an individual represented the interests of other people.” (Muwekma PF 2001, 30-31)
- ▼ “The petitioner argues specifically that after 1948, when new applications were accepted for the judgment roll, [Trina (Marine)] Ruano assumed ‘the responsibility to distribute BIA enrollment application[s] to the Muwekma families.’ The petitioner supports this claim only with a 1950 letter by Ruano in which she specifically asked for a form on behalf of her own children. She also stated that she had passed on the forms she had received earlier to ‘other members of the family.’ This reference, apparently to her own family, does not support the petitioner’s contention that Ruano acted for a number of families or represented a group. The petitioner also presents evidence that Ruano and her children attended BIA meetings in 1964 and voted to accept the judgment award for the Indians of California. These activities were examples of individual participation, not of the representation of a group.” (Muwekma PF 2001, 31)

### **EVIDENCE UNDER 83.7(c)(1):**

This criterion may be demonstrated **“by some combination of the evidence listed”**:

#### **(c)(1)(i) The group is able to mobilize members and resources for group purposes:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “MBPI [petitioner] mission and non-mission members [1972-1992] built church additions, helped each other construct homes, raised substantial money to begin to re-buy their original reservation lands, and served certain health and social needs of their community. These activities . . . [are] significant evidence under 83.7(c)(1)(i).” (Match-e-be-nash-she-wish Band PF 1997, 14)
- ▲ Since 1993, the “combined leadership [of the petitioner’s president and secretary of state], supported by the involvement of other MBPI [petitioner] members, has

- resulted in the acquisition or optioning of 72 acres of the original 360 acres of the Bradley settlement, the design of a long-term cultural revitalization project, and the drafting/ implementing of an economic development plan. This provides evidence for the MBPI under criterion 83.7(c)(1)(i).” (Match-e-be-nash-she-wish Band PF 1997, 16)
- ▲ “Historians and ethnographers noted that the Lake Fork Duwamish were under the leadership of William, or Stoda, from treaty times until his death in 1896. . . . A sing gamble ceremonial celebration held in 1894 provides evidence that William was able to mobilize economic and ceremonial resources from Duwamish Indians residing not only in the Lake Fork villages, but also from related Duwamish living on the Port Madison and Muckleshoot Reservations.” (Duwamish PF 1996, 13)
  - ▲ A “Wigwam Festival was considered to be . . . [a] major community event that demonstrated the exercise of political influence because it required the extensive, broad-based mustering of social and material resources. . . . [T]his festival was planned and executed with all of the Mohegan family groups participating.” (Mohegan FD 1994, 20; see also, 22). *See also: PF 1989, 6.*
  - ▲ “Snoqualmie leaders led Snoqualmie hop-picking crews. They thus organized a major form of economic activity important to the membership. . . .” (Snoqualmie PF 1993, 24; see also, 25)
  - ▲ “The community, led by informal leaders, took a number of actions in the late 1940's to improve community conditions. At least one attempt was made to prevent the sale of a portion of Indian-owned land to a non-Indian. Major efforts included a community boycott of the Indian school and the organization of a committee which successfully forced local school authorities to provide bus service which would allow the Indians to attend junior high and high school.” (Poarch Band of Creeks PF 1983, 5)
  - ▲ “The most clearcut tribal effort came in 1921, when Daniel Sekater held a large tribal meeting to protest a threat to drain the cedar swamp on the former reservation. His announcement described the meeting as ‘called by the council of the tribe’ . . . . No definite evidence of any follow-up was found, although the swamp was never drained.” (Narragansett PF 1982, 13)
  - ▲ “Evidence of informal but effective political process is demonstrated by the group’s ability to resist strong government and economic pressures from the 1940's to the 1970's against maintenance of the village community at Furnace Creek. The community was evidently held together by a core of older individuals. . . .” (Death Valley Shoshone PF 1982, 5)

- ▲ “The group has acted as a community to defend its land. . . .” (Tunica-Biloxi PF 1980, 4). *Note: The context for this conclusion was provided in the Historical Technical Report:*

“In 1826 and in the 1840's the Tunicas acted as a group to prevent encroachment on land held by them in common.” (Tunica-Biloxi PF 1980, HTR 1)

- ▲ “Coordinated group actions include the pooling of resources for the original purchase of land when the community was formed, the building of a church and school building, the management of the group's crab fishing, the group's efforts . . . at seeking payment for claims. . . . The group currently operates the community water system. . . .” (Jamestown Clallam PF 1980, 4)

Evidence that has NOT been accepted under the criterion:

- ▼ “The precedent of a petitioner acting as a community to defend its land, as in the Tunica-Biloxi petition, may apply to the cemetery issue in the Muwekma case, but only during the 1960's and early 1970's. This applicability of this precedent is limited because of the actions of one family to gain title to and control over the cemetery as a non-profit organization separate from the petitioner.” (Muwekma FD 2002, 137). *Note: See, Tunica-Biloxi PF 1980, 4.*
- ▼ “The petitioner cites as precedent that the Narragansett petitioner held a large tribal meeting on a crucial issue. In contrast to the cited precedent, however, the evidence in the Muwekma petition does not indicate that a meeting about the cemetery issue in the 1960's was ‘called by the council of the tribe’.” (Muwekma FD 2002, 138). *Note: See, Narragansett PF 1982, 13.*
- ▼ “There was no evidence submitted concerning any mobilization of resources from members of family lines ancestral to the STI [petitioner] for any common purposes from the mid-19<sup>th</sup> century until the formation of the Steilacoom claims organization in 1925.” (Steilacoom PF 2000, 14). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The limited data available indicates that most of the current activities of the STI [petitioner], such as the museum and cultural center, are conducted by only a small number of the members.” (Steilacoom PF 2000, 14). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “From the 1940's through the mid-1970's, the Duwamish Tribal Organization's members took no collective action in commercial fishing or in fishing rights issues. Individual members reported that, during the 1960's and early 1970's. . . . they conducted commercial fishing, as individuals, together with Indians living on



reservations. There is no evidence, however, that the Duwamish Tribal Organization's council regulated or supported these activities in any way. There is also no evidence that commercial fishing was an issue of importance among a significant portion of the membership at this time." (Duwamish PF 1996, 16)

**(c)(1)(ii) Members consider issues acted upon by group leaders to be of importance:**

- "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important." (Snoqualmie PF 1993, 25)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ "From the mid-1930's through the 1950's, the evidence indicates that many members of Joseph Dussome's organization, which represented a portion of the petitioner's ancestors, considered the organization's efforts to obtain land or other economic benefits to be 'of importance' to them (§83.7(c)(1)(ii)). . . . Since about 1970, many members have considered the organization's efforts to obtain Federal services to be 'of importance' to them (§83.7(c)(1)(ii))." (Little Shell PF 2000, 35). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ "This evidence demonstrates recurring political conflict over significant issues such as maintenance of tradition in the style of governance, the chairman's role versus the council's role, and how to approach fishing rights. . . . The strongest evidence concerns 1978 to the present, but there is good evidence of conflicts over the issue of maintenance of tradition in style of governance since the late 1960's." (Snoqualmie FD 1997, 13)
- ▲ ". . . in the 1930's, Council activities included inconclusive consideration of assertions by Wannassay family descendants that they had recently been defrauded of land. . . ." ¶ "Other activities included Tribal-level action to advocate for subsistence fishing and protection of family burial plots. Families from all Cowlitz subgroups fished the Cowlitz River to supplement subsistence, as late as the 1950's. . . . The Cowlitz Tribal Organization, in 1934, passed a resolution . . . to protest the increased regulation of fishing by the State of Washington. In 1955, the Cowlitz Indian Tribe (CIT) sued the City of Tacoma in an attempt to mitigate damages to family burial sites and subsistence fishing from the proposed Mayfield Dam. These incidences show that the Tribal Council attempted to advocate on behalf of its membership to protect activities of importance to all members. . . ." (Cowlitz PF 1997, 37)
- ▲ After 1951, "The council pursued goals which reflected significant interests and concerns of the membership." (Samish FD 1995, 7)

- ▲ “Documentation exists which indicates that the HPI [petitioner] membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance, thus meeting criterion 83.7(c)(1)(ii).” (Huron Potawatomi PF 1995, 17) *Note: The PF cites an attempted merger with another Potawatomi group (1987-1991) and a dispute (1972-1992) over whether there should be common ownership or an individual division of lands held in trust for the band by the State (pp.17-20).*
- ▲ “The Mohegan council continues to hold meetings and address issues of importance to the Mohegan as a whole. These issues are the same issues that have been significant to the Mohegan throughout this century: the traditional Mohegan burial grounds, the Mohegan Congregational Church, accuracy in educating Mohegan and non-Mohegan about their history and culture, and the Mohegan land claim.” (Mohegan FD 1994, 26)
- ▲ “Hunting and fishing rights were of great importance [during the tenure of chief Kanim, 1914-1956] because the Snoqualmie hunted and fished extensively for subsistence purposes. Access to traditional hunting and fishing grounds was becoming increasingly limited because of competition with non-Indians and increasing restrictive game and fish laws. Land and hunting and fishing rights were thus clearly issues of significance and concern to the Snoqualmie as a whole.” (Snoqualmie PF 1993, 25)
- ▲ “. . . there is good evidence that fishing rights is a political issue of substantial significance and concern among a wide portion of the Snoqualmie [until the present] because the effective loss of access to these rights is recent and there is continued widespread interest among the members.” (Snoqualmie PF 1993, 30)
- ▲ “There is reasonably strong evidence that in the 1930's the issues of preservation of hunting and fishing rights, and the loss of Miami land . . . as a result of the 1897 solicitor's opinion, were important among the Miami members as a whole. Much of the Miami population was of the generation that had lived in the land-based communities which broke up after the land was lost. Interview data indicates that hunting and fishing were still important as economic activities for many Miamis in the 1930's. The actions of Miami leaders and organizations concerning hunting and fishing rights were a direct response to restrictions of Miami rights as a result of changes in defacto policies of State and local authorities in the 1930's. Thus leaders and organizations acted on issues that were of direct and immediate importance to a significant portion of the Miami.” (Miami FD 1992, 17)

Evidence that has NOT been accepted under the criterion:

- ▼ “No evidence in the available record describes or implies any role by any political leaders or members of a Burt Lake or Cheboygan band in persuading the United States Attorney to file a lawsuit against John McGinn to obtain the return of the State trust lands at Burt Lake.” (Burt Lake Band PF 2004, 63; see also, 69). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner has not demonstrated that the claims issue and the right to hunt and fish without a license were significant political issues among most members of STI [petitioner], or that concern over the issues ever resulted in conflicts or controversy about how the claims were proceeding or what steps the leadership should take.” (Snohomish FD 2003, 43)
- ▼ “The oral history interviews provide evidence that those individuals who participated in a meeting about the [Mission’s Indian] cemetery, probably in 1965, considered the cemetery dispute to be an issue of importance to them. . . . The available evidence indicates that a group meeting about the cemetery issue was a limited occurrence, and does not demonstrate that group meetings or activities continued after this brief period of activity in the 1960’s.” (Muwekma FD 2002, 114; see also, 116-117, 127)
- ▼ “. . . as there is no evidence as to the individuals or family lines involved in the attempt to organize a ‘Steilacoom Tribe of Public Domain Indians of Washington’ from 1936 through 1941, it is impossible to determine whether the activities of the leaders of this group, primarily LaTour descendants, were considered to be of importance by the members of other STI [petitioner] ancestral family lines.” (Steilacoom PF 2000, 15). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The activities of the current STI [petitioner] leadership have focused on the issues of Federal acknowledgment and representational and educational activities directed at the wider community. There is insufficient evidence to determine that most of the membership considers these issues important.” (Steilacoom PF 2000, 15). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “[Carleton] Rhoades was chairman in 1978 when he became embroiled in a controversy over an article he wrote in the newspaper. . . . Some council members were angered that Rhoades had written the article in a way that suggested his views were the official views of the Chinook Indian Tribe. . . . [I]t is not clear whether Rhoades resigned or was forced out of office. . . . The evidence presently available makes it appear that the issue of Rhoades’ allegedly speaking for the group without prior authorization was a matter of concern to only a handful of council members.” (Chinook PF 1997, 33)

- ▼ There was, 1880-1930, “neither evidence that indicates what political issues were important for the UHN [petitioner] ancestors nor that there were differences of opinion on such issues.” (Houma PF 1994, 20). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “There was no evidence [after the early 1940's] that hunting and fishing rights and the loss of Miami lands because of nonrecognition continued to be important as political issues. Protection of Miami cemeteries appeared to be largely the concern of the specific kin groups whose ancestors were buried in a given cemetery, rather than involving a broader spectrum of the membership.” (Miami FD 1992, 17-18; see also, 21)
- ▼ “The leadership . . . has only represented the membership for very limited purposes, primarily for organizing annual celebrations and creation of an acknowledgment petition.” (Principal Creek Nation PF 1984, 3)

**(c)(1)(iii) There is widespread communication and involvement by most members:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “From the mid-1930's through the 1950's, the evidence indicates that many members of Joseph Dussome’s organization, which represented a portion of the petitioner’s ancestors, . . . were involved in ‘political processes’ (§83.7(c)(1)(iii)) through the activities of area representatives or fund raising activities. After 1955 there is evidence that ‘political processes’ (§83.7(c)(1)(iii)) continued with area representatives communicating local opinion on political issues to the council and information from the council to members. . . .” (Little Shell PF 2000, 35). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . the active communication and interaction among members of subgroups promotes informal political activity within each group and supports participation of individuals from each subgroup in the larger political arena of the tribe. This final determination finds that subgroup activity is supporting evidence for meeting 83.7(c).” (Cowlitz FD 2000, 14-15; see also, 16)
- ▲ “These activities indicate that the general membership is well informed and concerned about tribal business and is involved in the political processes of the tribe; they are evidence to demonstrate that CIT [petitioner] meets criteria (c) [*sic*] at present.” (Cowlitz FD 2000, 16)
- ▲ The evidence includes descriptions which show that political communication and “political processes are carried on by segments of the membership, not by individual

leaders and not solely at meetings or other formal events. They show that there has been interest, debate and communication which involved more than the leadership. The role of family-line groupings in mobilizing political support is further evidence that social and political ties and political opinion extend beyond the immediate council and chairman and, hence, that communication between leaders and followers occurs.” (Snoqualmie FD 1997, 15)

- ▲ “The wide involvement of MBPI [petitioner] members in acting together [in 1992 and 1993] to leave HPI [Huron Potawatomi], to formally organize MBPI, and, to reorganize MBPI’s leadership, provides evidence under 83.7(c)(1)(ii) and (iii).” (Match-e-be-nash-she-wish Band PF 1997, 15-16)
- ▲ “There is documentation to indicate that the membership . . . participated in, the activities of the [post-1970] corporate body. In 1972, 102 HPI [petitioner] adults signed a petition requesting that the group be allowed to organize under the IRA. The precise population of HPI adults in 1972 is not known, but as late as 1978, there were only 217 adults, of whom 191 qualified as voting members. . . . Approximately 34 percent of the adult members who were not on the council are documented as having attended one or more meetings during the 1970’s.” ¶ “In the 1994 election, 80 persons registered to vote and approximately 50 voted.” (Huron Potawatomi PF 1995, 16)
- ▲ “The council has made repeated attempts to involve the membership in committee service, with some degree of success. There have been multiple sites for council meetings, in at least three of the six HPI [petitioner] geographical areas. . . . The council has maintained a long-term newsletter distributed to all members.” (Huron Potawatomi PF 1995, 16)
- ▲ “One of the best examples of member participation in group governance has been the [Indian] parents’ committee [advising the local school board]. . . . Correspondence and minutes of the parents’ committee meetings [show] regular activity since at least 1985. Each year the committee decides how to distribute grant money to children of members for school supplies and expenses.” [p.9] ¶ “Significant numbers of the membership are involved in the parents’ committee and other activities that provide for the welfare of the membership.” [p.10] (Jena Choctaw PF 1994, 9, 10)
- ▲ “Election results confirm that members participate in their tribal organization.” (Jena Choctaw PF 1994, 10)
- ▲ “. . . each chairman or chief has sent letters to the membership advising them of upcoming elections, activities, or concerns that need to be addressed by the membership. . . . [T]he current chief has concluded his letters to members by inviting them to drop by the tribal office to discuss their concerns and to ask their questions.”

- ¶ “There is widespread knowledge, communication and involvement by most of the membership in the political processes.” (Jena Choctaw PF 1994, 10)
- ▲ “Between 1914 and 1916, a political reorganization of the Snoqualmie tribe took place. The first stage of the reorganization was the naming of Jerry Kanim as chief. . . . Kanim was sought out by the Snoqualmie to be leader and he acquired political influence over the course of several years before being put into office. . . . The process of his becoming chief is in itself evidence of significant political processes because it required a major mobilization of community opinion and the existence of shared community values concerning leadership.” ¶ “The second stage of the reorganization was the institution of a formal governing council, with a chairman and council members elected by the members, and a general council of the members as a whole. These changes were made after a lengthy political process of meetings and discussion among a substantial portion of the membership, taking place over two weeks. They are thus in themselves strong evidence for the exercise of political influence within the Snoqualmie.” (Snoqualmie PF 1993, 24)
- ▲ Since the 1960's, “Attendance at [general membership] meetings ranges from 10 to 35 percent of the membership, depending in part on the importance of the issues to be discussed. . . . [A] significant portion of the membership participates and . . . participation is broadly distributed among the membership.” (Snoqualmie PF 1993, 29). *Note: See also, comment in Muwekma FD 2002, 134-135.*
- ▲ Since 1972, “all but one of the town selectmen have been tribal members, . . . many of the town officers have been closely related to Tribal Council leaders, and . . . tribal members continue to [demonstrate] great interest and participation in the affairs of town government [controlled by the tribe].” (Wampanoag of Gay Head FD 1987, 11). *Note: This text cites the PF technical reports (PF 1986, TR 6, 45, 69-70).*
- ▲ The petitioner “shows that the social networks which it has illustrated are also used for political purposes. The town officers [who are tribal members] use these networks to disseminate information about important issues and to muster votes and attendance at town meetings. The WTCGH [petitioner] use the networks for the same purposes. . . . [T]hese lines of communication are also probably used to bring issues and opinions to the attention of tribal/town leaders.” (Wampanoag of Gay Head FD 1987, 13)
- ▲ “The Tunicas have selected their chief by tribal election since at least the early 1900's. . . . In 1974, the practice of electing chiefs ended when the Tunicas changed to an elected council form of government.” (Tunica-Biloxi PF 1980, 4)

- ▲ “Since 1874, when the Jamestown community was formed, there has been a definite leadership which was chosen by the community. . . .” (Jamestown Clallam PF 1980, 3)

Evidence that has NOT been accepted under the criterion:

- ▼ “Information presented by the petitioner does not indicate a substantial number of members were taking part in the political processes of the group. Meeting minutes during this era [1970-1983] reflect only a small number of members in attendance at the group’s annual meeting. . . . Attendance at monthly council meetings, which were open to members, also does not appear to involve a significant number of members. . . . There is also no evidence to demonstrate political activity outside of meetings.” (Snohomish FD 2003, 44; see also, 45)
- ▼ “None of those individuals [writing the constitution in 1991] were identified as tribal members. . . . That the petitioner’s paid or volunteer employees, consultants, and [legal] counsel developed its constitution is not a problem for acknowledgment. But their activities alone do not demonstrate widespread involvement of the members in the constitution’s development.” ¶ “. . . evidence showing that an employee presented a document and that it was accepted by a small group of people, without other evidence of widespread discussion or collaboration involving most of the membership, is not evidence sufficient to meet criterion (c) because it does not show political influence flowing back and forth between a predominant portion of the group’s members and the group’s leaders.” (Muwekma FD 2002, 131)
- ▼ “The petitioner claims that this list of signatures [in a funeral condolence book] provides evidence under sections 83.7(c)(1)(iii) and (c)(2)(iii) in that it . . . shows the ‘influence of elders as leaders, in that family heads were persuaded to provide support to [a] tribal effort.’ However, the funeral book itself does not show this. The vast majority of individuals attending were closely related to” [the spouse of the deceased.] (Muwekma FD 2002, 132; see also, 113, 118-119)
- ▼ “The petitioner believes that his [Lawrence Nichols] 1996 obituary demonstrates evidence under sections 83.7(c)(1)(iii) and (c)(2)(iii) by showing strong influence on the behavior and norms of the group. However, nothing in the obituary implied that Nichols influenced or was influenced by group leaders or group members, that other Ohlone individuals organized his funeral or provided his obituary, or that he had participated in an Indian entity. Thus, in itself, and in combination with other evidence, this evidence does not contribute to meeting criterion (c).” (Muwekma FD 2002, 132)
- ▼ A BIA analysis showed that “only 20 individuals (5 percent) of the entire membership were responsible for 805 (or 76 percent) of the documented instances of

participation during this 11 year period [1990-2001]. Almost 75 percent of the group's membership were never documented as participating in any group activity between 1990 and 2001. Thus, the percentage of Muwekma members participating does not constitute a predominant proportion of members as required by the regulations." ¶ "There is no expectation that large percentages of members would attend [individual] events, such as the annual meeting. But, some data or combination of data needs to show that . . . a predominant number were involved in group activities. . . . [That] five out of six of the highest participating members. . . . come from a single [extended] family does not indicate widespread, significant participation of members." [p.135] ¶ "The available evidence indicates that since 1990, participation in the petitioner's activities has been mostly by a core group of 20 individuals, especially by five individuals from one extended family. A predominant portion of the petitioner's membership has not participated in the group's activities." [p.136] (Muwekma FD 2002, 135, 136). *See also: PF 2001, 38.*

- ▼ The petitioner "cites the Snoqualmie petition as precedent that political influence can be demonstrated by evidence of a 'a lengthy political process of meetings and discussion among a substantial portion of the membership.' The available evidence, however, shows the petitioner's chairman and a few members and employees presenting resolutions and plans without evidence of widespread knowledge and participation of the petitioner's membership. Thus, in contrast to the cited precedent, the evidence does not show that the Muwekma petitioner has had . . . such a lengthy process of meetings and discussions among members. . . ." (Muwekma FD 2002, 137-138). *Note: See, Snoqualmie PF 1993, 24; see also, Grand Traverse Band PF 1979, 6.*
- ▼ "The petitioner measures members' or ancestors' participation by their application for Indian claims or their appearance on a list of the AIHS [American Indian Historical Society]. However, neither of those sources shows actual participation in a political process *within* the petitioning group. Thus, this evidence does not show that the situation of this petitioner is comparable to that of the cited precedent." (Muwekma FD 2002, 138)
- ▼ In the transcript of the 1954 annual meeting, "It should also be noted that the people attending the meeting introduced themselves to each other, as if they did not know each other." (Duwamish FD 2001, 59)
- ▼ "The STI [petitioner] has a newsletter distributed to the membership. However, beyond this effort of the leaders to communicate with the members, the STI did not submit and the BIA did not locate evidence that demonstrated widespread knowledge of and communication concerning political processes among the members. . . . Of the 612 members, approximately 30 attend meetings." (Steilacoom PF 2000, 15). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*



- ▼ “There is very little information available about the internal political processes of the petitioner from 1970 to the present. . . . There is very little information available regarding whether or not there is two-way communication between the council and the members, how broad the influence of the Chinook council is, and how effectively the council carries out the wishes of the members.” (Chinook PF 1997, 32)
- ▼ Annual meeting minutes, available from about 1939, “indicate that this organization played a very limited role in the lives of its members. The annual meetings generally consisted of a presentation by the chairman or chairwoman, reports by the organization’s claims attorneys, and a few motions on pending business. This business consisted of formal action to elect officers, accept new members, endorse attorney contracts, or delegate members to attend inter-tribal meetings. . . . Such activities are indicative of . . . [a] voluntary organization. . . .” ¶ “No evidence indicates that the general membership was involved actively in decision-making.” (Duwamish PF 1996, 15)

**(c)(1)(iv) The group meets the criterion in § 83.7(b) at more than a minimal level:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Because the evidence shows that the MBPI [petitioner] met criterion 83.7(b) at more than a minimal level, this is also one form of evidence that can be used in combination with another form of evidence to demonstrate that the petitioner meets criterion 83.7(c).” (Match-e-be-nash-she-wish Band PF 1997, 13)
- ▲ “As the petitioner meets criterion 83.7(b) with extensive evidence until 1960, under 83.7(c)(1)(iv) it meets criterion 83.7(c) during the same time period.” (Huron Potawatomi PF 1995, 15).

Evidence cited in 83.7(c) as meeting 83.7(b) at “more than a minimal level”:

*Demonstrating many forms of evidence under section (b)(1):*

- ▲ For the period since 1957, “the MBPI [petitioner] provided significant evidence under 83.7(b)(1)(vii) because of continued native language proficiency among adults from 1957 until 1972. Additionally, until 1964, the petitioner provided evidence under 83.7(b)(1)(i). . . . MBPI provided evidence under 83.7(b)(1)(ii), . . . 83.7(b)(1)(iii), . . . and 83.7(b)(1)(viii). . . . Based on this combination of evidence, petitioner meets criterion 83.7(b) at more than a minimal level.” (Match-e-be-nash-she-wish Band PF 1997, 16). *Note: The petitioner met criterion (c) until 1957 because it met section 83.7(b)(2) until that date.*

*83.7(b)(1)(i) - more than 50 percent culturally patterned marriages:*

- ▲ “. . . through 1964, more than 50 percent of the new marriages of HPI [*sic*] members were either within the band or were culturally appropriate, patterned out marriages to other Michigan Indian groups. . . . Thus, the MBPI [petitioner] marriage pattern does provide a significant level of evidence for community as late as 1964, as specified under 83.7(b)(1)(i).” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “Until 1960, more than 50 percent of the new marriages of HPI [petitioner] members were either within the band or were culturally appropriate, patterned out marriages to other Michigan groups. . . . Therefore, the HPI meets criterion 83.7(b)(1)(i) with significant levels of evidence as late as 1960.” (Huron Potawatomi PF 1995, 11)

*83.7(b)(1)(vii) - more than 50 percent language use by adult members:*

- ▲ “. . . the group also continued customary use of the Potawatomi language (a majority of the adult members were Potawatomi speakers) as late as 1972, thus providing a significant level of evidence for community as specified under criterion 83.7(b)(1)(vii) to that date.” (Match-e-be-nash-she-wish Band PF 1997, 7-8)

*83.7(b)(1)(viii) - significantly longer than the required 50 years:*

- ▲ “The MBPI [petitioner] have had a named, collective Indian identity continuously from the 1820's to the present, a period of significantly more than 150 years, thus showing a significant level of evidence for community listed under criterion 83.7(b)(1)(viii).” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “. . . the HPI [petitioner] have had a named, collective Indian identity continuously since 1842, a period of significantly more than 50 years, thus meeting criterion 83.7(b)(1)(viii).” (Huron Potawatomi PF 1995, 10)

Evidence cited in 83.7(c) as “supporting evidence” from 83.7(b):

- “The presence of strong social connections, when taken together with more direct evidence of political processes, would provide strong supporting evidence that significant tribal political influence is exercised.” (Miami FD 1992, 18)

Evidence that has NOT been accepted under the criterion:

- ▼ “By significantly exceeding the requirements of the criterion, those petitioners [Huron Potawatomi and the Match-e-be-nash-she-wish Band] were determined to have met criterion 83.7(b) ‘at more than a minimal level’ of evidence. [¶] The

evidence relating to the Muwekma petitioner does not fit this model. . . . Because the evidence is not sufficient to meet criterion 83.7(b) ‘at more than a minimal level,’ it does not carry over to criterion 83.7(c) as one form of evidence under section 83.7(c)(1)(iv).” (Muwekma FD 2002, 109; see also, 139)

**(c)(1)(v) Internal conflicts show controversy over group goals or decisions:**

- “. . . factions are defined as political groups which persist over time, cross kinship lines, and are concerned with more than one issue. . . .” (Huron Potawatomi PF 1995, 17)
- “Such [subgroup] divisions, if they can be clearly demonstrated to exist, are manifestations of consistent alignments of tribal members in political conflicts within a single, cohesive, social community.” (Miami FD 1992, 22)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ There is evidence that members were “politically involved in important ‘internal conflicts’ (§83.7(c)(1)(v)) during the 1990's by removing the organization’s officers and changing its electoral procedures.” (Little Shell PF 2000, 35). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The subgroups form a single political system . . . despite the presence of conflicts among important and politically active segments of the tribe, which are resolved by the group as a whole. Evidence of . . . dispute resolution on a tribal level at present provides supporting evidence that the petitioner meets 83.7(c).” (Cowlitz FD 2000, 15)
- ▲ “Internal conflicts in the 1970's demonstrated the involvement of a broad spectrum of the STO [petitioner] membership in its political processes.” [p.7] “. . . conflicts within the STO in the 1970's over control of the STO and over what the blood degree requirement should be for membership have the character of political conflicts between interest groups or subdivisions with the STO.” ¶ “Relatively large numbers of individuals were involved. This series of conflicts shows the mobilization of political interests of large sections of the membership over a sustained period.” [p.10] (Samish FD 1995, 7, 10)
- ▲ “During the past 15 years, the HPI [petitioner] have experienced factional divisions. . . . [T]he major factions have been represented by the Christian conservatives, the Indian traditionalists, and the younger generation. These factions have had major impact on political interactions within the group, leading to challenged elections, at least one extra-constitutional change of leadership, and

significant conflicts over major issues.” ¶ “Examples of such controversies . . . include the refusal of permission for an Indian traditionalist to be buried in the Pine Creek cemetery, which has always been closely affiliated with the conservative Christian Indian mission church on the reservation. Another was the differences of opinion in the late 1970's over the War on Poverty initiatives, which were initiated by members of the younger generation, and resented by many of the Pine Creek residents themselves.” (Huron Potawatomi PF 1995, 17)

- ▲ “Political factions that cut across the Jackson and Lewis family lines have developed over disagreements on access to the facilities at the tribal center, use of grant funds, and the regularity of tribal meetings. Despite the distinct factions within the tribe, the legitimate authority of the current tribal government to represent the tribe’s interests to outsiders is not questioned.” [pp.9-10] ¶ “Internal conflicts over leadership style and tribal policies generate interest in tribal governance.” [p.10] (Jena Choctaw PF 1994, 9-10)
- ▲ “Generational conflicts over political issues have been evident in Snoqualmie political processes since the 1968 election. . . . Several examples were evident during the 1970's, involving representation on the council, the form of governance, and the approach to seeking restoration of fishing rights. These conflicts have taken a form which indicates that a broad spectrum of public opinion among the Snoqualmie is involved rather than just the actions and opinions of particular individuals.” (Snoqualmie PF 1993, 29-30)
- ▲ “Subgroup distinctions” and divisions “provided evidence . . . that a system existed, within which there was conflict, before the early 1940's.” (Miami FD 1992, 22)
- ▲ “The community has suffered from a severe factional division, partly corresponding to family and tribal lines, since the 1920's. The conflict appears to be one within the political system of a community rather than a break in the community. In the past, orderly transitions of chieftainship and also the appointment at times of a subchief, have been used to deal with the factional problem.” (Tunica-Biloxi PF 1980, ATR 3)

Evidence that has NOT been accepted under the criterion:

- ▼ “Neither the [petitioner’s] interviews from 1996 nor those conducted by OFA in 2003 identified any substantive political debates or discussions occurring during this time [1983-2003], or demonstrated any internal conflicts that show ‘controversy over valued group goals, properties, policies, processes, and/or decisions’ [83.7(c)(1)(v)].” (Snohomish FD 2003, 45)
- ▼ “The evidence submitted by STI [petitioner] and located by the BIA has indicated that the petitioner has had very few conflicts and controversies within the

organization since the beginning of the keeping of organizational minutes.”  
(Steilacoom PF 2000, 15). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “Based on the limited information submitted by the petitioner, it is not possible to determine if the major divisions which have surfaced in the UHN [petitioner] organization are due to factionalism; that is, if they are based on strong and long-lasting political opinions.” (Houma PF 1994, 22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “. . . subgroup conflicts between the 1940's and the early 1970's continued and were sometimes bitter. . . . Evidence about subgroup distinctions and conflicts based on them . . . was not adequate in itself to demonstrate significant political processes, given the absence of other, clear evidence of the exercise of political influence. . . .” [p.22] ¶ “Direct evidence was very limited which indicated the involvement in the conflict of Miamis not officers of the organizations.” [p.23] (Miami FD 1992, 22-23)

**(c)(1) Other evidence the petitioner meets the definition of “political influence”:**

**(c)(1) Other evidence – bilateral political relationship:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The Tribal and General Council have responded to demands from the general membership to broaden the focus of CIT [petitioner] activities, and to intervene in other matters of concern to the general membership. This process provides evidence, most clearly laid out in the oral interviews, for . . . leaders’ influence on the membership, members’ influence on the policies of the governing body, and acknowledgment of leaders by followers. . . .” (Cowlitz FD 2000, 17). *See also: PF 1997, 41-42.*
- ▲ “The impact of [Lewis] Church’s leadership was demonstrated, in part, by the MBPI [petitioner] members’ ‘refusal’ to allow Church to retire in 1990. At the request of [the] MBPI community . . . Church continued as minister at the two missions for an additional two years. . . .” (Match-e-be-nash-she-wish Band PF 1997, 14)
- ▲ After 1951 a formal council was established which has been demonstrated to have had significant support of, and contact with, the STO [petitioner] membership.” (Samish FD 1995, 7)
- ▲ “. . . evidence indicates that the actions of the leadership are subject to sanctions from the membership as a whole.” [p.17] ¶ “It was the [attempted] merger [with another Potawatomi group] which led, in considerable part, to [chairman] Mackety’s defeat in

the April, 1991, election.” [p.18] ¶ Also, by 1985, “Mackety chose to back the [individual] ‘heirship rights’ of the residents [of lands held in trust for the band by the State]. . . .” ¶ “After Mackety’s defeat in the April, 1991, HPI elections. . . . [the tribal council] expunged from the record [a previous council resolution to withdraw the State trust lands from consideration for Federal trust status].” [p.19] (Huron Potawatomi PF 1995, 17-19)

- ▲ From at least the 1960's until the present, “The general membership meeting (general council). . . . is the final arbiter of political issues and conflicts. The general council meeting provides clear evidence that there is a bilateral political relationship between Snoqualmie members and the tribe. More particularly, it connects the tribal council and the chairmen to the membership, both by electing them and by reviewing actions which are considered critical or controversial. The expectation and experience of Snoqualmie leaders is that the general council is a forum where public opinion is brought to bear.” (Snoqualmie PF 1993, 28-29)
- ▲ “A strong demonstration of internal political influence occurred in 1980 when community opinion was mobilized to oust the chairman. . . . This ouster is an especially significant exercise of political influence because there was no formal provision, nor precedent, for such an action. The ouster brought one of the highest turnouts at a general council meeting. The turnout, as well as interview data, indicate that there was extant community opinion about the chairman’s actions. This opinion was presumably communicated informally. This illustrates the existence of the flow of political opinion and thus a bilateral political relationship. . . .” (Snoqualmie PF 1993, 29)

Evidence that has NOT been accepted under the criterion:

- ▼ “The problem is that the evidence does not describe the group, or ‘followers,’ behind these purported leaders and the bilateral political relationship between individual leaders and followers. Leaders sway followers and followers influence leaders in bilateral political processes.” (Burt Lake Band PF 2004, 62; see also, 81). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner notes that precedent requires the existence of a ‘bilateral political relationship’ between leaders and followers. . . . Although the petitioner asserts that its leadership acts according to the direction of its membership, the available evidence for the Muwekma petition, both historically and at present, does not show that members brought public opinion to bear on leaders and that leaders were responsive to the concerns of members.” (Muwekma FD 2002, 138)

- ▼ “. . . the evidence that is available makes it appear that the work of the committees was the work of a few individuals without input from the membership as a whole. . . .” (Chinook PF 1997, 33)
- ▼ “. . . affidavits also stated that the Duwamish decision to intervene [in *United States v. Washington* in 1974] had been made by a single individual, chairman Willard Bill. When the Duwamish failed to submit the paperwork which would have allowed members to exercise temporary fishing rights, Bill explained that the default was due to his personal inability to complete the task. Bill’s successor . . . complained that these important decisions had been made by a single individual. . . . [This evidence demonstrates] a lack of involvement from other members of the organization.” (Duwamish PF 1996, 16)
- ▼ “From 1972 to the present, there is little or no evidence that there is a significant, broad-based bilateral relationship between the leaders of the formal organization and the UHN’s [petitioner’s] members. . . . Meetings have not been well attended and only [a] few people have voted in elections. Decision-making was performed by only a few people and did not appear to incorporate the opinions of the organization’s membership widely. No evidence was presented or found that the urban portion of the membership that lives around New Orleans (approximately two-thirds of the total UHN members) is involved in the political process.” (Houma PF 1994, 21-22).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The present council has only weakly developed processes linking the leadership with the membership. Council members are usually picked by the council itself. . . . It appears that council members have almost no political contact with the kin group they are considered to represent except for the portion most closely related to them. . . . There was no evidence submitted that Miamis as a whole are generally aware of or affected by council activities in significant ways.” [p.23] ¶ “. . . the available evidence was that the council members had little contact with most of the constituency they were said to represent.” [p.24] (Miami FD 1992, 23-24)
- ▼ “The membership has not played a significant role in the actions of the chief and the organization’s council” (Principal Creek Nation PF 1984, 3)
- ▼ In “19th-century localities which included the ancestors of the current group. . . . These Indian descendants . . . did not maintain significant social ties with the main body of the Snohomish tribe on the Tulalip Reservation. . . . Thus they cannot be considered to have been integrated into the political body of the historic Snohomish tribe nor to have been under the influence of the clearly recognizable Snohomish tribal leaders of the time.” [p.15] ¶ “The ancestors of the current group were not politically integrated with the historic Snohomish tribe or under its leadership.” [p.17] (Snohomish PF 1983, 15, 17). *See also: FD 2003, 38, 40.*

- ▼ “The character of the [petitioner’s] present membership is outside any concept of a tribal community, with much of the membership having little contact with the other members or with the formal organization. There is no evidence that the large majority of the membership has any significant contact with the leadership or that they have influenced or been influenced by the decisions of the council.” (Snohomish PF 1983, 17)

**(c)(1) Other evidence – claims organizations:**

- “Although claims activity may provide evidence of political authority, claims activities in and of themselves are not sufficient evidence of political influence and authority between the leaders of a claims organization and the membership.” (Snohomish FD 2003, 43)
- “. . . the Department has not viewed evidence of claims activities, by itself, as sufficient to demonstrate criterion (c). . . . Because a claims judgment award may be distributed based on Indian ancestry, without regard to present-day tribal relations, the Department has taken the position that claims activity is not *inherently* a political activity. Thus, the Department has found it necessary to look behind the existence of the claims organization and to engage in a fact-specific analysis. . . .” [p.41] ¶ “To summarize, the character and evidentiary weight to be afforded claims organizations and their activities depends on specific evidence in addition to the existence of such organizations. . . .” [p.42] (Chinook RFD 2002, 41-42)
- “. . . the original Final Determination improperly departed from the regulatory standard by assuming, rather than demonstrating with evidence, that Chinook claims activities were based upon the existence of a bilateral political relationship between the claims organization and its members, and that they reveal the political influence of the petitioning group over its members.” (Chinook RFD 2002, 100-101)
- “The activities of claims organizations . . . are limited in nature and do not in themselves constitute a bilateral political relationship between the leaders and the membership.” (Steilacoom PF 2000, 18). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Pursuit of claims is not in itself evidence for or against meeting criterion 83.7(c). What is necessary is to demonstrate more directly whether the issue is of importance to a significant number of the members. The nature of the claim, whether it represents a long-ago loss, or a recent one that can therefore reasonably be expected to be important to many of the membership, is also relevant to demonstrating its political significance.” (Snoqualmie FD 1997, 14; see also, TR 91)



Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “The proposed finding found that CIT [petitioner] and its predecessors were not merely claims organizations, although the CTO and CTI did pursue claims. . . . The minutes and other documents from this period [1912-1950] demonstrate that non-claims issues were dealt with by the various Cowlitz organizations. . . .” [p.14]  
“While the tribe was very involved in dealing with these claims activities, it also performed other welfare, economic, governmental and cultural functions that were significant to members.” [p.16] (Cowlitz FD 2000, 14, 16)
- ▲ A third party argued “that the STO [petitioner] was only a voluntary organization. . . . [and] that most of the activities of the STO concerned claims. . . . The proposed finding and this final determination conclude that treaty fishing rights has been shown to be a significant political issue, although it could technically be classified as a ‘claims issue’ . . . because the fishing rights were based on a treaty.” (Snoqualmie FD 1997, 14-15)
- ▲ “Although these [Government] reports [from 1953 to the 1970's] often characterized the STO [petitioner] as an organization for claims, they are contradicted by more detailed and specific evidence concerning the functioning of the STO cited in this determination. They are also contradicted by Federal Government documents from the 1930's to 1953 which clearly characterize the STO as a tribe and distinguish it from claims organizations.” (Snoqualmie FD 1997, 15)
- ▲ The “evidence demonstrates that most Mohegan adults participated in the Council of the Descendants [formed in 1967] and supported John Hamilton’s land claim activity through 1970.” [p.23] [In 1970, Hamilton was replaced as president of the Council of Descendants by Courtland Fowler. Hamilton formed a new organization to continue his land claims activity. [p.24] “But by 1980, the Mohegan majority voted to intervene on Hamilton’s land claim suits, and under Fowler’s leadership they did so.” [p.26] (Mohegan FD 1994, 23, 26)
- ▲ “The first formal leader of the Poarch Band. . . . [Calvin] McGhee also led a wider claims movement among eastern Creek descendants. . . . The movement was initiated by the Poarch community, including McGhee, and was dominated by Poarch community leaders.” (Poarch Band of Creeks PF 1983, 5)
- ▲ “Coordinated group actions include . . . the group’s efforts . . . at seeking payment for claims. . . .” (Jamestown Clallam PF 1980, 4)

Evidence that has NOT been accepted under the criterion:

- ▼ “The evidence the petitioner presented of political activity between 1917 and 1934 deals with the lobbying efforts between 1918 and 1924 of Albert Shanquet. . . . The available evidence shows that Shanquet was acting on behalf of an entity of Indian descendants that was much larger than one band, and does not show that he was acting as a band leader in these lobbying efforts.” (Burt Lake Band PF 2004, 64; see also, 69, 82). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner contends that claims activities, which in past acknowledgment cases have not been treated as being inherently group political activities, should be treated as such for this petitioner because of the ‘special circumstances’ in this case of ‘cross-lineal witnessing’ of applications over decades and the alleged claims requirement of tribal affiliation. The evidence, however, shows that ‘cross-lineal witnessing’ did not occur on the applications in the 1950’s and that ‘tribal affiliation’ was never required. The petitioner argues that ‘Elders and family heads . . . were influential in urging and supporting other members on a cross-lineal basis to support one another in the process of asserting claims. . . .’ The existence of such activities, such communications, and such influence by these ‘elders’ between 1969 and 1972, however, is asserted rather than demonstrated by the petitioner. . . .” [p.121] ¶ “The claims applications of members and their ancestors in the late 1960’s have not been shown to have been coordinated by the petitioning group.” [p.128] (Muwekma FD 2002, 121, 128; see also, 110-111, 112, 120)
- ▼ “There is some evidence of the existence of a Chinook claims organization in the years between 1925 and 1931, though there is no evidence describing how a political process within a group of Chinook descendants actually functioned prior to 1951.” (Chinook RFD 2002, 102)
- ▼ “Since the membership of the Steilacoom claims organization [1925-1941] . . . is unknown, there was no evidence submitted to show the level of support provided by its members even for this limited function.” [p.14] ¶ “. . . no evidence existed to show whether or not ‘most’ of the membership considered the only issue of interest to these organizations – namely claims – to be of importance.” ¶ “. . . that seven adult ‘Steilacoom Indians’ were present at a claims meeting [in 1925] . . . indicated that most of the adult STI [petitioner] ancestors alive at that date were not participants in the organization.” [p.15] ¶ “While the Steilacoom claims organizations that existed from 1950 through 1973 did have surviving membership lists, the meeting minutes and other records indicated that it was primarily a one-purpose organization.” [p.18] (Steilacoom PF 2000, 14, 15, 18). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The primary Miami ‘political’ activity, pursuit of claims, was not inherently, i.e., in and of itself, of such significance to the membership at large that the decisions of the

- leaders of the Miami organizations concerned with claims activities can automatically be considered sufficient evidence of exercise of political influence to meet the requirements of criterion c.” [p.18] ¶ Part of the petitioner’s evidence “consists of several lists of the membership of the [claims] organizations . . . in the late 1950's and 1960's. . . . Enrollment on such lists, however, does not in itself show more than a nominal degree of involvement. . . . Thus a bilateral political relationship with the tribe was not demonstrated by the enrollment of many Miamis in one or another organization.” [p.20] ¶ “The intensity of conflicts in the 1950's and 1960's indicates that it was of importance to those most active in the organizations, but the Miamis as a whole were not demonstrated to have a significant degree of involvement and interest.” [p.21] (Miami FD 1992, 18, 20, 21)
- ▼ “None of the formal organizations that the Tchinouk were part of for varying periods after 1922 were concerned with other than specific questions, such as treaty claims.” (Tchinouk PF 1985, 10)
  - ▼ “Tchinouk family members were part of the Consolidated Tribes of Western Oregon, formed in 1922 to pursue treaty rights. This organization . . . identified itself as Umpqua. . . . Its membership . . . was broader than the [petitioner’s] Sutherlin area.” (Tchinouk PF 1985, 9)
  - ▼ “The first formal organization and first identifiable group, the 1917 organization known as the ‘Snohomish Indian Tribe,’ was, as far as is known, solely for the purpose of pursuing Snohomish claims, although not in fact solely Snohomish in membership.” ¶ “Another formal organization known as the Snohomish Tribe of Indians was formed, probably in 1926, after the filing of the *Duwamish* claims suit in 1925.” [p.15] ¶ “The 1926 Snohomish organization was formally disbanded at the same time that the reservation government was being created [1936].” ¶ “There is no record of the 1926 Snohomish claims organization after 1935 [when the *Duwamish* case was lost].” [p.16] ¶ “The petitioner was organized in 1950 to pursue the Snohomish claim before the Indian Claims Commission. Most of its activities from 1950 to 1970 concerned the Snohomish claim and related matters.” ¶ “In summary, the current petitioning organization and the predecessor Snohomish organization which existed from 1926 to 1935 have been limited organizations which have not carried out significant governmental functions and particularly have not exercised significant political influence over the scattered and uncohesive populations in their membership.” [p.17] (Snohomish PF 1983, 15-17). *See also: FD 2003, 39-40, 43.*
  - ▼ “The Indian Claims Commission determination in 1958 that the Samish were ‘an identifiable tribe of Indians’ did not constitute a determination of the maintenance of continuity of political organization since aboriginal times. . . . The purpose of such findings was to establish standing to bring a claim, i.e., that the group is identifiable as connected with the aboriginal entity for which the claim is being made and has

group, rather than individual, claims to pursue. Claims Commission findings concerning Western Washington claims . . . used the term ‘identifiable tribe’ when the claim was for an entity which formed a single autonomous unit in 1855 [at the time of the treaty]. Thus the term was used for the Samish who had been reduced to a single village. The Commission used the term ‘identifiable group’ for [other] cases. . . .” (Samish PF 1982, 17). *Note: (Samish FD 1995, 8). For additional discussion of claims organizations and voluntary organizations, see also, vacated FD 1987, 21, and FD 1996, 11.*

**(c)(1) Other evidence – identification by knowledgeable observers:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Strong evidence for political process among the Snoqualmie during Jerry Kanim's tenure [as chief] is that external authorities recognized his political influence. The BIA . . . consistently recognized and dealt with Kanim as a leader who represented the concerns and interests of the Snoqualmie members and exercised influence among those members. These external authorities were knowledgeable about the Snoqualmie tribe and dealt with it regularly on a variety of matters.” (Snoqualmie PF 1993, 26)
- ▲ “There is limited evidence of some continuity of leadership as well. Henry Matthews, who had been described as ‘the best man . . . in the tribe’ when he spoke for the Mohegan at a legislative hearing in 1859, was also identified in 1903 by ethnologist Frank Speck as the ‘chief’ of the Mohegan. Speck’s identification of a tribal council also suggests the historical continuity of this form of political organization among the Mohegan.” [p.6] ¶ “Speck observed in 1903 that the tribal group was governed by a chief and an advisory council of three which held meetings, sometimes at the Mohegan Church, dealing with both internal and external matters. In 1909 he also wrote that the council was elected by the membership for a set term.” [pp.6-7] (Mohegan PF 1989, 6-7)
- ▲ “. . . Mr. Cabral, a newspaper editor who has covered Gay Head affairs since 1972[,] wrote: ‘the town government is run by and for the benefit of the Indians. . . . decisions are made with the Indians’ joint interest exclusively in mind.’ Mr. Morgan [chairman of the county commissioners] also wrote . . . ‘I am 63 years old and I have never thought of Gay Head as being anything but an Indian town governed by Indians. . . .’” (Wampanoag of Gay Head FD 1987, 11)

Evidence that has NOT been accepted under the criterion:

- ▼ “The Proposed Finding concluded that [ethnologist] J. P. Harrington’s field notes in 1929 ‘did not contain any descriptions of Indian leaders, informal influence, group decision making, or any political process existing within a group.’ The petitioner has not directly responded to this conclusion. Rather, the petitioner states only that Harrington identified 12 Indian individuals, including individuals whose descendants are enrolled in the petitioning group. The fact that some individuals from the former rancheria at Pleasanton were still living in the area does not in itself demonstrate that a group existed that exercised political influence over its members.” (Muwekma FD 2002, 110). *See also: PF 2001, 29, 32.*
- ▼ “The petitioner cites a report by anthropologists Alfred Kroeber and Robert Heizer as new evidence. This report was published in 1970, was written in 1955, and was about 1933 data. The petitioner contends that this report identified the ‘survivorship’ of a ‘Mission San Jose / Pleasanton’ group. The report actually identified the number of individual survivors of a historical group. . . . Kroeber and Heizer provided no description or analysis of any group practices by the descendants of a historical group, or of any group leadership or decision-making process. In short, the report is absent any description of any group’s political influence over its members in either 1933 or 1955.” (Muwekma FD 2002, 113)
- ▼ “The petitioner’s new evidence for the period between the 1850's and 1920's consisted of a few reminiscences of pioneer settlers. These accounts provide little first-hand observation and mostly contain historical generalities about the Indians and Indian culture that existed at the time the non-Indian settlers arrived in the area. . . . These articles did not provide any specific accounts of Chinook tribal political activities, or even specific references to Chinook tribal leaders during the late-19th century.” (Chinook RFD 2002, 101-102)

**(c)(1) Other evidence – Indian villages or towns:**

- The proposed finding “assumed that ‘exclusive Indian villages’ maintained traditional patterns of political authority.” (Chinook RFD 2002, 101). *Note: See also the PF:*  
  
“When a petitioning group provides evidence that its members live in a distinct geographical settlement, like an Indian village, with named individuals who provide leadership . . . this is sufficient to meet the requirements of criterion 83.7(c).” (Chinook PF 1997, 24; see also, 27). *Note: This PF was made under the 1978 regulations, which did not include the provisions of sections (b)(2) or (c)(3).*

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Acknowledgment precedent accepts that group political influence and authority were maintained within historical Indian villages. . . . The geographical evidence for this settlement [at Burt Lake] makes it likely that its Indian residents exercised political influence in a historical Indian village prior to October 1900.” (Burt Lake Band PF 2004, 61). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The evidence that the petitioner’s Lower Band of Chinook ancestors continued to live in exclusive Indian villages until at least 1854, and had headmen who negotiated treaties with the Government in 1851 and 1855, is sufficient to demonstrate that the petitioner meets the requirements of criterion 83.7(c) until 1855.” (Chinook PF 1997, 27). *See also: RFD 2002, 101.*
- ▲ “The historical Samish tribe . . . was centered on a distinct settlement and had well-established traditional leaders.” [p.7] ¶ “The existence of a community with leadership before the end of the off-reservation New Guemes settlement in 1905 . . . is accepted here.” [p.8] (Samish FD 1995, 7-8). *Note: See also the PF:*

“There is good evidence of the continuance of more or less traditional leadership patterns among the Samish throughout the period of existence of the Samish Island village and the New Guemes village.” [p.15] ¶ “In summary, a clearly functioning political organization for the Samish existed . . . until the dissolution of the traditional New Guemes village.” [p.17] (Samish PF 1982, 15, 17).
- ▲ “. . . the Gay Head Wampanoags were essentially self-governing prior to 1870 when the Commonwealth of Massachusetts incorporated Gay Head as a township and it lost its status as an Indian district.” (Wampanoag of Gay Head FD 1987, 8). *Note: See also the PF:*

The Gay Head Indians “periodically petitioned the General Court of the Province of Massachusetts Bay between 1691 and 1781, and the Corporation for the Propagation of the Gospel between 1711 and 1776.” ¶ “As wards of the State, the Indians continuously petitioned the state legislature between 1785 and 1870. State records acknowledge that between 1814 and 1862, the Indian descendants at Gay Head had no state-appointed guardians and were essentially self-governing. . . . In 1862 the State imposed greater jurisdictional control over Gay Head by establishing it as an Indian district.” (Wampanoag of Gay Head PF 1986, 4)

**(c)(1) Other evidence – informal political influence or leaders:**Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “. . . there was considerable evidence of informal leadership during the period 1950-1973 by community elders. . . .” (Cowlitz PF 1997, 39). *See also: FD 2000, 17.*
- ▲ A third party argued “that, ‘Church activities do not constitute the type of “political influence” which BAR traditionally has demanded of petitioning groups’ . . . . In the case of several other petitions . . . the AS-IA has accepted church activities as demonstrating the existence of political influence or authority within the petitioning group and providing a focus of leadership. . . .” ¶ “Leadership exercised through a church, by indigenous ministers, can provide evidence under several categories mentioned in criterion 83.7(c). . . . The proposed finding concluded that the influence of the ministers extended to the community as a whole.” (Match-e-be-nash-she-wish Band FD 1998, 15). *Note: See also the PF:*

“. . . the group maintained political authority and/or influence through the indigenous leadership of the Methodist mission churches at Bradley (1879 to the present), [and] Salem (1917 to the present). . . .” [pp.11-12] ¶ “Even during the period when the licensed ministry of these missions was assigned to non-indigenous pastors (1929-1947), there were Indian lay pastors. . . . When an outside official asked either a MBPI [petitioner] member or a non-member . . . who the MBPI leader was, the official was referred to a MBPI lay or ordained minister. This held true for every decade up to the 1990’s. [¶] The leadership of all local mission church boards and committees remained in the hands of the Potawatomi community at both Bradley and Salem. . . .” [p.12] ¶ From 1958 to 1985, MBPI’s mission ministers “provided leadership throughout the MBPI community by coordinating mission-sponsored activities to assist MBPI members, including MBPI members who never or rarely attended mission services, who were experiencing economic difficulty, alcohol abuse, or health problems.” [p.13] ¶ “Except for administration meetings, church activities generally were open to all MBPI members.” [p.14] (Match-e-be-nash-she-wish Band PF 1997, 11-14). *Note: The petitioner met criterion (c) until 1957 because it met section 83.7(b)(2) until that date.*

- ▲ “. . . there is evidence that . . . Alice Jackson, [ex-leader] Chris Jackson’s widow, was a central resource for organizing economic assistance and providing services, such as delivering babies and providing traditional remedies, for the membership. . . .” (Jena Choctaw PF 1994, 7)
- ▲ “Gladys Tantaquidgeon . . . was a Mohegan socio-cultural leader. . . . Even while she was away from Mohegan Hill, Ms. Tantaquidgeon was active . . . serving as an officer in Mohegan organizations, giving lectures on Mohegan culture, and writing

reports. Since she returned to Mohegan Hill in the 1940's, she has continued to exercise influence over the Mohegan as an elder and socio-cultural leader through her work at the Tantaquidgeon Indian Museum. . . . She has also influenced decision making, such as the decision to allow John Hamilton to have a memorial service at the Mohegan Congregational Church.” (Mohegan FD 1994, 21). *Note: The FD described several individuals (three on p.21, two on p.22) as exercising such informal influence.*

- ▲ The petitioner’s response to the PF provided new information about councils and leadership and “the informal political structure of the Gay Head Wampanoags.” [p.11] ¶ “The [BAR] technical reports provided a detailed description of his [Lorenzo Jeffers’s] political activities . . . [and his] political influence or authority over Gay Head tribal members.” ¶ The petitioner demonstrated “the leadership role of Harrison Vanderhoop by indicating that his home was used as used as a town hall and community center. . . . [That] he served as one of the town selectmen. . . . served as the Chief of the Aquineah Council. . . . [and] was elected to serve as the first Chief of the Howwaswee Council.” ¶ The petitioner demonstrated “that Napoleon Madison, who served as the Medicine Man for the Howwaswee and Pawkunnawakutt councils and as a town selectman, . . . organized a number of community projects. . . .” ¶ The petitioner demonstrated “that Donald Malonson . . . [was] Chief of the Howwaswee Council. . . . [and] served simultaneously as one of the town selectman. . . . [H]e has been able to play an important role as a community mediator . . . and effecting compromise between diverse interests for the overall benefit of the tribe.” [p.12] This evidence demonstrates “the fluid pattern of tribal leadership at Gay Head.” [p.13] (Wampanoag of Gay Head FD 1987, 11-13)
- ▲ The Poarch Band “was governed by a succession of military leaders and prominent men in the 19th century. From the late 1800's through 1950, leadership was clear but informal.” (Poarch Band of Creeks FD 1984, 49 F.R. 24083). *Note: See also the PF:*

“There was generally more than one informal leader at one time, with varying degrees and scope of influence.” (Poarch Band of Creeks PF 1983, 5)
- ▲ “The band and its antecedent groups have functioned as a political unit since earliest historical times as indicated by . . . clear evidence of the traditional Shoshone pattern of informal political processes. . . .” “The largely informal political processes of the group, consistent with the traditional culture and close-knit kinship-based community, have functioned historically until the present.” (Death Valley Shoshone PF 1982, 5)



Evidence that has NOT been accepted under the criterion:

- ▼ “The petitioner claims that several letters written by Rupert Costo of the AIHS [American Indian Historical Society] demonstrate the ‘influence of Elders as leaders’ . . . [N]one of these letters referred to any individual as an ‘elder’ or described any individual’s leadership over the petitioning group.” (Muwekma FD 2002, 116)
- ▼ “. . . the petitioner’s claims of informal political processes are not verified by sufficient evidence.” ¶ “For example, [the petitioner’s researcher] discusses Frank Fowler II’s purported leadership of the Fowler extended family. . . . However, the DTO [petitioner] submitted no evidence demonstrating that Mr. Fowler or any other DTO member consulted with their extended family members concerning issues of importance to the group. . . . DTO submitted no new evidence which would demonstrate that the members from other family lines discussed their positions on issues with the head of other DTO families.” (Duwamish FD 2001, 61-62)
- ▼ “There also is very little available evidence of informal Chinook leadership in the 1920’s, 1930’s, and 1940’s, and that evidence mostly relates to a single individual, Myrtle Woodcock. . . . The available evidence does not reveal that Myrtle Woodcock Johnson exercised political influence over the Chinook descendants between 1925 and 1951 in a manner that meets the requirements of 83.7(c).” (Chinook PF 1997, 30)
- ▼ “The petition cites the mention of certain prominent individuals in newspaper accounts as patriarchs and matriarchs of RMI [petitioner] families . . . but nothing is said concerning how they might have exercised political influence nor the extent of their authority. The petition makes the assumption of tribal leadership in the 1800’s by James DeGroat (ca 1790-1860), Richard DeGroat (1802-1894), and Jacob DeGroat (1840-ca 1915) based on their ownership of large plots of land. However, without additional evidence, ownership of land, no matter in what quantity, does not necessarily imply community leadership or political authority. . . .” [p.13] ¶ “Samuel DeFreese (1818-1893), a member of the group . . . may have been a religious leader for the RMI ancestors, but he was not necessarily a political leader. As far as can be determined, he only functioned in a narrow role as pastor and did not exercise influence in other spheres of community activity.” [p.14] (Ramapough PF 1993, 13-14)
- ▼ “The petition states that the current political structure includes a division into three ‘clans.’ The ‘clans’ are geographically based groups corresponding to the three settlements, rather than kinship groups. In the contemporary RMI [petitioner] community, individual RMI members interviewed in the core area did have an awareness of their clan affiliation. There was a limited amount of evidence that these

have functioned as political units.” [p.14] ¶ “. . . the three clan division is an artifact of the 1978 RMI incorporation. There is no evidence that the RMI ancestors related to each other in terms of clans before that time.” [p.15] ¶ “The present formal governing structure, the RMI council, and associated ‘clans’ established in 1978 are claimed to have exercised significant political influence over the membership since that time. The available evidence did not adequately establish this, although there is some evidence to support it.” [p.15] (Ramapough PF 1993, 14-15)

- ▼ “No evidence, other than the petitioner’s statements, exists to definitely show any formal or informal leaders prior to Pennie Wright [1982].” (MaChis Creek PF 1987, ATR 16)

**(c)(1) Other evidence – meetings:**

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ The petitioner’s “organization held meetings attended by a significant portion of the voting members of the tribe almost annually from 1912 through 1939, and from 1950 through the present.” ¶ “When regular meetings recommenced [in 1950], the same general population attended as before the war and the same group of leaders presided.” (Cowlitz FD 2000, 15)
- ▲ The Department adopts the finding of the administrative law judge that, “There is sufficient evidence in the record to show the continuation of Samish tribal functions between 1935 and 1951. . . . There is oral history of meetings during that time and there is documentary evidence.” ¶ “There are other important reasons to believe that the Samish continued to exist as a tribe during this critical period of time. There is a continuity of leadership.” (Samish FD 1995, 8)
- ▲ “The tribe has maintained records of the minutes of its tribal council, documenting fairly regular activity since at least December 1983.” (Jena Choctaw PF 1994, 10)
- ▲ “The annual reunion, which evidently began in 1903, served at times up to around 1930 as a forum for discussing issues such as tribal status, hunting and fishing rights and claims. According to some accounts, ‘business’ or ‘council’ meetings were held.” (Miami PF 1990, 10)
- ▲ “Though evidence of specific historical instances of meetings was limited, there was ethnographic and other evidence that meetings had historically been part of San Juan Paiute political processes.” (San Juan Paiute FD 1989, 8). *Note: See also the PF:*

“An important part of the decision-making process was meetings, where all influential adults of sufficient prestige and social standing . . . could speak.” (San Juan Paiute PF 1987, x)

Evidence that has NOT been accepted under the criterion:

- ▼ “The petitioner submitted some interviews in which [two] people claim to remember group meetings during this era [1935-1950]. . . . These memories are fragmentary at best and are not shown to be shared by most members of the group. . . . There are no written records included in the submission to support the occurrence of any meetings in the 1940's. Interviews conducted by OFA in 2003 did not describe any other meetings during this era. . . .” (Snohomish FD 2003, 40)
- ▼ “The petition maintained that off-reservation Steilacoom individuals . . . [attended] meetings from the 1850's through the early 20<sup>th</sup> century with the Nisqually, Puyallup and Yakima. . . . These gatherings, however, were frequented by Indians from throughout the Puget Sound area, and were not evidence of Steilacoom political organization or activity. Also, there was no actual evidence that the petitioner's ancestors were involved in any of them.” ¶ “The petition also referred to meetings held between the 1880's and 1912 . . . for which no records were available.” [p.17] ¶ An informant “recalled meetings from 1900 through 1913 with the Puyallup and Nisqually. . . . However, her recollections resembled the known documentation pertaining to the later activities of the Steilacoom claims organizations in the 1920's and 1930's.” [p.18] (Steilacoom PF 2000, 17-18). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner contends that the Chinook formed a formal organization and a tribal council in June 1925. No contemporaneous evidence supports this claim. . . . The evidence does reveal that Chinook descendants met in April 1925 at a meeting called by the Indian agency superintendent to choose representatives to sign a contract with an attorney to bring a new suit in the Court of Claims. . . . There is no evidence that such a council of Chinook descendants had met prior to 1925, or that it met again after 1925.” ¶ “There is no available evidence of any activities of a formal Chinook tribal organization between 1925 and 1951, or even of the existence of such an entity. The only evidence of formal leadership during those years were claims made [1927-1932] by Myrtle Johnson Woodcock of South Bend that she was the Chinook president. . . . There is no evidence that Woodcock was elected to any office by the Indian descendants between 1925 and 1951. Nor is there any contemporary evidence that meetings of Chinook descendants were being held in those years.” (Chinook PF 1997, 29)
- ▼ “. . . in the period from the early 1940's to the present the annual reunion has not served any political function such as decision-making or conflict resolution. . . .”

[p.21] “The reunions were not organized by either Miami organization and, with a few exceptions, the leaders of the Miami organizations did not become reunion leaders.” [p.22] (Miami FD 1992, 21-22)

**(c)(1) Other evidence – oral history interviews:**

- A third party argued “that interview and oral history information is not valid, even when it concerns the experiences of the interviewee, if there are not also documents which support the same factual conclusions. They argue also that this material is not useful because the interviewees . . . have a stake in the outcome of this determination. . . . This finding rejects this methodological position in this unqualified form. This finding is based on a careful reading and evaluation of interview evidence, based on professional standards, together with a careful evaluation of documentary evidence, based on professional standards. Limiting interviews to individuals with no stake in the outcome in these circumstances would eliminate the most knowledgeable actors in the political process. It is not required under accepted professional standards.” (Snoqualmie FD 1997, 16)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “Patnish, a . . . leader of the entire band [1860's-1877], is known from historical documents.” [p.ix] ¶ “Documentation of his [Pakai's] role [1880's-1930's] is found in government records from 1907 and 1909. . . . Although there is some documentation of these leaders [1930's-present day], the primary record is oral history. This record includes San Juan Paiute, Kaibab Paiute and Navajo oral history. . . .” [p.x] (San Juan Paiute PF 1987, ix-x)

**(c)(1) Other evidence – organizations and grants:**

- “A tribe is significantly more than a voluntary organization and the ALJ’s [administrative law judge’s] findings are rejected to the extent they imply otherwise.” ¶ “To be a tribe there must be more social contact between members, and distinction from non-members, than exists in a club.” ¶ “A voluntary organization consists of otherwise unconnected individuals who join an organization for limited purposes. Mere common participation in a voluntary organization does not in and of itself demonstrate that the members of a petitioner have the kind of social and political links with each other to form a social and political community within the meaning of the acknowledgment regulations.” (Samish FD 1995, 11)
- “The ALJ [administrative law judge] found that organizing for specific purposes such as government benefits or fishing rights was conclusive evidence that the tribe

continued to exist and had political influence over its members. We reject the ALJ's conclusion . . . to the extent that the ALJ has found that the creation of an organization for specific purposes in itself demonstrates political influence or internal tribal political processes under the regulations. . . . [T]here must be evidence that these purposes reflect the needs and desires of the membership which have been communicated to the leadership." [p.11] ¶ "A voluntary organization can represent, or claim to represent, the interests of a large body of individuals without the individuals represented having significant interest in, or even knowledge about, what the council is doing. Such interest and knowledge is crucial to distinguish between a voluntary organization and a tribe." [p.12] (Samish FD 1995, 11-12)

- “. . . formally organized councils. . . . were adopted [in the early 20th century] by reservation tribes and non-reservation tribes, but also by organizations which were largely made up of descendants of Indians who had assimilated into the non-Indian population. . . . [T]he existence of such an organization did not automatically demonstrate that the organization thus formed was a tribe and that the organization exercised tribal political authority within the meaning of these regulations. . . .” (Snoqualmie PF 1993, 26)
- “Having an active formal organization does not in itself demonstrate that a group is exercising tribal political authority if those who are members do not otherwise form a community or have a political relationship. The absence of a formalized governing organization, conversely, does not mean that political authority is not being exercised, since informal leadership may exist.” (Miami FD 1992, 20)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “This is a finding [for at least 1935-1951] that the relationship between leaders and followers is based on more than simply that the leaders are the leaders of a voluntary organization. The ALJ [administrative law judge] found that the formal organization created in 1951 was a revitalization of an existing tribe [and] not a newly created organization.” (Samish FD 1995, 8). *Note: This conclusion revised the vacated FD; see Samish FD 1987, 19-21.*
- ▲ “The new [Jena Band] corporation applied for and received grants from the Office of Housing and Urban Development. . . . [and] the Administration for Native Americans. . . .” [p.8] ¶ “. . . the current form of tribal government . . . now has access to resources, such as grants and JPTA funds, that benefit the membership as a whole.” ¶ “. . . [an Indian parents’] committee decides how to distribute [local school district] grant money to children of members. . . .” ¶ “Political factions . . . have developed over disagreements on . . . use of grant funds. . . .” [p.9] (Jena Choctaw PF 1994, 8, 9)

Evidence that has NOT been accepted under the criterion:

- ▼ The petitioner submitted evidence “indicating the probable existence of a band level organization within the MIO [Michigan Indian Organization]. . . . The available evidence, however, does not show what activities this Burt Lake band of the MIO may have undertaken.” (Burt Lake Band PF 2004, 64). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The available evidence indicates that NMOA [Northern Michigan Ottawa Association] did not contain a separate Burt Lake band unit, and the petitioner presented no evidence of separate activities exclusive to Burt Lake Indians as a group within NMOA. . . . [A] member of the petitioning group. . . . was chairman of Unit # 6 [in Lansing, not northern Michigan] in 1956, but the petitioner does not attempt to show that any of his activities in Lansing were part of political activities of a distinct Burt Lake band. . . .” [p.67] “Oral history recounts that some Burt Lake individuals, disillusioned with NMOA and Dominic’s leadership, dropped their membership in the early 1970’s, but there is no indication that a Burt Lake group withdrew together as a kind of political statement.” [p.68] (Burt Lake Band PF 2004, 67-68; see also, 82). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The petitioner maintained that the claims activities of Thomas Bishop, an ancestor of some petitioner members, constituted evidence of political influence and authority for the group. The available documentary record did not support this contention. Around 1913 or 1914, Thomas Bishop, who was of part Snohomish descent, founded and became President of the Northwestern [later Northwest] Federation of American Indians, an intertribal organization dedicated to pursuing claims for so-called ‘unattached’ Indians . . . in Washington. . . . Bishop portrayed himself as acting on behalf of the unattached Indians in the region, and did not claim to be a leader of any off-reservation Snohomish community.” (Snohomish FD 2003, 38)
- ▼ The petitioner contends “that actions of the American Indian Historical Society (AIHS), a national, intertribal organization, should be accepted as evidence of the actions of the petitioning group.” ¶ “The petitioner also claims that Rupert Costo ‘was representing the interest’ of the petitioning group. . . . [T]he [AIHS] letters cited by the petitioner did not claim that the Costos or the AIHS were acting at the request of any group. Additional evidence is needed to demonstrate that the Costos were acting as the petitioner’s representative at the request and with the knowledge of the petitioning group.” [p.115] ¶ “The activities of the American Indian Historical Society cannot be substituted for activity of the petitioner. The AIHS was not the petitioner, but a distinct organization separate from the petitioner, despite the active involvement in the AIHS of some individuals from at least one of the petitioner’s major extended families.” [p.127] (Muwekma FD 2002, 115, 127)

- ▼ “The petitioner submits . . . a draft constitution on the letterhead of the ‘Committee to Establish the Tribal Council of the Costanoan Indians,’ and dates it as *circa* January 1982. The petitioner describes this document as providing an example of ‘the exercise of political authority by some of the leadership’ of the petitioning group. This is not a claim that this was a draft constitution or new governing body *for* the petitioning group. An organization of Costanoan Indians was potentially a group much larger and more inclusive than the petitioning group. A voluntary organization of all Costanoan descendants was not necessarily equivalent to the petitioner, and evidence about it is not necessarily evidence about a petitioner’s organization.” (Muwekma FD 2002, 124)
- ▼ The actions the petitioner’s researcher “describes are those of non-Duwamish Thomas Bishop of an intertribal organization. [He] presents this intertribal activity, erroneously, as if it were Duwamish tribal activity.” [pp.48-49] The petitioner’s researcher “contends that between 1917 and 1925 the Duwamish ‘mounted a political campaign to secure a jurisdictional act’ to submit a claim to the Court of Claims. He also describes that effort, however, as one in which the intertribal Northwestern Federation of American Indians mounted the lobbying effort to obtain such a bill. . . . [He] merely reviews the bills and presents no evidence that there were activities of DTO [petitioner] leaders or members to obtain such an act.” [p.50] (Duwamish FD 2001, 48-50)
- ▼ “A constitution’s statement of purposes, however, does not show the maintenance of actual political participation by members or the political influence of a group over its members.” (Duwamish FD 2001, 51)
- ▼ “The STI [petitioner] as it has existed since its incorporation in 1974 . . . has expanded its functions and activities. They have included the administration of numerous grants, both from the Federal Government and private foundations; commemorative activities; consultation on archaeological projects; . . . educational consultation in the public schools, and maintenance of the Steilacoom Tribal Museum. However, these functions and activities were not of a type to show a significant bilateral political relationship between the leadership and the members.” (Steilacoom PF 2000, 18). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ The administrative law judge “cites the STO’s [petitioner’s] opening of an office, holding classes, running cultural programs and a museum and obtaining Federal grants. Operation of programs and obtaining grants are not in themselves evidence of political influence within the meaning of the regulations.” (Samish FD 1995, 12)
- ▼ “Although the petition claims that there were two organizations in Hillburn that functioned as political bodies before 1978, most of the available information

indicated that these were social clubs with no larger functions.” (Ramapough PF 1993, 14)

- ▼ “The council has run social and cultural programs since it came into existence. It has obtained recognition by the State of New Jersey and funding from the Federal Indian Education Program to enhance the learning of their children in public schools in two New Jersey counties. This is not evidence of substantial exercise of political influence, since a small group of individuals can establish and run programs under grants and can negotiate with government officials.” (Ramapough PF 1993, 15)
- ▼ “The present council. . . . operates many programs and has obtained many grants. Having programs which are ‘governmental,’ such as economic development or day care, however, is not a demonstration that a government exists. The latter requires the showing of a political connection with the membership at large.” (Miami FD 1992, 23)
- ▼ The petitioner’s “[governing] structure does not govern a community, but governs an organization.” (Southeastern Cherokee PF 1985, 6)
- ▼ “. . . the primary function of the ‘national office’ is to publish the newsletter; to accept donations, gifts, and grants; to raise funds from sales of books, papers and other ‘enterprises . . .’; and to collect admissions and donations to social events.” (United Lumbee PF 1984, 4)

**(c)(1) Other evidence – Separate settlements or communities:**

- “The regulations do not address clearly the circumstance in which a petitioner’s political entity unites two or more separate social communities. This proposed finding concludes that it is acceptable under the regulations for the petitioner’s current political organization to be a confederation of previously or currently separate social communities.” (Little Shell PF 2000, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Because the petitioner has not demonstrated a genealogical, social, or political connection to a historical tribe, there was no need for further study of the issue of a single versus multiple communities. . . . An investigation of this issue would require the presentation of more evidence concerning the political and social connection between the separate communities. . . .” (Houma PF 1994, 23). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*



Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “To accept the more flexible interpretation of the available documentation prior to the 1930's, this proposed finding concludes that evidence of some local leadership among a minority of the petitioner’s ancestors in the past demonstrates a reasonable likelihood that patterns of political influence existed among many of the petitioner’s ancestors before the 1930's. The petitioner is encourage to provide additional evidence to more fully demonstrate its political influence or authority over its members . . . for the final determination” (Little Shell PF 2000, 34). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT been accepted under the criterion:

- ▼ “[George] Charley provided some leadership to the Indians on Shoalwater Bay. . . . There is no evidence that he provided leadership for the concentrations of Chinook descendants living in Dahlia or Ilwaco [on the Columbia River]. . . . The evidence that is currently available does not show that George Charley offered leadership to the petitioner’s ancestors as a whole. . . .” (Chinook PF 1997, 29)
- ▼ “For the period from 1880 to 1930. . . . There are no descriptions of political influence being exercised over the petitioner’s ancestral communities as a whole. . . .” [p.20] ¶ “From 1880 to 1940, the separate communities meet criterion 83.7(c) *as separate communities*, because of the high level of evidence presented on community. . . . But the petitioner, as a whole, does not.” [p.22] (Houma PF 1994, 20, 22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “For the period between 1940 and 1978, no single leader with authority over all three communities has been identified. However, there is some evidence of political leaders who only exercised influence in the town in which they resided.” [p.13] ¶ “. . . establishing the existence of political influence within separate subgroupings would not by itself establish political influence for the group as a whole.” [p.15] (Ramapough PF 1993, 13). *Note: The PF described a leader in the Stag Hill community from the 1940's to 1970's and a leader in Ringwood in the 1970's (p.14).*

**(c)(1) Other evidence – State reservations and State recognition:**

- “In itself, state recognition is not determinative for Federal acknowledgment. However, as a formal organization recognized by the state of Louisiana, the tribe had a framework for reasserting leadership roles within the community and for perpetuating its existence.” (Jena Choctaw PF 1994, 8)

Evidence that has been ACCEPTED in combination with other evidence:

- ▲ “. . . text. . .” (Petitioner PF/FD year, p)

Evidence that has NOT been accepted under the criterion:

- ▼ “. . . text. . .” (Petitioner PF/FD year, p)

**“SUFFICIENT EVIDENCE” UNDER 83.7(c)(2) AND 83.7(c)(3):**

Evidence is sufficient if it demonstrates **any** of the following:

**(c)(2)(i) Allocates group resources on a consistent basis:**

Evidence that has MET the criterion at a specific time:

- ▲ “Criterion 83.7(c)(2)(i) indicates that a petitioning group shall be considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that mechanisms exist which allocate group resources such as land, residence rights, and the like on a consistent basis. Throughout the past 25 years, extensive documentation exists to demonstrate that authority over and use of the Pine Creek reservation land has been a major concern of the petitioner, and that strong differences of opinion have been resolved through the use of political processes.” (Huron Potawatomi PF 1995, 18)

Evidence that has NOT met the criterion:

- ▼ “Each petitioner [Eastern Pequot and Paucatuck Eastern Pequot] has controlled allocation of reservation resources, among their respective memberships. This is not sufficient evidence of political processes in itself under 83.7(c)(2)(i), because the processes are parallel rather than a single process, but it is strong evidence of political processes.” (Eastern Pequot FD 2002, 26)
- ▼ “Under 83.7(c)(2)(i), the petitioning group did not historically have any land or residence rights to allocate.” (Steilacoom PF 2000, 13). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(c)(2)(ii) Settles disputes between members on a regular basis:**Evidence that has NOT met the criterion:

- ▼ “Under 83.7(c)(2)(ii), there was no indication of significant disputes among subgroups within the STI [petitioner] membership.” [p.13] “There was also no evidence that the change in the nature of the STI resulting from the adoption of new family lines into membership of the claims organization in the 1950's produced. . . . conflicts or tensions between the 1950's family lines and the La Tour descendants who had dominated the claims organization since the mid-1930's.” [p.14] (Steilacoom PF 2000, 13-14). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(c)(2)(iii) Exerts strong influence on the behavior of individual members:**Evidence that has NOT met the criterion:

- ▼ “The petitioner claims that this list of signatures [in a funeral condolence book] provides evidence under sections 83.7(c)(1)(iii) and (c)(2)(iii) in that it . . . shows the ‘influence of elders as leaders, in that family heads were persuaded to provide support to [a] tribal effort.’ However, the funeral book itself does not show this. The vast majority of individuals attending were closely related to” the spouse of the deceased.” (Muwekma FD 2002, 132)
- ▼ “The petitioner believes that his [Lawrence Nichols] 1996 obituary demonstrates evidence under sections 83.7(c)(1)(iii) and (c)(2)(iii) by showing strong influence on the behavior and norms of the group. However, nothing in the obituary implied that Nichols influenced or was influenced by group leaders or group members, that other Ohlone individuals organized his funeral or provided his obituary, or that he had participated in an Indian entity. Thus, in itself, and in combination with other evidence, this evidence does not contribute to meeting criterion (c).” (Muwekma FD 2002, 132)
- ▼ “Under 83.7(c)(2)(iii), the petitioner did not submit and BIA researchers did not locate any evidence that STI [petitioner] exerts strong influence on the behavior of individual members.” (Steilacoom PF 2000, 13). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(c)(2)(iv) Organizes or influences economic subsistence activities among members:**Evidence that has NOT met the criterion:

- ▼ “Under 83.7(c)(2)(iv), economic activities were limited to a short period of invitational treaty fishing with the Puyallup during the 1970's that involved only a small number of STI [petitioner] members. This activity was insufficient to show that STI met 83.7(c)(2)(iv).” (Steilacoom PF 2000, 13). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(c)(3) The group meets § 83.7(b)(2) at a given time:**Evidence that has MET the criterion at a specific time:

- ▲ “Because the petitioner meets criterion 83.7(b) with sufficient evidence under 83.7(b)(2)(iii) until 1957, under 83.7(c)(3), it meets criterion 83.7(c) during the same time period.” (Match-e-be-nash-she-wish Band PF 1997, 13; see also, 16). *Note: Based on the conclusion for criterion (b):*  
  
“A majority of all the group’s members, children and adults, were Potawatomi speakers through early 1957, thus meeting criterion 83.7(b)(2)(iii) to that date. . . .” (Match-e-be-nash-she-wish Band PF 1997, 7)
- ▲ “. . . from 1870 to about 1950, the RMI [petitioner] met criterion 83.7(c) because they met criterion 83.7(b) at the high level of evidence, based on the high rate of endogamy (over 50 percent) and the high percentage of members living in a geographical community (over 50 percent).” (Ramapough FD 1996, 25)
  - ▲ “Because Huron Potawatomi, Inc. met the requirements of criterion 83.7(b) between 1833 and 1934 by showing a sufficient level of evidence under 83.7(b)(2), pursuant to 83.7(c)(3) they also met criterion 83.7(c) for that time period.” (Huron Potawatomi FD 1995, 60 F.R. 66315).
- ▲ “Between 1830 and 1880 . . . at least half of the UHN [petitioner] ancestors lived in close proximity to one another along Bayou Terrebonne, in exclusive settlements. . . . [W]hen the petitioner meets criterion 83.7(b) for a specific period of time by presenting sufficient evidence, they also meet the requirements for political authority for the same period. Thus, on this basis, the petitioner meets criterion 83.7(c) between 1830 and 1880 as a single entity.” (Houma PF 1994, 18; see also, 22).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ “Under §83.7(c)(3) of the revised regulations, a petitioner that has met the requirements in paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time. The Jena Choctaw have proven that they were a distinct community with 50 percent in-group marriages through the year 1959. . . . Therefore, we accept that they also maintained political influence or authority over their membership from historical times until 1959.” (Jena Choctaw PF 1994, 7)

Evidence that has NOT met the criterion:

- ▼ “As explained in the evaluation of the petitioner under criterion 83.7(b), neither the petitioner’s argument in its comment on criterion 83.7(b) nor the available evidence demonstrate that the petitioning group meets the requirements of criterion 83.7(b)(2) at any time after 1927. For this reason, section 83.7(c)(3) is not applicable. The petitioner therefore must demonstrate that it meets the unmodified requirements of criterion 83.7(c) from 1927 to the present without benefitting from the carryover provision of section 83.7(c)(3).” (Muwekma FD 2002, 108; see also, 46, 139). *Note: 1927 was used as the date of last Federal acknowledgment.*
- ▼ “The petitioner has argued that it meets criterion 83.7(c) . . . because [of] section 83.7(c)(3). . . . The analysis of community in the previous discussion of criterion 83.7(b), however, demonstrated that the petitioner had not shown that it met the requirements of any of the three [cited] forms of evidence which are sufficient by themselves to demonstrate that the petitioner comprised a distinct community under the provisions of section 83.7(b)(2). Therefore, that evidence does not provide, by itself, evidence that the petitioner meets criterion 83.7(c).” (Little Shell PF 2000, 33). *Note: The three cited forms of evidence were (b)(2)(i), (ii), and (iii). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “. . . individual settlements meet criterion 83.7(b) between 1880 and 1940. . . . based on the fact that, during this period, 50 percent or more of the UHN [petitioner] ancestors exclusively inhabited villages in the lower bayous. . . . this means that at least six of the UHN individual settlements, though not the petitioner as a whole, meet the regulations for community (83.7(b)) at a high level from 1880 to 1940.” [pp.19-20] “From 1880 to 1940, the separate communities meet criterion 83.7(c) *as separate communities*, because of the high level of evidence presented on community. . . . But the petitioner, as a whole, does not.” [p.22] (Houma PF 1994, 19-20, 22). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**SECTION 83.8(D)(3):****Requirements of the criterion as modified by previous Federal acknowledgment:**

- “The 1994 regulations, in section 83.8, modify the evidentiary burden for petitioners that had been previously acknowledged by the Federal Government. The regulations provide that the petitioner still must demonstrate that it meets the requirements of criterion 83.7(c) ‘at present.’ The reduced evidentiary burden . . . is that the petitioner may provide sufficient evidence to meet the criterion between last Federal acknowledgment and the present by demonstrating that ‘authoritative, knowledgeable external sources’ identified leaders or a governing body. . . . In addition to demonstrating that such identifications were made by knowledgeable sources on a ‘substantially continuous’ basis, the petitioner also must demonstrate one form of evidence listed in section 83.7(c).” (Chinook RFD 2002, 98). *Note: The Chinook RFD evaluated the evidence under both the 1978 and 1994 regulations. See also: Muwekma FD 2002, 102-103.*
- “Under 83.8(d), the petitioner needs to demonstrate that it meets the requirements of criterion 83.7(c) only from the point of last Federal acknowledgment through the present, rather than from first sustained contact with non-Indians. It provides for a reduced burden of evidence to demonstrate that criterion 83.7(c) is met from the date of last unambiguous Federal acknowledgment until the present-day community (83.8(d)(3)). The burden is met if the group shows that authoritative, knowledgeable external authorities, such as state or Federal officials in close contact with the band, identified, on a substantially continuous basis until the present, group leaders and/or a governing body which exercised political influence or authority, and one other form of evidence. The petitioner must also demonstrate that the group exercises political authority at present.” (Cowlitz FD 2000, 13). *See also: Snoqualmie FD 1997, 10-11.*
- “Under criterion 83.7(c), the changes introduced under section 83.8(d)(3) reduce the burden of evidence for previously acknowledged tribes. . . . [Previously acknowledged petitioners] require only a streamlined demonstration of criterion (c).” (Huron Potawatomi PF 1995, 13-14). *See also: Match-e-be-nash-she-wish Band PF 1997, 11.*

**“identification, by authoritative, knowledgeable external sources, of leaders. . . .”**

- “. . . in his field notes [ethnologist J. P.] Harrington identified no leaders or governing body of a contemporaneous Indian group in the late 1920's or early 1930's. Because Harrington made no such identification, it is not necessary to inquire whether he made such an identification as an authoritative and knowledgeable source.” (Muwekma FD 2002, 104)

- “[Rupert] Costo’s reputation as an Indian scholar and his extensive contact with at least a portion of an Ohlone group over a period of years qualifies him to be considered a ‘knowledgeable’ source.” (Muwekma FD 2002, 104)
- “Newspaper articles have not been accepted . . . as constituting identification by ‘knowledgeable’ sources. There is no evidence in this case, including the content of the articles themselves, suggesting that local newspaper reporters had any extensive contact with or knowledge of Indian leaders or entities.” (Muwekma FD 2002, 106)
- “An anonymous author cannot be judged to be authoritative and knowledgeable.” (Chinook RFD 2002, 99)
- “Since the author only described meeting [leader George] Charley in 1920, it does not appear that his knowledge was extensive and authoritative.” (Chinook RFD 2002, 99)
- “Newspaper articles have not been accepted . . . as constituting identification by ‘knowledgeable’ sources. There is no evidence suggesting or reason to assume that newspaper reporters, who generally were anonymous, had any extensive contact with or knowledge of contemporary Chinook leaders or entities.” (Chinook RFD 2002, 99)
- “. . . Indian Superintendent Sams, [was] a knowledgeable source. . . .” (Chinook RFD 2002, 99)
- “. . . an attorney retained by a Chinook claims organization cannot be considered to be an external source of identification. [That organization’s leader Myrtle] Woodcock, her relatives, and her followers cannot be considered as external to the petitioning group.” (Chinook RFD 2002, 100)
- The PF contained a section entitled: “Sequence of Leadership.” (Huron Potawatomi PF 1995, 14-15). *Note: FD 1995, 60 F.R. 66315.*

Evidence that has MET the criterion at a specific time:

- ▲ “. . . the proposed finding concluded that the petitioner had maintained a sequence of leadership identified by knowledgeable external sources for the period from 1855 to the present.” [p.13] “This sequence of leadership of the Cowlitz bands before 1910 and of a Cowlitz entity after 1910 provide part of the evidence that the petitioner meets 83.7(c) as modified by 83.8(d)(3).” [p.14] “The Cowlitz petitioner can trace an unbroken line of leaders identified by knowledgeable external sources. . . .” [p.15] (Cowlitz FD 2000, 13-15). *See also: PF 1997, 32, 33, 36, 38.*

Evidence that has NOT met the criterion:

- ▼ “The available evidence does not demonstrate that the petitioner meets the requirements of section 83.8(d)(3) since 1927. Rupert Costo has been accepted as an ‘authoritative, knowledgeable’ source who in 1971 identified leaders of an Ohlone group that likely included members and ancestors of members of the petitioning group. A conclusion that the available evidence does not contain any identifications of leaders or a governing body by an authoritative, knowledgeable external source for four decades after 1927 means that such identifications were not made on a substantially continuous basis.” (Muwekma FD 2002, 106)
- ▼ “Although the petitioner listed what it considered to be several historical leaders of various Chinook bands and some recent council members . . . it did not provide evidence or explicitly argue that these individuals were identified by ‘authoritative, knowledgeable external sources’ as leaders. . . .” [p.98] ¶ “The available evidence does not contain substantially continuous identification of Chinook leaders or a Chinook governing body by knowledgeable sources, outside the petitioning group, between 1855 and 1951. . . . [Therefore,] the petitioner does not meet one of the requirements of section 83.8(d)(3).” [p.100] (Chinook RFD 2002, 98, 100; see also, 104-105)
- ▼ “Since [in this case] the inquiry under section 83.8(d)(3) concerns the years since the treaty negotiations of 1855, the identification of treaty signers and leaders prior to the treaty negotiations, even if by knowledgeable sources, does not meet the requirements of this section for the relevant time period.” (Chinook RFD 2002, 99)
- ▼ “To the extent that Indian Superintendent Sams, a knowledgeable source, identified George Charley as a leader, Sams identified him as the leader of the Shoalwater Bay Reservation or of a group of Quinault fishermen, not of the off-reservation Chinook ancestors of the petitioner’s members.” (Chinook RFD 2002, 99)
- ▼ For the 20th century, “. . . the evidence submitted did not demonstrate substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body. . . . Occasional identifications of leaders by outside sources . . . were not sufficiently regular and consistent to meet criterion 83.8(d)(3).” (Match-e-be-nash-she-wish Band PF 1997, 12). *See also: FD 1998, 14, 17.*

**“. . . together with demonstration of one form of evidence listed in § 83.7(c)”:**

- “The available evidence does not include such identifications [mentioned in 83.8(d)(3)]. It is not then necessary to consider whether the petitioner has



demonstrated one other form of evidence [to meet the requirements of 83.8(d)(3)].” (Chinook RFD 2002, 104-105). *See also: Muwekma FD 2002, 106.*

Evidence that has been ACCEPTED under the subsection:

- ▲ “Such evidence provides another ‘form of evidence’ that the petitioner meets 83.8(d)(3).” (Cowlitz FD 2000, 14)

**83.8(d)(3) “at present” and “from . . . last Federal acknowledgment to the present”:**

Evidence that has been ACCEPTED under the subsection:

- ▲ “The CIT [petitioner] meets the requirements of 83.7(c) as modified by 83.8(d) from 1880 to the present and demonstrates political authority at present.” [p.13] (Cowlitz FD 2000, 13). *Note: 1880 was the date of last previous Federal acknowledgment.*

Evidence that has NOT been accepted under the subsection:

- ▼ “Since there is insufficient evidence of identifications of leaders or a governing body by ‘authoritative, knowledgeable external sources’ on a ‘substantially continuous’ basis, the petitioner does not meet one of the requirements of section 83.8(d)(3). . . . Based on this conclusion, the petitioner does not meet the requirements of criterion 83.7(c) as modified by section 83.8(d)(3).” (Muwekma FD 2002, 106; see also, 138-139)
- ▼ “The available evidence does not contain substantially continuous identification of Chinook leaders or a Chinook governing body by knowledgeable sources, outside the petitioning group, between 1855 and 1951. . . . [Therefore,] the petitioner does not meet one of the requirements of section 83.8(d)(3).” [p.100] ¶ “Thus, the evidence is insufficient to show that the petitioner meets criterion 83.7(c) under the modified provisions of section 83.8(d)(3) under the 1994 regulations.” [p.105] (Chinook RFD 2002, 100, 105)

**83.8(d)(3) and 83.8(d)(5):**

- “If a petitioner cannot meet the requirements of section 83.8(d)(3), the acknowledgment regulations provide, in section 83.8(d)(5), that the petitioner may demonstrate alternatively that it meets the unmodified requirements of criterion 83.7(c) since the date of last Federal acknowledgment. Therefore, this Final Determination will evaluate, as provided in section 83.8(d)(5), whether or not the

petitioner has demonstrated that it meets the requirements of criterion 83.7(c) from 1927 until the present.” (Muwekma FD 2002, 106; see also, 139)

- “If the petitioner cannot meet criterion 83.7(c) through this streamlined procedure, by a demonstration of the identification of leaders by knowledgeable external sources and one other form of evidence, the regulations provide, in section 83.8(d)(5), that the petitioner alternatively may demonstrate that it meets the unmodified requirements of criterion 83.7(c) from ‘last Federal acknowledgment until the present’.” (Chinook RFD 2002, 100; see also, 105)
- “In the case of MBPI [petitioner], lacking the specific forms of evidence concerning political evidence for the streamlined evidentiary procedure enumerated under 83.8(d)(3), the petitioner used the alternative under 83.8(d)(5). . . .” (Match-e-be-nash-she-wish Band FD 1998, 17).
- “Under 83.8(d)(5), if a petitioner cannot provide the specific kinds of evidence needed to meet the reduced requirements stated in 83.8(d)(3), it may be evaluated under the ordinary requirements of section 83.7(c). This evaluation of the STO [petitioner] is made under the latter requirements.” (Snoqualmie FD 1997, 11)

Evidence that has been ACCEPTED under the subsection:

- ▲ “MBPI [petitioner] demonstrated that they met the standards for criterion 83.7(c) in the unmodified form. . . .” (Match-e-be-nash-she-wish Band FD 1998, 17; see also, 18). *See also: PF 1997, 17.*
- ▲ “. . . . from the time of its last Federal acknowledgment [1953] until the present, the Snoqualmie Tribal Organization meets the requirements of criterion 83.7(c). . . .” (Snoqualmie FD 1997, 16). *Note: See FD 1997, 11.*

Evidence that has NOT been accepted under the subsection:

- ▼ “A review of the available evidence concludes that this evidence is not sufficient to meet the requirements of criterion 83.7(c) since 1927. . . . Therefore, the petitioner does not meet the requirements of criterion 83.7(c) as modified by sections 83.8(d)(3) or 83.8(d)(5).” (Muwekma FD 2002, 139)
- ▼ “. . . the evidence is insufficient to meet the criterion since 1855. Thus, the evidence is insufficient to show that the petitioner meets criterion 83.7(c) as modified by section 83.8(d)(5) under the 1994 regulations.” (Chinook RFD 2002, 105)



## Criterion 83.7(d)

### The text of criterion 83.7(d):

“(d) A copy of the group’s present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.” (59 F.R. 9293)

### The text of section 83.8(d):

“(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).” (59 F.R. 9293)

### The text of criterion (d) from 1978 to 1994:

“(d) A copy of the group’s present governing document, or in the absence of a written document, a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.” (43 F.R. 39361)

### Compilation of precedents:

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:****The group's "present governing document":**

- A third party "argued that CIT [petitioner] did not actually follow their constitution. The requirement of 83.7(d) is to submit the present governing documents. . . . [The third party] additionally maintained that some statements within the preamble and the body of the 1950 CTI constitution and the 1974 CTI constitution indicated that the petitioner's tribal existence had not been continuous. Criticisms of general statements in constitutions . . . are not viewed as significant here." (Cowlitz FD 2002, 18)
- "Criterion 83.7(d) requires only that the petition provide a copy of its governing document, and that either this document or a separate written statement must provide a full description of the governing procedures and membership criteria." (Ramapough FD 1996, 27).
- ". . . other group documents, verbal accounts by members of the group, and observations by Federal Acknowledgment staff researchers, indicate that the way in which the group functions, in fact, substantially differs from the requirements in the [petitioner's] constitution and corporate documents. Notwithstanding this . . . the group technically meets the criteria in 54.7(d)." (Lower Muskogee Creek PF 1981, 3)

**The group's "membership criteria":**

- "Although this document [constitution] is insufficiently specific in order to be an effective membership-screening tool, it still [meets] the minimum requirement of the criterion." (Snohomish FD 2003, 48)
- "The amended constitution and the enrollment ordinance . . . still lack a clear identification of the individuals comprised by the Verona Band from whom members must prove descent." (Muwekma FD 2002, 141). *Note: The FD found that the petitioner met the requirements of the criterion.*
- "The Federal regulations for acknowledgment do not compel a petitioner to meet prescribed standards regarding membership or to follow its own membership criteria and governing procedures." (Ramapough FD 1996, 27). *Note: See also the PF:*

"Although it is not clear how the membership criteria is [*sic*] applied, . . . technically the petitioner meets criterion d." (Ramapough PF 1993, 18)

- “There is an additional ratified document [which]. . . . contradicts the UHN [petitioner] constitution.” ¶ “. . . it is unclear what the current process is for determining eligibility.” (Houma PF 1994, 24). *Note: The PF found that the petitioner met the criterion. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “While the group has technically complied with 83.7(d) of the regulations by providing a current governing document which describes membership criteria, it must be pointed out that the Samish organization has not adequately explained how eligibility is in fact being determined, given the fact that rolls cited do not exist and tribal elders are no longer constitutionally required to certify membership eligibility.” (Samish PF 1982, 19)

**“In the absence of a written document”:**

- “The San Juan Paiute Southern Tribe has no written governing document.” ¶ “Criterion d only requires a description of the petitioning group’s governing processes and membership criteria.” (San Juan Paiute FD 1989, 10).

**EVIDENCE UNDER 83.7(d):**

Evidence that has MET the criterion:

- ▲ “The governing document consists of the ‘By-Laws of the Burt Lake Band of Ottawa and Chippewa Indians, Inc.,’ adopted on March 6, 1993, except that the amendment passed on December 14, 2002, should entirely replace the existing 1993 Article IV, pertaining to membership. No ‘constitution’ *per se* appears among the petition documentation. . . .” [p.85] ¶ “The petitioner submitted its current governing document, including its membership criteria. Therefore, the petitioner meets the requirements” of criterion 83.7(d). [p.87] (Burt Lake Band PF 2004, 85, 87). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The OFA obtained from the petitioner a copy of an amended constitution labeled ‘Revised 1991, with amendments’ which was adopted at the October 17, 1993, STI [petitioner] annual general tribal meeting. The amendments incorporated in the 1991 constitution include . . . membership eligibility. . . .” [p.47] ¶ “The petitioner has a constitution that describes its membership criteria and the procedures through which it governs its affairs and its members.” [p.48] (Snohomish FD 2003, 47, 48)
- ▲ “The BIA obtained copies from the petitioner of both the amended constitution and the enrollment ordinance which were adopted on October 21, 2000.” [p.141] ¶ “The petitioner has a constitution and an enrollment ordinance. . . . These governing

documents describe its membership criteria and the procedures through which it governs its affairs and its members. Therefore, the petitioner meets the requirements of criterion 83.7(d).” [p.142] (Muwekma FD 2002, 141, 142)

- ▲ “The petitioner submitted a certified copy of its constitution which was dated June 16, 1984. The constitution described the membership criteria. . . . The petitioner also submitted a membership ordinance dated June 20, 1987, which replaced Section 2 of the 1984 constitution.” (Chinook RFD 2002, 106)
- ▲ “The PF determined that the Duwamish Tribal Organization submitted a copy of its current governing document, which fully described its governance procedures and membership requirements, thereby meeting the requirements of criterion 83.7(d).” (Duwamish FD 2001, 65). *Note: See also the PF:*

The petitioner “submitted a copy of the ‘Constitution and By Laws of the Duwamish Tribal Organization of Duwamish American Indians,’ dated February 26, 1925, as their present governing document.” [p.17] ¶ “The constitution also . . . defines the membership.” [p.18] (Duwamish PF 1996, 17, 18)

- ▲ “The petitioner submitted a constitution dated September 10, 1977, as its governing document.” ¶ “The petitioner also submitted a resolution passed in 1987, Resolution 87-01, which interprets sections I, II, and III of Article V of the 1977 constitution by clarifying the membership criteria. . . .” [p.35] ¶ “Therefore, the petitioner has submitted a constitution and resolutions which describe the membership criteria and the procedures by which it governs its affairs and its members.” [p.36] (Little Shell PF 2000, 35-36). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . the proposed finding concluded that petitioner had submitted a copy of its present governing document, thus meeting the criterion.” (Cowlitz FD 2000, 18). *Note: See also the PF:*

“The petitioner provided copies of the current constitution and by-laws, which include a detailed statement of membership qualifications and enrollment procedures.” (Cowlitz PF 1997, 44). *Note: The GTR noted that: “The petitioner . . . submitted copies of the current (1993) constitution, the 1974 constitution, and the 1950 constitution” (GTR 1).*

- ▲ “The petitioner provided copies of the current constitution and by-laws, which include a detailed statement of membership qualifications and enrollment procedures.” (Steilacoom PF 2000, 19). *Note: The TR found that the petitioner “is currently governing its affairs and its members under the 1975 constitution, as amended in 1986 ” (TR 185). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ “. . . the proposed finding concluded that petitioner had submitted a copy of its present governing document, thus meeting the criterion.” (Match-e-be-nash-she-wish Band FD 1998, 18). *Note: See also the PF:*

The petitioner “presented a copy of the current (1996) governing document, which contained provisions covering membership criteria and enrollment procedures.” (Match-e-be-nash-she-wish Band PF 1997, 17)

- ▲ “The proposed finding determined that the Snoqualmie Tribal Organization met the requirements of criterion 83.7(d).” (Snoqualmie FD 1997, 17). *Note: See also the PF:*

“The petitioner submitted a copy of its current governing documents. Adopted in 1981, the documents consist of a constitution and by-laws.” [p.31] ¶ “The petitioner has submitted copies of its present governing documents, as well as supplementary materials, describing the membership criteria and the procedures by which the petitioner currently governs its affairs and its members.” [p.32] (Snoqualmie PF 1993, 31, 32)

- ▲ “Criterion 83.7(d) requires only that the petition provide a copy of its governing document, and that either this document or a separate written statement must provide a full description of the governing procedures and membership criteria. The RMI [petitioner] provided this information.” (Ramapough FD 1996, 27). *Note: See also the PF:*

“The petitioner submitted copies of its governing documents, beginning with the ByLaws dated June 5, 1979, the amended ByLaws dated March 31, 1990, and an additional ordinance . . . dated Jan. 10, 1992, which expands or clarifies the 1990 ByLaws section on membership.” (Ramapough PF 1993, 17)

- ▲ The petitioner “provided a copy of its governing document, which describes its membership criteria.” (Huron Potawatomi FD 1995, 60 F.R. 66315). *Note: See also the PF:*

The petitioner “presented a copy of the 1979 constitution, duly adopted by the membership, which contains membership criteria. No copy of the by-laws referred to in the 1979 constitution was received or located: BAR’s review of HPI [petitioner] minutes led to the conclusion that no by-laws were ever formally adopted.” ¶ “. . . the 1979 constitution remains the formal governing document as of the date of this Proposed Finding.” (Huron Potawatomi PF 1995, 20)



- ▲ “The Jena Choctaw have a constitution and by-laws which define the membership and reflect how they govern themselves.” (Jena Choctaw FD 1995, 60 F.R. 28480).

*Note: See also the PF:*

The petitioner submitted copies of “the constitution which was adopted on December 22, 1990.” ¶ “. . . the membership criteria and procedures for enrollment expressed in the constitution and amendments to the by-laws reflect the actual practices of the petitioner.” (Jena Choctaw PF 1994, 11)

- ▲ “Three UHN [petitioner] constitutions were submitted by the petitioner. . . . The third and current version of the constitution is dated August 20, 1983, and it contained substantial changes in the membership criteria.” [p.23] ¶ “Two versions (1979 and 1983) of the UHN by-laws were submitted by the petitioner. They were very different from each other. . . . There is an additional ratified document, dated August 20, 1983, which. . . . contradicts the UHN constitution.” [p.24] ¶ “The petitioner has provided a copy of its present governing document (the August 20, 1983 constitution) and the criteria it uses for determining membership.” [pp.24-25] (Houma PF 1994, 23-25). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

*Prior to the revised 1994 regulations:*

- ▲ In the vacated final determination, “the Samish Tribal Organization was found to meet . . . 83.7(d)” and that criterion was “not at issue in the proceedings before the ALJ [administrative law judge]. We find for purposes of this decision that the STO [petitioner] meets . . . 83.7(d). . . .” (Samish FD 1995, 4). *Note: See also, vacated FD 1987, 3. Note: In accordance with the petitioner’s request, the Samish FD was made under the 1978 regulations (FD 1996, 1). Note: See also the PF:*

“The current governing document of the Samish Indian Tribe consists of a constitution and bylaws approved by the membership on June 29, 1975. Article II of this document deals with the requirements for membership.” ¶ Although the petitioner’s “current membership statement” refers to a 1975 roll and a 1942 census [p.18], “Neither the 1942 census nor the 1975 Samish roll cited exists nor are they known to have existed in the past.” ¶ “. . . the group has technically complied with 83.7(d) of the regulations by providing a current governing document which describes membership criteria. . . .” [p.19] (Samish PF 1982, 18, 19)

- ▲ “The Proposed Finding concluded that a copy of the MT’s [petitioner’s] formal governing document had been submitted in accordance with this criterion.” (Mohegan FD 1994, 30). *Note: See also the PF:*

“The petitioner’s constitution was formulated in 1979 and approved by ballot vote in January 1980.” ¶ “The constitution included a membership provision defining the

criteria for membership.” ¶ “The membership criteria were amended by vote taken in November 1985.” [p.10] ¶ “The petitioner has provided a copy of its present governing document and the criteria it uses for determining membership.” [p.11] (Mohegan PF 1989, 10, 11)

- ▲ For the proposed finding, “the Miami met criterion d (having a governing document). . . .” (Miami FD 1992, 2). *Note: See also the PF:*

“The petitioner is currently governed by the 1986 constitution and bylaws, as amended in 1989.” ¶ “The current membership criteria state that an individual must prove their lineage to any one of several specified Federal lists. . . .” [p.13] ¶ “Changes in the governing documents, at least since 1983, suggest that the council has added as well as deleted items affecting eligibility for membership without consulting the membership.” ¶ “The petitioner has provided a copy of its current governing documents and the criteria it uses for determining eligibility for membership.” [p.14] (Miami PF 1990, 13, 14)

- ▲ “The San Juan Paiute Southern Tribe has no written governing document.” ¶ “The San Juan Southern Paiute petition has presented an adequately complete and accurate description of its present governing practices and membership criteria. We conclude therefore that the San Juan Southern Paiute Tribe meets the requirements of criterion 83.7(d).” (San Juan Paiute FD 1989, 10). *Note: See also the PF:*

“A description of how the band currently governs itself and a statement of its criteria for membership are included in the petition. . . .” (San Juan Paiute PF 1987, xi)

- ▲ The petitioner “submitted a copy of its bylaws adopted in 1982 as the group’s governing document. The bylaws set forth formal governing procedures and state that membership is open to all persons of Lower Creek ancestry. However, a statement concerning membership submitted with the petition provides a more accurate description of the current membership.” (MaChis Creek PF 1987, 4)
- ▲ “The petitioning group submitted a copy of their present governing document adopted by the group on February 12, 1977. The governing document includes the procedures through which the group governs its affairs and its members and the criterion currently being used to determine eligibility for membership.” (Wampanoag of Gay Head PF 1986, 7)
- ▲ The petitioner “submitted a copy of the group’s governing documents which describes [*sic*] how the group governs its affairs and its membership and describes membership criteria and procedures. The documents include the group’s ‘By-Laws’ . . . and the ‘Constitution’ . . . dated May 6, 1977.” (Tchinouk PF 1985, 10)

- ▲ “Each of the petitioning organizations submitted a copy of their present governing document which includes the criteria currently being used to determine eligibility for membership. . . . each meet criterion 83.7(d) of the regulations.” (Southeastern Cherokee PF 1985, 7). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- ▲ The petitioner “submitted the fourth ‘clarified and amended constitution and By-laws’ of the ULN [petitioner] in November, 1981. This document describes how the group governs its members and sets forth . . . requirements for membership in the ULN.” ¶ “. . . the ULN has met the criterion in 83.7(d) through the submission of its current as well as former governing documents.” (United Lumbee PF 1984, 5)
- ▲ “In October 1980, the Bureau received a copy of the ‘new’ KIN [petitioner] constitution and bylaws.” ¶ That “governing document included an article setting out the group’s criteria for membership. . . .” [p.2] ¶ “A third ‘new’ and unsigned KIN constitution and bylaws document was received . . . on January 12, 1981. . . . The membership requirements are so vague as to make effective administration impractical.” ¶ “In June 1982 . . . a fourth KIN constitution was submitted. . . . It makes no mention of KIN criteria for membership.” ¶ “. . . the KIN has met the criterion in 83.7(d) by the submission of several governing documents. We note, however, that the document submitted by Webber [1980] is virtually the same document that he submitted when he petitioned under the name of the United Lumbee Nation of North Carolina and America, Inc.” [p.3] (Kaweah PF 1984, 2, 3)
- ▲ “The group’s bylaws describe how membership is determined and how the group governs its affairs and its members.” [p.1] ¶ “The group has submitted copies of their governing documents. . . .” [p.3] (Principal Creek PF 1984, 1, 3)
- ▲ “The group has submitted a copy of their current bylaws which were adopted November 14, 1982. These bylaws describe in detail how membership eligibility is determined and how the group currently governs its affairs and its members.” (Poarch Band of Creeks PF 1983, 6). *Note: See also, FD 1984, 49 F.R. 24083.*
- ▲ The petitioner “has submitted the corporate charter of the Narragansett Indian Tribe, Incorporated, dated December 4, 1934, as well as a set of bylaws evidently adopted at the same time, which are its current governing documents. . . .” ¶ “A [1979] memorandum . . . [from] the elected chief, stated the requirements for full membership in the Narragansett Tribe, Inc., as descent from the ‘Detribalization Rolls of 1880-1884.’ This is a revision of the membership provision in the original bylaws of the corporation. . . .” ¶ “The standards in the memorandum were, as far as could be determined, used to compile the tribal membership list and are the current tribal membership requirement.” (Narragansett PF 1982, 15)

- ▲ The petitioner is “governed pursuant to the Articles of Association of the Death Valley Band, dated January 1978. This includes a description of the membership criteria and procedures for governing the affairs of the band. These articles and two amendments to the membership provision, dated May 24, 1978, and April 24, 1981, were submitted with the petition.” (Death Valley Shoshone PF 1982, 6)
- ▲ The petitioner “indicates that affairs and membership of the group are currently governed pursuant to a constitution and by-laws. . . . This document was furnished with the petition. It does not, however, describe the membership criteria. . . . Notwithstanding this, we conclude the group has technically met the criteria in 54.7(d). . . .” (Munsee-Delaware PF 1982, 4)
- ▲ The petitioner “indicates that affairs and membership of the group are currently governed pursuant to articles of incorporation (under Georgia law) and a constitution and by-laws. These documents were furnished with the petition. It should be noted, however, that these documents do not describe in full the membership criteria. . . . It should also be noted that . . . the way in which the group functions, in fact, substantially differs from the requirements in the constitution and corporate documents. Notwithstanding this . . . the group technically meets the criteria in 54.7(d).” (Lower Muskogee Creek PF 1981, 3)
- ▲ “Tribal affairs and membership are currently governed pursuant to the Articles of Incorporation of the Tunica-Biloxi Indians of Louisiana, adopted on October 26, 1974. This document was furnished with the petition.” (Tunica-Biloxi PF 1980, 4)
- ▲ “The group has furnished a copy of its constitution and by-laws, adopted on November 16, 1975, which includes a statement of its membership requirements, and tribal governing procedures.” (Jamestown Clallam PF 1980, 4)
- ▲ “Copies of the Corporate Charter of Leelanau Indians, Inc. and the proposed constitution were included with the petition for Federal acknowledgment. Both include statements describing in full the membership criteria and the governing procedures. . . . The corporation, in fact, . . . administers the band’s affairs based on the membership criteria in the proposed constitution.” (Grand Traverse Band PF 1979, 6)

Evidence that has NOT met the criterion:

*Note:* No petitioner has failed to meet criterion (d).



## Criterion 83.7(e)

### The text of criterion 83.7(e):

“(e) The petitioner’s membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

(1) Evidence acceptable to the Secretary which can be used for this purpose includes but is not limited to: (i) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes; (ii) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity; (iii) Church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity; (iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity; (v) Other records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

(2) The petitioner must provide an official membership list, separately certified by the group’s governing body, of all known current members of the group. This list must include each member’s full name (including maiden name), date of birth, and current residential address. The petitioner must also provide a copy of each available former list of members based on the group’s own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists.” (59 F.R. 9293)

### The text of section 83.8(d):

“(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).” (59 F.R. 9293)

### The text of criterion (e) from 1978 to 1994:

“(e) A list of all known current members of the group and a copy of each available former list of members based on the tribe’s own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary,

descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity. Evidence acceptable to the Secretary of tribal membership for this purpose includes but is not limited to:

(1) Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes; (2) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being an Indian descendant and a member of the petitioning group; (3) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity; (4) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant of the tribe and a member of the petitioning entity; (5) Other records or evidence identifying the person as a member of the petitioning entity.” (43 F.R. 39361)

### **Compilation of precedents:**

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

### **CRITERION:**

#### **“individuals who descend from a historical Indian tribe”:**

- “In order to meet criterion (e). . . . the petitioner must (1) identify its current members, (2) identify the historical tribe or band and the individuals in that historical tribe or band from whom its current members descend, and (3) document that descent.” (Burt Lake Band PF 2004, 89). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The evidence submitted by the petitioner “enabled OFA to confirm that, with very few exceptions, the petitioner’s current members have demonstrated descent from

their claimed ancestors. However, not all of the claimed ancestors have been satisfactorily documented as members of the historical band.” (Burt Lake Band PF 2004, 89). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- “Thus, 224 members (or less than 46 percent) can trace to Indian ancestors identified as 1870 annuitants of the Joseph Way-bway-dum band. . . . The same 224 members descend from individuals on the circa 1900 lists of residents of Indian Village on Burt Lake.” (Burt Lake Band PF 2004, 97). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “the objective of [criterion 83.7(e)] . . . is to demonstrate that current members can ‘trace back’ to the historical band.” (Muwekma FD 2002, 147)
- “The Indian Population schedule of the 1910 Federal Census [for ‘Indian town’] . . . included two siblings who were adult children of Avelina Cornates, then deceased, and foreign-born Raphael Marine. . . . [Those two siblings] had six (or possibly seven) other living siblings not enumerated on the Indian Population schedule.” [p.45] ¶ “. . . the assumption is made that descent from the historical band at the Verona station can be calculated through Marine siblings who were not actually listed on either the Kelsey Census of Pleasanton and Niles or the 1910 Federal Census of ‘Indian town’ in Pleasanton Township [the two sources of the ‘proxy’ membership list of the Verona Band].” [p.46] (Muwekma PF 2001, 45-46; see also, 52). *Note: See also the FD:*

“. . . the Proposed Finding made the assumption that Avelina (Cornates) Puente Marine ‘was part of the Indian group at the Alisal rancheria prior to Kelsey’s census of 1906’.” [p.144] ¶ “. . . the Proposed Finding made the assumption that ‘the siblings of her [Avelina’s] children on the 1910 Federal Census of ‘Indian town’ were non-resident members of the Verona Band. . . .’ ” [p.145] ¶ The proposed finding allowed “for non-resident and unlisted siblings of those individuals enumerated in the settlement lists [the ‘proxy’ membership list of the historical band] to be considered part of the historical band for purposes of criterion 83.7(e). . . .” [p.149] (Muwekma FD 2002, 144-145, 149; see also, 150-153, 159)
- “Because these mixed-blood relatives of the [Pembina] treaty band [who received land scrip under the treaty] were descendants of someone who had been a member of the band at an earlier time, the petitioner’s members who descend from men who received treaty scrip as a relative of the Pembina Band therefore descend from a member of the band in a generation earlier than the treaty.” (Little Shell PF 2000, 43). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “. . . all of the petitioner’s members . . . descended from persons listed on the 1870 annuity payroll for Chau-be-quong’s Band or the 1904 Taggart Roll, which was



- prepared by the BIA. . . .” (Match-e-be-nash-she-wish Band FD 1998, 18). *See also: PF 1997, 18.*
- “. . . none of the names of the MOWA [petitioner] ancestors appear on the historical documents concerning this tribe [Choctaw Nation].” [p.3] ¶ “The ancestors of the petitioning group are known. The primary documents that pertained to the known MOWA ancestors did not show any connection . . . to any historical tribe.” ¶ “The BIA also searched the extensive records concerning the historical tribes from which the petitioner claimed descent and did not find any of the MOWA core ancestors connected with any of these historical tribes.” [p.5] (MOWA Band of Choctaw FD 1997, 3, 5)
  - “There is no requirement under the regulations that a petitioner be descended from most of the historical tribe.” (Snoqualmie FD 1997, 17)
  - “It is neither possible nor necessary under 25 CFR 83.7(e) to identify all of the Chinook Indians who were living at the time of first contact. . . . However, it is possible to start with the members of the modern Chinook Indian Tribe [petitioner] and trace their ancestry back to 1851, the treaty era. . . .” [p.3] “The objective of a petitioner for Federal acknowledgment is not to start with the historical tribe and trace all of its descendants through time to the present day, but to start with the current membership . . . and trace the living membership back through time to the historical tribe.” [p.8] (Chinook PF 1997, GTR 3, 8)
  - “. . . early 19th century journals and church records. . . . frequently named specific individuals as Clatsop Indians, Chinook Indians, or as members of various bands of Chinook Indians. Other significant records compiled in the early 20th century. . . . which identify the ancestors of the petitioner as Chinookan Indians include church records, the 1906 and 1913 McChesney Rolls, the 1914 annuity roll, and the 1919 Roblin Roll.” (Chinook PF 1997, GTR 3; see also, 8)
  - “There was no one source which identified all Cowlitz Indians who lived at any time in the past.” (Cowlitz PF 1997, 45)
  - “Two BIA-generated lists, the 1919 ‘Roblin Schedule of Unenrolled Indians of Western Washington’ and the 1971 ‘Judgment Roll’ of Duwamish descendants who were paid the award of the Indian Claims Commission, were used to confirm the Duwamish ancestry of the petitioner’s membership.” (Duwamish PF 1996, 19)
  - “The Federal regulations for the acknowledgment of a tribe of American Indians do not permit acknowledgment on the basis of the petitioner’s assertion that the group’s unknown and unnamed 18th century ancestors were Indian. Beyond ‘Indian’ ancestry, which in itself has not been shown to exist for the RMI [petitioner], the

petitioner has not demonstrated specific tribal ancestry as required by the Federal regulations in order to meet criterion 83.7(e).” (Ramapough FD 1996, 31)

- “Statements of generically ‘Indian’ characteristics are not equivalent under the 25 CFR Part 83 regulations to documented descent from ‘a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.’ Statements concerning more general ‘Indian’ descent are not in themselves adequate to meet criterion 83.7(e), and must also be evaluated in the full context of the available evidence.” (Ramapough FD 1996, 32). *Note: See also the PF:*

“... the petitioner’s researcher found only 38 instances (for 7,500 individuals) where a record identified the individual as ‘Indian’ or as having ‘Indian characteristics.’ None of the citations specified an historic tribal identity.” (Ramapough PF 1993, 21)

- “Neither the petitioner nor BIA staff researchers were able to identify the ancestors of the earliest known RMI [petitioner] progenitors or to trace them to a historical 18th century tribe with a continuous existence in southeastern New York or northeastern New Jersey from the colonial period until the present. This situation offered a clear contrast to other petitioners from the eastern United States that have received Federal acknowledgment through the 25 CFR Part 83 process. . . . In those cases, a clear historical and genealogical record tied the petitioner’s modern membership to a specific historical tribe.” (Ramapough FD 1996, 32)
- The petitioner’s members have been “documented to descend from persons listed on the 1904 Taggart Roll.” (Huron Potawatomi FD 1995, 60 F.R. 66315). *See also: PF 1995, 22.*
- “. . . the petitioner, when documenting descent from a particular individual who was supposedly a member of the historical tribe or tribes, must show that: (1) the person of this name was, in fact, of Indian descent from a particular tribe; and (2) the Indian person of this name was the same person as the ancestor claimed by the petitioner.” (MOWA Band of Choctaw PF 1994, 8)
- Most of the petitioner’s members descend “from someone identified by the U.S. Commission to the Five Civilized Tribes (Dawes Commission) in 1903 as full blood Choctaw.” (Jena Choctaw PF 1994, 12). *Note: The FD described these ancestors as persons “identified as a full-blood Mississippi Choctaw on the 1903 preliminary roll of the Dawes Commission” (FD 1995, 60 F.R. 28480).*
- “. . . the petitioner’s members can trace to ancestors who are identified as Snoqualmie, and either appeared on the Schedule of the Unenrolled Indians of Western Washington [Roblin roll], prepared by the Office of Indian Affairs in 1919,

or made an application to be listed on the 1919 schedule. . . . [or] are identified as Snoqualmie in allotment lists or other Bureau records.” (Snoqualmie PF 1993, 32).

- Most of the petitioner’s members descend “from at least one ancestor on the 1895 or 1889 Federal lists [of Indiana Miamis]. . . .” (Miami PF 1990, 15)
- The petitioner’s members “can demonstrate that their ancestors appear on the 1861 or earlier lists of Mohegans.” (Mohegan PF 1989, 11). *Note: The petitioner also submitted lists dated 1766, 1782, 1790, 1799, and “Overseer’s Accounts” dated 1837, 1838, 1839, and 1849 (PF 1989, 11).*
- The petitioner’s “members can demonstrate . . . that they descend from a Gay Head Wampanoag who appears on a census of the inhabitants of Gay Head, Massachusetts, published in 1871.” (Wampanoag of Gay Head PF 1986, 7)
- The petitioners’ membership “is open to persons of at least 1/16th Indian blood of any recognized American Indian tribe. Although Cherokee is the predominant Indian ancestry claimed by members, ancestry is also claimed in as many as 37 other recognized and unrecognized tribes and groups.” ¶ The petitioners’ “memberships consist of individuals who have not established their descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity.” Therefore, the petitioners “do not meet criterion 83.7(e). . . .” (Southeastern Cherokee PF 1985, 8). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- “. . . Federal law imposes no general blood degree requirement for tribal membership. Moreover, Federal regulations for determining eligibility for acknowledgment as a tribe (25 CFR Part 83) do not contain a blood quantum requirement.” (Poarch Band of Creeks FD 1984, 49 F.R. 24083). *See also: Narragansett FD 1983, 48 F.R. 6177.*
- “. . . the membership of the Poarch Band of Creeks consists of individuals who have established descendancy from an historical tribe. . . .” (Poarch Band of Creeks PF 1983, 7)
- “The [petitioning] group’s practice of citing earlier membership rolls which also contained significant numbers of ‘other Indian descendants’ as evidence of Snohomish ancestry has weakened -- and continues to weaken -- the group’s claim to descent from a historical tribe. When viewed in conjunction with the group’s vague and loosely applied membership criteria, the presence of a large number of non-Snohomish members is not consistent with the concept of an Indian tribe as anticipated in 83.7(a-g) of the regulations. We conclude that the organization as a whole is a collection of Indian descendants of Snohomish as well as Clallam,

Snoqualmie, and other Indian ancestry and that the petitioner, therefore, does not meet 83.7(e).” (Snohomish PF 1983, 26). *Note: The PF found that at least one-third of the members on previous lists had been non-Snohomish (PF 1983, 20).*

- Members “are believed to be able to trace to at least one ancestor on the membership lists of the Narragansett community prepared after the 1880 Rhode Island ‘detrribalization’ act.” (Narragansett FD 1983, 48 F.R. 6177)
- “. . . the membership of the LMC [petitioner] consists of individuals, most of whom cannot, using customary genealogical and enrollment procedures, establish descendancy from the historical Creek Tribe. . . .” (Lower Muskogee Creek PF 1981, 4)
- “. . . the Indian ancestry of the above 111 members has been accomplished in the following manner: 18 current members actually appeared on the 1926 Clallam Payment Roll as affiliated with the Jamestown Band; 93 additional members provided documentary evidence tying them to Jamestown ancestors on the 1926 Clallam Payment Roll.” (Jamestown Clallam PF 1980, GTR 3)
- The petitioner’s members “can establish Ottawa and Chippewa ancestry by tracing to the 1908 Durant payment roll.” (Grand Traverse PF 1979, 7)

Individuals incorporated into the historical tribe:

- “. . . the petitioner’s members who lack descent from the historical band were not gradually incorporated into that band over time in any process of evolutionary change, nor were they part of an Indian entity that amalgamated with that band.” (Burt Lake Band PF 2004, 26). *Note: This discussion concerned section 83.8 rather than criterion (e). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The ‘Cowlitz métis’ included the mixed-blood descendants of several Indian women from other tribes. These women and their children functioned as members of the Cowlitz tribe prior to the latest date of previous unambiguous Federal acknowledgment. They had been incorporated into the historical tribe.” (Cowlitz FD 2000, 18-19). *Note: See also the PF:*

“The process by which non-Cowlitz métis families became associated with the Cowlitz Indians was carefully analyzed by the BIA. It was concluded that descent from such associated métis families constituted descent from the historical tribe within the meaning of criterion 83.7(e) for the following reasons: (1) inter-tribal marriages were customary in the Pacific Northwest; (2) the associated families have consistently lived among and intermarried with families of documented Cowlitz descent since the 1830’s; (3) Roman Catholic church records indicated that the

process of association had been completed prior to 1855, the date of unambiguous prior Federal acknowledgment being used for this Proposed Finding; and (4) the descendants of these families had been consistently accepted and identified as Cowlitz by the Federal government and the BIA.” (Cowlitz PF 1997, 46).

- “Approximately 15 percent of CIT [petitioner] members have not submitted evidence consistent with the CIT’s own constitution or acceptable to the Secretary of the Interior to prove their Chinook descent. These members descend from Rose LaFramboise, a métis woman for whom there is conflicting information regarding her parentage.” [p.38] ¶ “While Rose LaFramboise may not have been Chinook by blood, she appears to have been accepted as a member of the Chinook community in which she lived. This comports with the long-standing definitions of ‘Indian’ and ‘tribal member’ (Solicitor’s Memorandum[,] January 16, 1958).” [pp.38-39] (Chinook PF 1997, 38-39). *Note: The PF, FD, and RFD, did not add this 15 percent to the 85 percent of members with demonstrated Chinook descent (see also, RFD 2002, 107-108).*
- The proposed finding considered “both families descended from the original Match-e-be-nash-she-wish Band and families descended from other Potawatomi and Ottawa Indians who joined the Griswold Mission settlement or married into the MBPI [petitioner] families during the second half of the 19th century.” (Match-e-be-nash-she-wish Band PF 1997, 18).
- “The STO [petitioner] membership consists of individuals with ancestry from the historical Samish tribe and from other, non-Samish Indian families which historically became incorporated into the Samish tribe.” ¶ “The [descendants of the] Noowhaha [tribe] in the present STO are descendants of specific Noowhaha families – Blackinton, Wooten and Barkhousen – which were members [of a Samish political entity] in 1926. Under the precedents for interpreting the acknowledgment regulations, when individual families from other tribes have become incorporated historically into a tribe, their ancestry qualifies as ancestry from the historical tribe. Therefore ancestry from the Blackinton, Wooten, and Barkhousen family lines qualifies as descent from the historical Samish tribe.” (Samish FD 1995, 12). *See also: vacated FD 1987, 25, 26, re: incorporation of Blackinton and Cowegian.*
- “Previous acknowledgment decisions have allowed for the movement of families between bands and tribes, as well as the formal or informal merger of bands and tribes. This phenomenon is allowed for in this finding by discussing both families descended from the original settlers at Pine Creek, 1842-1843, and families descended from other Indians who joined the Pine Creek settlement later in the nineteenth century.” (Huron Potawatomi PF 1995, 21).

**“a historical Indian tribe”:**

- “For the purposes of this proposed finding, the ‘historical tribe’ is the historical Cheboygan band. The members of this historical band are those who received annuity payments or land allotments as members of the band under the treaties of 1836 and 1855 or who lived in an Indian village on the shore of Burt Lake as late as 1900.” (Burt Lake Band PF 2004, 15-16; see also 90).
- “Evidence identifying Indian individuals residing in Indian settlements in the area of the Verona railroad stop . . . provided the basis for the Proposed Finding’s Verona Band proxy [membership list].” (Muwekma FD 2002, 149; see also, 143-144). *Note: See also the PF:*

“ . . . the petitioner has not submitted a contemporary roll or similar accounting of the individuals in that [historical Verona] band. . . . Therefore, this Proposed Finding has used two residential lists . . . as a proxy for the membership [list] of the Verona Band. . . .” [p.43] ¶ “The Kelsey Census [1906] and the Indian Population schedule of the 1910 Federal Census were used to identify people who were most likely part of the previously acknowledged Verona Band. These sources were used because Kelsey grouped Indians according to what his 1913 final report called ‘settlements,’ and because the enumerator of the 1910 Indian schedule enumerated Indians living in ‘Indian town’ on Sunol Road, that is, a specific settlement, and not simply a general geographic area.” [p.44] ¶ “. . . no official roll existed for the 1914-1927 time period during which the band was presumed to have been federally acknowledged. This necessitated the construction of a proxy list of members in the time period as close to that 1914-1927 period as possible. . . .” [p.51] (Muwekma PF 2001, 43-44, 51)
- “This proposed finding accepts the petitioner’s claim that its members derive from ‘the historic Turtle Mountain Chippewa Band and its immediate precursor group, the Pembina Chippewa Tribe, and ultimately from the Red River/Pembina Chippewa-Cree Métis aboriginal community. . . .’ ” (Little Shell PF 2000, 41-44). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “. . . only three of the 612 members have been documented as descendants of persons who, historically . . . were described by themselves or others, in contemporary or retrospective documents, as Steilacoom Indians. Rather, the petitioner’s members descend primarily from two other population groups.” [p.19] ¶ “Just under two-thirds [of the petitioner’s members] . . . descend from non-Steilacoom Indian women who, between 1839 and 1870, married . . . employees of the Hudson’s Bay Company (HBC). . . . The descendants of these Indian/HBC marriages cannot be categorized as a metis (mixed-blood) group descended from the historical Steilacoom band, because the Indian wives came from a wide variety of tribal origins.” [pp.19-20] ¶ “Just over one-third of the petitioner’s members . . . trace their lineage to Canadian Indian tribes

through Red River metis families from Manitoba who settled in Oregon and Washington between 1844 and 1855. . . . However, the documented intermarriages did not take place between Red River immigrants and Steilacoom Indians. Rather, they took place between Red River immigrants and the non-Steilacoom Indian/HBC descendant families described above.” [p.20] (Steilacoom PF 2000, 19-20). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- “The petitioner documented the presence of the historic Choctaw Nation in the Mississippi and Alabama regions; however, none of the names of the MOWA [petitioner] ancestors appear on the historical documents concerning this tribe.” (MOWA Band of Choctaw FD 1997, 3; see also, 5). *Note: See also the PF:*

“ . . . the petitioner has not documented . . . that any tribal entity continued to exist in Washington and Mobile Counties, Alabama, after 1830, of which those [petitioner’s] core families could have become a part.” (MOWA Band of Choctaw PF 1994, 14).

- “. . . approximately 85 percent of the [petitioner’s] 1995 membership descends from either the Wahkiakum, Willapa, Kathlamet, or Lower Band of Chinook or the Clatsop tribe of Indians who were treated by the Federal Government in 1851. . . . Approximately 82 percent of the CIT [petitioner] membership descends from the Lower Band of Chinook. Some descendants of the other bands married into the Lower Band. . . .” (Chinook PF 1997, 39). *Note: The PF traced descent to the historical tribe of the treaty era using a combination of sources, but relied predominantly on the McChesney rolls of 1906 and 1913 and an associated annuity roll of 1914, and the Roblin roll of 1919 (PF 1997, GTR 3-8).*

- “. . . the petitioner’s members descend from Match-e-be-nash-she-wish’s Potawatomi Band, which received a three-mile square reserve . . . under the Treaty of 1821. The Band moved northward from Kalamazoo to its current location in Allegan County, Michigan, after the 1833 Treaty of Chicago. . . . The Band was a signatory to the 1855 Treaty of Detroit. . . .” (Match-e-be-nash-she-wish Band PF 1997, 18). *Note: The FD traced descent to the 1870 annuity payroll for Chau-be-quong’s Band or the 1904 Taggart Roll (FD 1998, 18). The petitioner had previous Federal acknowledgment until 1870. Note: See also the FD:*

“ . . . the effective date of unambiguous prior Federal acknowledgment for MBPI [petitioner] . . . was 1870. The proposed finding . . . was not required to consider its [band’s] composition prior to that time.” (Match-e-be-nash-she-wish Band FD 1998, 19)

- “The petitioner’s membership descends from the historical tribe of Duwamish Indians who lived in what is now King County, Washington, at the time of the Treaty of Point Elliott in 1855.” (Duwamish PF 1996, 19-20). *Note: The PF used the 1919 Roblin*

*roll and a 1971 judgment roll of Duwamish descendants to confirm Duwamish ancestry (PF 1996, 19).*

- “Historians, anthropologists, and journalists have mentioned many tribes as possible precursors of the RMI [petitioner]. . . . However, none of the documentation submitted by the petitioner or any other documents reviewed . . . connected the earliest documented RMI ancestors with any of the tribes that once resided in New York or New Jersey.” [p.29] ¶ “The petitioner has not demonstrated that their earliest documented ancestors were members of a historical North American Indian tribe, nor has the petitioner documented that their earliest proven progenitors descended from any known historical tribe. . . .” [p.32] (Ramapough FD 1996, 29, 32)
- “Collectively, the petitioner’s members descend from the Potawatomi bands resident on the Nottawaseppi Reserve as they existed at the time of the signing of the Treaty of Chicago in 1833.” (Huron Potawatomi PF 1995, 21). *Note: The PF and FD traced descent from the 1904 Taggart Roll (PF 1995, 22; FD 1995, 60 F.R. 66315).*
- “The Jena Choctaw directly descends from Choctaws who left the historic Mississippi Choctaw tribe and settled . . . in the vicinity of Jena, Louisiana, prior to 1880. . . .” (Jena Choctaw FD 1995, 60 F.R. 28480). *Note: The PF and FD traced descent from “Mississippi Choctaw on the 1903 preliminary roll of the Dawes Commission” (FD 1995, 60 F.R. 28480; see also, PF 1994, 12).*
- Although 84 percent of the petitioner’s members have “Indian ancestry, . . . this ancestry could not be reliably identified as descending from a specific historical tribe, nor from historical tribes which combined. . . .” ¶ “. . . there were only three Indian progenitors for the UHN [petitioner]. These three unrelated Indians settled along the southern portion of Bayou Terrebonne . . . prior to 1810.” [p.25] “In spite of the ‘Houma’ name ascribed to the community by anthropologists . . . there is no evidence that any of the Indian individuals in the UHN ancestral community originated in the historical Houma Indian tribe of Louisiana.” ¶ “. . . there is no documentation that allows an identification of the UHN members with the Houma or any other historical tribe.” [p.27] (Houma PF 1994, 25, 27). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The petitioner’s members have “descent from the Snoqualmie, a signatory tribe to the 1855 Treaty of Point Elliott.” (Snoqualmie PF 1993, 32).
- The petitioner’s members “descend from the historical Indiana portion of the Miami Tribe. . . .” (Miami PF 1990, 15).
- The petitioner’s members “trace their tribal ancestry to historic Paiute communities, in or near the area of the present western Navajo reservation . . . these communities



can be identified as ‘San Juan Paiute’.” (San Juan Paiute FD 1989, 11). *Note: See also the PF:*

The petitioner’s ancestors “can be identified historically with the Paiute settlements on or very near the Navajo reservation in northern Arizona and southern Utah.” (San Juan Paiute PF 1987, xii).

- The petitioner’s “ancestors appear on the 1861 or earlier lists of Mohegans.” (Mohegan PF 1989, 11). *Note: The PF stated that, “The 1861 list, prepared for the division of tribal lands, is the primary list used by the petitioner in determining descent.” (PF 1989, 11).*
- “Although the petitioner continues to claim that their ancestors came from the Creek town of Tamali, and . . . made new claims of other ancestral Creek towns, no evidence was submitted to substantiate their claim. . . . The evidence that the petitioner submitted . . . did not identify the [petitioner’s] ancestors as Indian or members of any tribal entity.” (MaChis Creek FD 1988, 53 F.R. 23694). *Note: See also: PF 1987, 5, and HTR 6.*
- The petitioner’s members “descend from a Gay Head Wampanoag who appears on a census . . . published in 1871. . . . [and] there is documentary evidence to establish ancestry from the 1871 ancestor back to Gay Head Indians who appear on a list prepared in 1792.” (Wampanoag of Gay Head PF 1986, 7)
- “The petitioning organizations are not derived from nor are they the historical successors of the pre-removal Cherokee Nation.” (Southeastern Cherokee FD 1985, 50 F.R. 39048). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- “The Tchinouk Indians [petitioner] descend from an unknown band or bands of the Chinook Indians who inhabited the Columbia River Basin in Oregon and Washington. The specific band, and whether Lower or Upper Chinook, could not be determined.” (Tchinouk PF 1985, 6; see also, 11). *Note: This quotation is from the “general conclusions” section; a similar conclusion is stated in the discussion of criterion (e).*
- “The KIN [petitioner] . . . has no relation to the aboriginal Kaweah Indians and did not evolve from a tribal entity. . . .” (Kaweah PF 1984, memo). *Note: This statement is from the “general conclusions” section of the PF.*
- The petitioner “has no historical link other than descendancy of its members with the historical Creek Nation.” (Principal Creek PF 1984, 1). *Note: This statement is from the “general conclusions” section of the PF.*

- “Evidence indicates that the contemporary Poarch Band of Creeks is a successor of the Creek Nation of Alabama. . . . Ancestors of the Poarch Band of Creeks began as an autonomous town of half-bloods in the late 1700's with a continuing political connection to the Creek Nation. The Poarch Band remained in Alabama after the Creek Removal of the 1830's. . . .” (Poarch Band of Creeks FD 1984, 49 F.R. 24083).  
*Note: This statement in the FD was repeated from the “general conclusions” section of the PF (PF 1984, 1). Note: Descent from the historical Creek tribe was traced from ancestors on “early 19th century Federal records.” (PF 1984, 6).*
  
- “Neither the original petition nor the later reports submitted by the group demonstrate that an antecedent Lumbee group existed in that part of California or that an organized group of Lumbee ever migrated there. The petitioners could not establish the group’s descendancy either culturally, politically, or genealogically from any tribe which existed historically in the area.” (United Lumbee FD 1985, 50 F.R. 18746).  
*Note: See also the PF:*  
  

“The ULN [petitioner] has no relation to the Lumbees of the Robeson County area in North Carolina.” [p.1] ¶ “The present membership of the ULN is not composed of individuals of actual Lumbee descent.” [p.2] (United Lumbee PF 1984, memo).  
*Note: This statement is from the “general conclusions” section of the PF.*
  
- “The petitioning organization and its member’s [sic] ancestors have not historically formed part of the historic Snohomish tribe proper, i.e., the tribe derived from several bands which were signatory to the 1855 Treaty of Point Elliott. The historic Snohomish tribe became centered on the Tulalip Reservation soon after the treaty. . . .” (Snohomish PF 1983, 1). *Note: This conclusion was stated in the introduction rather than in criterion (e).*
  
- “The aboriginal Samish were one of the Coast Salish tribes of Puget Sound, with territory centered on Guemes and Samish Island, and including neighboring islands and portions of the mainland shore to the east.” ¶ “‘Tribes,’ as the term has been applied to groups in this area, were linguistic and cultural units. . . . They were clearly defined and named in the traditional culture.” [p.1] ¶ “Although the Samish are not mentioned in the final draft of the treaty [of Point Elliott, 1855], they were part of the treaty negotiations and were clearly considered to be covered by the treaty.” [p.2] (Samish PF 1982, 1, 2). *Note: These statements were made in the “general conclusions” section, rather than in the discussion of criterion (e).*
  
- The petitioning group “did not evolve from a tribal entity. . . . [N]o evidence . . . indicates that the group ever had any political existence prior to 1974. . . .” [p.1] ¶ “No evidence . . . [indicates] that members of the MTD [petitioner] were descended

from Munsee or Delaware Indians. . . .” [p.4] (Munsee-Delaware PF 1982, 1, 4).

*Note: The quotation from p.1 is from the “general conclusions” section.*

- No evidence indicated that the petitioner “is derived from a tribal entity which survived the removal of the Creek Nation in the 1830's. . . .” (Lower Muskogee Creek PF 1981, 1). *Note: This statement was made in the “general conclusions” section. Note: See also the FD:*

“The presence of large numbers of Indian descendants scattered throughout a given region does not necessarily mean that these descendants constitute an Indian tribe within the meaning of the regulations.” (Lower Muskogee Creek FD 1981, 2). *Note: This statement was made in the “summary conclusions” section.*

- “The Jamestown Clallam Tribe of Indians is the modern successor of those Clallam Indians who lived around the Dungeness, Washington area, signed the 1855 Point No Point Treaty with the United States and formed the community of Jamestown in 1874.” (Jamestown Clallam FD 1980, 45 F.R. 81890). *See also: PF 1980, 1, 3. Note: The PF traced descent from the 1926 Clallam payment roll (PF 1980, GTR 6; see also, GTR 1, 3, 5).*

“historical Indian tribes which combined”:

- “The petitioner has not demonstrated by a reasonable likelihood that the other 17 family lines [without Snohomish ancestry], while descending from other Indian tribes, had amalgamated with the petitioner’s Snohomish ancestors at some point in history to form a separate and distinct tribal entity.” (Snohomish FD 2003, 52)
- “The proposed finding never stated that a separate métis entity had amalgamated with the Lower Cowlitz. It stated that individual French Canadian/métis had joined or married into the Lower Cowlitz before treaty times.” (Cowlitz FD 2000, 18)
- The final determination traced descent “from individuals who were part of the historical Cowlitz tribes which historically amalgamated.” (Cowlitz FD 2000, 19). *Note: The FD concluded, in the discussion of previous Federal acknowledgment:*

“. . . the Lower and the Upper Cowlitz . . . were administratively amalgamated by the Government in 1878-1880.” (Cowlitz FD 2000, 4; see also, 65 F.R. 8436)

- “The ALJ’s [administrative law judge’s] finding that the Noowhaha and the Samish combined in pre-treaty times is rejected. . . . [T]he two tribes formed an alliance in pre-treaty times. . . . However, a political alliance does not meet the requirements of criterion 83.7(e) for descent from a historical tribe or from tribes which ‘combined into a *single autonomous political unit*’ (emphasis added).” (Samish FD 1995, 12-13)

- “Neither did the ancestral community represent descent from ‘historical Indian tribes which combined and functioned as a single autonomous political entity.’ Rather, the ancestral community represented Indian individuals separated from their tribes of origin who intermarried with non-Indians in the founding generation.” (Houma PF 1994, 27). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The Narragansett petitioner “is the modern successor of the Narragansett and Niantic tribes which, in aboriginal times, inhabited the area which is today the state of Rhode Island.” ¶ “After the Narragansett nation was essentially destroyed in 1675 in King Philip’s War, the Niantics combined with the remnants of the Narragansetts.” (Narragansett FD 1983, 48 F.R. 6177). *See also: PF 1982, 1-2. Note: The PF stated that, “The combined tribes almost immediately became known as the Narragansett Indians” (PF 1982, 2). Note: The PF and FD traced descent from the historical tribe to an “ancestor on the membership lists of the Narragansett community prepared after the 1880 Rhode Island ‘detrribalization’ act” (FD 1983, 48 F.R. 6177).*
- “. . . the membership of the Death Valley Timba-Sha Shoshone Band of Indians consists of individuals who have established descendancy from historical Shoshone bands in the Death Valley area which combined and functioned as a single autonomous entity. . . .” (Death Valley Shoshone PF 1982, 7). *See also: FD 1982, 47 F.R. 50109.*
- “The contemporary Tunica-Biloxi Indian Tribe is the successor of the historical Tunica, Ofo, and Avoyel tribes, and part of the Biloxi tribe. . . . The component tribes were allied in the 18th century and became amalgamated into one in the 19th century through common interests and outside pressures from non-Indian cultures.” [p.1] “We conclude that the membership of the Tunica-Biloxi Indian Tribe consists of individuals who have established descendancy from historical tribes which combined and functioned as a single autonomous entity. . . .” [p.5] (Tunica-Biloxi PF 1980, 1, 5). *Note: The quotation from p.1 is from the “general conclusions” section of the PF. See also: FD 1981, 46 F.R. 38411. Note: Descent from the combined historical tribes was traced from “lists of Tunicas and Biloxis prepared in the late 1800’s and early 1900’s” (FD 1981, 46 F.R. 38411; see also, PF 1980, 4).*
- “The Grand Traverse Band of Ottawa and Chippewa Indians is the modern successor of several bands of Ottawas and Chippewas. . . . [T]hese bands, and the subsequent combined band, have existed autonomously since first contact. . . .” [p.1] ¶ “. . . the membership descends from the historical Ottawa and Chippewa bands which inhabited the Grand Traverse Bay area” [p.8] (Grand Traverse PF 1979, 1, 8). *Note: The quotation from p.1 is from the “general conclusions” section of the PF. See also: FD 1980, 45 F.R. 19322. Note: The PF traced descent from the 1908 Durant payment roll (PF 1979, 7).*

**EVIDENCE UNDER 83.7(e):****(e) Descent from a historical Indian tribe:**Evidence that has MET the criterion:

- ▲ “all” members descend from a historical tribe (Match-e-be-nash-she-wish Band PF 1997, 18-19). *See also: FD 1998, 18-19.*
- ▲ “all” members descend from a historical tribe (Historical Eastern Pequot FD 2002, 67 F.R. 44240).
- ▲ “essentially all” members descend from a historical tribe [or combined tribes] *and* meet the group’s membership criteria (Narragansett FD 1983, 48 F.R. 6177; PF 1982, 18).
- ▲ “virtually all” members descend from a historical band (San Juan Paiute PF 1987, xii). *See also: FD 1989, 11.*
- ▲ “virtually all” members descend from the amalgamated historical Cowlitz tribes (Cowlitz FD 2000, 19). *See also: PF 1997, 47.*
- ▲ “virtually all” members descend from a historical tribe (Poarch Band of Creeks FD 1984, 49 F.R. 24083; PF 1984, 7). *Note: The PF also concluded that 98 percent of members descend from a historical tribe and meet the group’s membership criteria (PF 1984, GTR 7, 11).*
- ▲ “virtually all” members descend from historical Shoshone bands which combined (Death Valley Shoshone FD 1982, 47 F.R. 50109; PF 1982, 6). *Note: The PF also concluded that 97 percent of members descend from a historical tribe and meet the group’s membership criteria (PF 1982, GTR 11).*
- ▲ 100 percent of members descend from a historical tribe (Schaghticoke Tribal Nation FD 2004, 69 F.R. 5574).
- ▲ <100 percent of members descend from a historical tribe (Huron Potawatomi PF 1995, 22; see also, 23). *Note: Described as “all but one adopted child” of 819 members. See also: FD 1995, 60 F.R. 66315.*
- ▲ <100 percent of members descend from a historical tribe (Mohegan FD 1994, 31). *Note: Described as “all but two” of 972 members.*

- ▲ 99 percent of members descend from a historical tribe (Duwamish PF 1996, 19). *See also: FD 2001, 66.*
- ▲ 99 percent of members trace their ancestry to the historical Verona band (Muwekma FD 2002, 156, 159).
- ▲ 98 percent of members descend from a historical bands which combined *and* meet the group's membership criteria (Grand Traverse Band PF 1979, 7; see also, 8). *Note: The PF and FD concluded that, "The membership is unquestionably Indian, of Ottawa and Chippewa descent" (PF 1979, 1; FD 1980, 45 F.R. 19322).*
- ▲ 98 percent of members descend from a historical tribe *and* meet the group's membership criteria (Wampanoag of Gay Head PF 1986, 7). *Note: Criterion (e) was not at issue for the FD (see FD 1987, 52 F.R. 4194).*
- ▲ 98 percent of members descend from a historical tribe (Miami PF 1990, 15). *Note: Described for the FD as "virtually all" (FD 1992, 57 F.R. 27312).*
- ▲ 96 percent of members descend from a historical tribe (Snoqualmie PF 1993, 32). *See also: FD 1997, 17.*
- ▲ 94 percent of members descend from a historical tribe *and* meet the group's membership criteria (Tchinouk PF 1985, 11). *See also: FD 1986, 51 F.R. 2438.*
- ▲ 93 percent of members descend from historical tribes which combined (Tunica-Biloxi PF 1980, 1, 5; FD 1981, 46 F.R. 38411). *Note: Described as 186 of 200 members.*
- ▲ 88 percent of members descend from a historical tribe (Jena Choctaw PF 1994, 12). *See also: FD 1995, 60 F.R. 28480.*
- ▲ 86 percent of members descend from a historical band *and* meet the group's membership criteria (Jamestown Clallam PF 1980, 4). *Note: Described as 111 members "have adequately documented" and 39 "could be expected to satisfactorily document" that they meet the membership criteria, out of 175 total members. However, members who did not appear to meet the criteria were "clearly Clallam." Note: The PF and FD concluded that, "The membership is unquestionably of Clallam descent" (PF 1980, 1; FD 1980, 45 F.R. 81890).*
- ▲ 85 percent of members descend from historical Chinookan bands (Chinook PF 1997, 39). *See also: RFD 2002, 107. Note: 82 percent descend from the Lower Band.*

- ▲ 82 percent of members descend from a historical band [Webster/Dudley band] (Nipmuck #69B FD 2004, 69 F.R. 35667).
- ▲ 81 percent of members have Creek Indian ancestry (Principal Creek PF 1984, 4).  
*Note: The FD did not explicitly address criterion (e) (FD 1985, 50 F.R. 14302).*
- ▲ 80 percent of members descend from a historical tribe (Samish FD 1995, 14). *Note: The vacated FD found that the petitioner failed to meet criterion (e) with 74 percent descent from the historical tribe (FD 1987, 25).*
- ▲ “The evidence establishes a reasonable probability that a strong majority of the petitioner’s members descend from individuals of Pembina Chippewa ancestry.” (Little Shell PF 2000, 44). *Note: See the comments in the Snohomish FD contrasting the circumstances of the Snohomish and Little Shell petitioners (Snohomish FD 2003, 52-53). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT met the criterion:

- ▼ 69 percent of members descend from a historical tribe (Snohomish FD 2003, 53).  
*Note: The petitioner failed to meet criterion (e) for the PF with 59 percent descent from a historical tribe (PF 1983, 18, 26).*
- ▼ 53 percent of members descend from a historical band [Webster/Dudley band] (Nipmuc #69A FD 2004, 69 F.R. 35671). *Note: Another 2 percent of members descend from the Hassanamisco band.*
- ▼ 46 percent of members descend from a historical band (Burt Lake Band PF 2004, 97).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ 38 percent of members have Creek Indian ancestry (Lower Muskogee Creek PF 1981, 4). *Note: The FD included the Creeks East of the Mississippi. That group’s response to the PF included a list of 2,700 persons. The FD found that only 24 percent of them could be considered to have established Creek ancestry. The FD concluded that these new findings reinforced the conclusion in the PF that “a majority of the LMC [petitioner] membership are unable to establish Creek ancestry” (FD 1981, 7).*
- ▼ 4 percent of members are likely to have Lumbee ancestry (United Lumbee PF 1984, 6). *Note: The FD concluded that the petitioner “could not establish” descent “from any tribe which existed historically in the area” (FD 1985, 50 F.R. 18746).*
- ▼ 1 percent of members have Indian ancestry, but not in the claimed historical tribe (MOWA Band of Choctaw PF 1994, 14; FD 1997, 4, and 62 F.R. 67399). *Note:*

*The FD concluded that no documentation demonstrated that the petitioner's claimed "core ancestors . . . were descendants of the historical Choctaw tribe. . . ." (FD 1997, 62 F.R. 67399).*

- ▼ 0 percent of members descend from a historical tribe (Munsee-Delaware PF 1982, 5).  
*Note: Found that "No evidence" demonstrated that "any member" had tribal ancestry.*
- ▼ 0 percent of members descend from a historical tribe (Kaweah PF 1984, 4). *Note: Found that tribal descent was "not established."*
- ▼ 0 percent of members descend from a historical tribe (Southeastern Cherokee PF 1985, 8). *Note: Found that tribal descent was "not established." Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band. See also: FD 1985, 50 F.R. 39047.*
- ▼ 0 percent of members descend from a historical tribe (MaChis Creek PF 1987, 5).  
*Note: Found that "no documentation" demonstrated tribal descent. Note: The FD did not specifically address criterion (e) (FD 1988, 53 F.R. 23694).*
- ▼ 0 percent of members descend from a historical tribe (Ramapough FD 1996, 32).  
*Note: Found that tribal descent was "not demonstrated."*
- ▼ 0 percent of members descend from a historical tribe (Golden Hill Paugussett FD 2004, 69 F.R. 34392). *Note: Found that tribal descent was not demonstrated for "any" members.*
- ▼ “. . . although the petitioner’s membership consists of Indian descendants, it does not consist of ‘individuals who descend from a historical Indian tribe or from historical Indian tribes which combined. . . .’” (Steilacoom PF 2000, 20-21). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ Although 84 percent of the petitioner’s members have “Indian ancestry, . . . this ancestry could not be reliably identified as descending from a specific historical tribe, nor from historical tribes which combined. . . .” [p.25] ¶ “. . . with the exception of one individual, none of the [petitioner’s] founding Indian ancestors can be traced to any particular tribal origin.” [p.26] (Houma PF 1994, 25, 26). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*



**(e)(1) Evidence acceptable to the Secretary:**

- “Information about the petitioner’s ancestors was gathered from many historical sources. Only some of these sources, however, identified members of historical tribes . . . at certain times in the past. Some sources provided information about the lines of descent of the petitioner’s members, and identified their ancestors.” (Little Shell PF 2000, 41). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Determinations regarding the descent of each family from the historical tribe were based on the evaluation of information gathered from a variety of different sources.” (Snohomish PF 1983, 22). *See also: FD 2003, 51.*
- Acknowledgment researchers “relied more heavily on . . . evidence closer to the original ancestor.” (Snohomish PF 1983, 24)
- “Further confirmation of the accuracy of the band’s [petitioner’s] enrollment work [i.e., documentation of descent] was obtained by an on-site visit . . . by a staff genealogist who, with the band’s permission, reviewed tribal files. . . .” (Grand Traverse Band PF 1979, 7)

**Evidence that has NOT been accepted as evidence of Indian or tribal descent:**

- ▼ “The petitioner’s assertions concerning multiple ancestries, alternative tribal designation, adoption, slavery, and other descent-related topics commonly did not include citations or references to any supporting evidence.” ¶ “Many examples [provided by the petitioner] . . . referred to persons affiliated with the Tulalip Snohomish rather than to ancestors of the petitioning group. . . . to substantiate the possibility of Snohomish ancestry. . . . Without specific documentation of Snohomish ancestry for the petitioner’s members, STI’s [petitioner’s] assertions and examples are not persuasive in identifying sources which demonstrate Snohomish ancestry for STI progenitors.” (Snohomish FD 2003, 51)
- ▼ “Without documentation, the BIA cannot make an assumption, on the basis of late 19th-century and early 20th century ascriptions, that these unknown RMI [petitioner] ancestors were members of a historical North American Indian tribe.” (Ramapough FD 1996, 32)
- ▼ “. . . no documentation was submitted nor was any documentation located to establish that MaChis existed or that the common ancestors of the group were identified as Indians or were members of any historical tribe or tribes.” (MaChis Creek PF 1987, 5).

- ▼ “Virtually all of this Indian ancestry appears to be unverifiable. Little if any documentary evidence could be found to document a member’s Indian heritage.” (Southeastern Cherokee PF 1985, 8).
- ▼ The petitioner “did not provide the genealogical information or documentation needed to establish the Indian ancestry of its members.” (Kaweah PF 1984, 4)
- ▼ “. . . no ancestry charts of any kind were provided [by the petitioner] and the acknowledgment staff was notified that release of such information would be against ULN [petitioner] policy.” ¶ “The Indian ancestry, if indeed any, of ULN members could not be verified . . . due [to] the total lack of personal information about individual members.” ¶ The group “has not provided the genealogical information or documentation needed to establish the Indian ancestry of its members.” (United Lumbee PF 1984, 6)
- ▼ “No evidence was submitted nor could any be found by members of the Acknowledgment staff that members of the MTD [petitioner] were descended from Munsee or Delaware Indians. . . .” ¶ “. . . no genealogical information was submitted with the petition.” (Munsee-Delaware PF 1982, 4).

**(e)(1)(i) Rolls prepared by the Secretary on a descendency basis:**

Evidence that has been ACCEPTED as evidence of Indian descent:

- ▲ “Acceptable evidence of this type [(e)(1)(i), rolls prepared by the Secretary on a descendency basis] consists of the 1910 Durant Roll. . . . The 1910 Durant Roll, however, is not a stand-alone document, and relies upon the 1908 Durant Field Notes and the 1870 annuity list of the Joseph Way-bway-dum band in order to successfully document descendants of the historical Cheboygan or Burt Land band. The 1870 annuity list identifies 33 families of the band, which Durant termed the ‘Burt Lake’ band in his 1908 field notes.” [pp.90-91] ¶ “. . . the field notes and roll prepared by Durant constitute evidence of Burt Lake band ancestry of these individuals living in 1908, but do not constitute evidence of members of a tribe . . . in 1908.” ¶ “Individuals on the 1910 Durant Roll, who are also found in the 1908 Durant field notes for page 31 [the ‘Burt Lake’ band] . . . have met this regulation’s definition of proving descent from the historical band.” [p.91] (Burt Lake Band PF 2004, 90-91).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Appearance on the 1933 California Indian judgment roll is acceptable evidence of Indian ancestry under 83.7(e)(1)(i).” (Muwekma PF 2001, 48; see also, 52). *Note: However, descent from the historical band was not traced to this judgment roll. The PF noted that, for this judgment roll, an additional step was necessary to trace*

- descent from a specific band: “For those applicants whose named parents or grandparents are also found among the 53 persons on the combined Kelsey Census and 1910 Indian schedule of ‘Indian town,’ the applications provide acceptable evidence under 83.7(e) of descent from the proxy of the Verona Band (PF 2001, 48).*
- ▲ Documentation accepted as evidence of descent from the historical Pembina band includes “the list of individuals who received land scrip as relatives of members of the Pembina Band under the terms of . . . treaties.” [p.42] ¶ “Because these mixed-blood relatives of the treaty band were descendants of someone who had been a member of the band at an earlier time, the petitioner’s members who descend from men who received treaty scrip as a relative of the Pembina Band therefore descend from a member of the band in a generation earlier than the treaty.” [p.43] (Little Shell PF 2000, 42, 43). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
  - ▲ The proposed finding traced descent from “the 1904 Taggart Roll, which was prepared by the BIA to determine eligibility for Potawatomi claims payment.” (Match-e-be-nash-she-wish Band FD 1998, 18)
  - ▲ “Some of the most significant records of the 20th century that identified Chinookan people who were living at the time of the 1851 treaty were the rolls compiled by Charles E. McChesney. . . . These rolls were important because they included the names of individuals who were living in 1851. . . .” ¶ “This [1906] enumeration [of ancestors and heirs] and the 1913 supplement, also compiled by McChesney, were enumerations prepared by the Bureau of Indian Affairs. . . .” [p.4] ¶ “Annuity payment rolls in 1914 . . . which appear to be based on the 1913 McChesney roll, were used to distribute funds appropriated by Congress in land claims suits.” [p.5] ¶ “Testimonies and affidavits taken in conjunction with these rolls [McChesney rolls, annuity roll, and the Roblin roll of 1919] added substantial information about Chinookan family lines or individuals, both living and dead.” [p.7] (Chinook PF 1997, GTR 4, 5, 7)
  - ▲ “Two BIA-generated lists, [including] . . . the 1971 ‘Judgment Roll’ of Duwamish descendants who were paid the award of the Indian Claims Commission, were used to confirm the Duwamish ancestry of the petitioner’s membership.” (Duwamish PF 1996, 19)
  - ▲ “Eighty-six percent of the petitioner’s members have shared in one or more of three judgment distributions awarded to Indiana Miamis by the Indian Claims Commission and the U.S. Court of Claims. In order to share in these distributions, these members had to document their ancestry back to the 1895 or 1889 [Federal] lists to the satisfaction of the Secretary.” (Miami PF 1990, 15). *Note: The PF traced descent from the historical tribe from the 1895 and 1889 Federal lists.*

- ▲ “Two other more recent Federal sources are available which identify PBC [petitioner] members as eastern Creek descendants, namely two descendancy rolls prepared by the Bureau of Indian Affairs to distribute judgment funds awarded to Creeks under Indian Claims Commission (ICC) Dockets 21 and 275.” (Poarch Band of Creeks PF 1983, GTR 9). *See also: PF 1984, 7.*
- ▲ “Two descendancy rolls were used to verify Indian ancestry, namely a roll of Snohomish prepared by the BIA for distribution of an award in Indian Claims Commission Docket 125 and a similar roll prepared of Snoqualmie in Docket 93.” ¶ “Research by the Bureau’s Branch of Federal Acknowledgment (BFA). . . . has led the BFA to reach different conclusions from those reached by the agency regarding the tribal ancestry of some of the ancestors identified as Snohomish on the descendancy roll.” ¶ “In some instances, the BFA relied more heavily on . . . evidence closer to the original ancestor.” (Snohomish PF 1983, 24). *See also: FD 2003, 51.*
- ▲ “Though no official descendancy roll currently exists for the Samish, work is in progress on such a roll. . . . A preliminary draft of the roll being prepared by the Puget Sound Agency was provided to the Acknowledgment staff and evidence gathered for use in preparing the roll . . . [was] also made available.” (Samish PF 1982, 23). *Note: The vacated FD replied to a comment about descendancy rolls by noting that, “The petitioner’s response to the proposed finding also draws comparisons among rolls submitted by the Samish and rolls evaluated in other, successful petitions. Significant differences exist here. . . .” ¶ “The referenced claims distribution rolls of other petitioners were prepared by Federal or State officials for official purposes and are supported by claims applications, other official rolls, and/or testimony. . . . The Samish rolls were prepared by the Samish petitioner for varying reasons. . . .” (Samish FD 1987, 26).*
- ▲ “The Schedule of Clallam Indians, prepared by Walter F. Dickens (then Superintendent of the Tulalip Indian Agency) . . . lists the 1,225 persons who applied to share in the payment to be made to Clallam Indians. . . . Although applicants listed are predominantly of Clallam Indian descent, blood derived from other Indian tribes was also noted.” (Samish PF 1982, 23-24). *See also: Snohomish PF 1983, 25.*
- ▲ The acknowledgment staff researched “the roll prepared . . . for the distribution of the judgment funds awarded to the Indians of California.” (Death Valley Shoshone PF 1982, 6)
- ▲ “Appendix R of the petition is a copy of the Schedule of Clallam Indians of the State of Washington signed in 1926, erroneously labeled ‘1928 Clallam Distribution Roll.’ This schedule does include the name, genealogical data, and blood degree for each of the 1225 applications submitted for payment under the Act of 1925. . . . However,

because the schedule does not indicate the Clallam band in which each of the applicants claimed membership, it cannot be used as the basis for determining *Jamestown* Clallam ancestry as required by the group's constitution." [p.5] ¶ "A roll does exist, however, entitled 'Payment to Clallam Indians, Washington, 1926.' This roll contains the names of the 533 Clallam Indians whose applications were approved for payment. A notation appears in the 'remarks' column of this roll regarding the Clallam band . . . but only for payees numbered 1 through 421." [p.6] (*Jamestown Clallam PF 1980, GTR 5-6*)

- ▲ "Individual family history charts submitted by [the petitioner's] members show that they can establish Ottawa and Chippewa ancestry by tracing to the 1908 Durant payment roll." (*Grand Traverse Band PF 1979, 7*). *Note: The PF indicated: "the membership descends from the historical Ottawa and Chippewa bands which inhabited the Grand Traverse Bay area" (PF 1979, 8).*

Evidence that has NOT been accepted as evidence of Indian or tribal descent:

- ▼ "The petitioner presented no claims, allotment, or annuity rolls prepared by the Secretary (83.7[e](1)(i))." (*Ramapough FD 1996, 31*)
- ▼ ". . . nor is there any record that any member applied for payment as a Delaware descendant in the awards made in Indian Claims Commission Dockets numbered 298 and 72." (*Munsee-Delaware PF 1982, 4*).

**(e)(1)(ii) State, Federal, or other official records:**

- "Federal decennial population schedules do not identify ancestors of members as descendants of a historical band. . . . These census records are acceptable evidence of genealogical descent and helped to document the direct descendants of members of the historical band." ¶ "The Federal Census of 1900 and 1910 included special Indian Population schedules. . . . These schedules do not purport to record bands or tribes, although a general tribal affiliation was requested for each person recorded. In the case of Burt Township, most of those enumerated on the 1900 Indian Population schedule as 'Chippewa' later appeared on the 1910 Indian Population schedule as 'Ottawa'." (*Burt Lake Band PF 2004, 93*). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- Federal "census records identified many of the petitioner's ancestors and provided information about their family relationships, but did not identify them as members of a tribe." (*Little Shell PF 2000, 42*). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- “Because of the extensive courthouse and Catholic church records in southern Louisiana, verification of lines of descent for individuals who lived in Terrebonne and Lafourche Parishes in the nineteenth and twentieth century did not present a problem in the case of this petitioner.” (Houma PF 1994, 26). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Considerable weight has been assigned to testimony taken by [Special Indian Agent] Roblin. . . . A number of the persons he interviewed are the ‘original ancestors’ of the petitioner’s family lines or are members of their immediate family. Since these people had nothing to gain by identifying their ancestry as any one tribe over another, their testimony and affidavits are considered to be objective.” (Samish PF 1982, 24). *Note: The vacated FD further explained that: “[T]heir 1917 and 1918 testimony and affidavits as to their own ancestry are considered more reliable than recent affidavits taken for the acknowledgment petition from individuals several generations removed from the ‘original ancestor’.” (Samish FD 1987, 27).*
- “. . . the principal use of census records was as a tool for validating genealogical information obtained from other sources.” (Samish PF 1982, 25). *See also: Snohomish PF 1983, 25.*
- “A spot check of 116 members of the band was made by requesting documentary evidence (birth certificates, marriage records, etc.). . . . The evidence supported the information on the individual family history charts in every case.” (Grand Traverse PF 1979, 7)

Evidence that has been ACCEPTED as evidence of Indian descent:

- ▲ “Annuity lists, which identified the heads of every family considered to be part of the band in those years in which annuities were paid, are acceptable evidence of this type [(e)(1)(ii), Federal or other official records]. Thus, annuity lists serve to define the historical band more than to describe descendants of the historical band.” (Burt Lake Band PF 2004, 91). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . these identifications [on 1857 and 1864 allotment schedules pursuant to a treaty] of Ottawa and Chippewa descendants whose band affiliation was identified as ‘Sheboygan’ constituted good evidence of membership in the historical band. . . .” (Burt Lake Band PF 2004, 92). *Note: The PF made a distinction between the preliminary 1857 and 1864 allotment schedules and the final 1875 schedule. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ Sources which have been “accepted as evidence of membership in, or affiliation with, or descent from the historical tribe of the Pembina Band of Chippewa includes the lists of tribal leaders who signed for the Pembina Band on the treaties of 1863 and

1864. . . . A listing on one of the annuity rolls of the beneficiaries of the treaties of 1863 and 1864 would be accepted as evidence of tribal membership.” (Little Shell PF 2000, 42). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▲ The proposed finding traced descent “from persons listed on the 1870 annuity payroll for Shau-be-quong’s Band. . . .” (Match-e-be-nash-she-wish Band FD 1998, 18)
- ▲ “In 1919, Special Indian Agent Charles E. Roblin . . . compiled a ‘Schedule of Unenrolled Indians’ . . . determined to be ‘unattached and homeless Indians who have not heretofore received benefits from the government’.” [p.6] ¶ “The Roblin Roll was limited to *unenrolled Indians* who descended from various historical tribes. It was not a census of all Indians nor was it a list of the members of various tribes.” ¶ “Testimonies and affidavits taken in conjunction with these rolls [Roblin roll as well as three other rolls] added substantial information about Chinookan family lines or individuals, both living and dead.” [p.7] (Chinook PF 1997, GTR 6-7)
- ▲ “The lines of descent for individual families have been verified through BIA rolls and BIA-maintained vital records of births, marriages, and deaths; Federal census records from 1850 through 1920; public vital records of births, marriages, and deaths. . . .” (Cowlitz PF 1997, 46-47)
- ▲ “Two BIA-generated lists, [including] the 1919 ‘Roblin Schedule of Unenrolled Indians of Western Washington’ . . . were used to confirm the Duwamish ancestry of the petitioner’s membership.” (Duwamish PF 1996, 19)
- ▲ “Eighty-five percent of the petitioner’s members can trace to ancestors who are identified as Snoqualmie, and either appeared on the Schedule of the Unenrolled Indians of Western Washington, prepared by the Office of Indian Affairs in 1919, or made an application to be listed on the 1919 schedule. Another 11 percent of the membership can trace to ancestors who are identified as Snoqualmie in allotment lists or other Bureau records.” (Snoqualmie PF 1993, 32). *Note: These two sources established the conclusion that 96 percent of the petitioner’s members had Snoqualmie descent. In addition, the PF found that: “Eighty-five percent of the petitioner’s members shared in the 1978 judgment distribution awarded to the Snoqualmie and Skykomish Tribes in the Indian Claims Commission. . . . [T]hese members were required to document their descent from the historic Snoqualmie tribe” (PF 1993, 33).*
- ▲ “The group’s current membership criteria require proof of descent from any of numerous lists (1846, 1854, 1881, 1889, 1895) and annuity rolls (1855-56, 1868-80), prepared by the Federal Government, of Indiana Miamis who were recognized as members by the headmen of the Indiana portion of the historical Miami tribe.” ¶ “. . . available evidence strongly suggests that the group has been relying primarily on

the 1895 and 1889 lists as the basis for determining [membership] eligibility.” (Miami PF 1990, 15). *Note: The PF traced descent from the historical tribe from the 1895 and 1889 Federal lists (PF 1990, 15).*

- ▲ “Acceptable evidence of their ancestry as Paiute appears in the historical records of several agencies of the Federal Government. . . .” (San Juan Paiute FD 1989, 11)
- ▲ “Evidence of this descent is based [in part] on the applications made by Mohegan Indians in 1901 to share in the monetary judgment award in the New York Indians’ Court of Claims suit. . . . Other Federal, State, and local records, such as Federal population census schedules, 19th century petitions to the State and County made by Mohegans, probate records, and vital records, corroborate this descent.” (Mohegan PF 1989, 11)
- ▲ “Poarch Band members descend from ancestors who were identified as Creek in early 19th century Federal records.” (Poarch Band of Creeks PF 1983, 6)
- ▲ “Considerable importance has been placed on the individual affidavits given to Charles E. Roblin from 1916 to 1918 by the ancestors of many of the petitioner’s members.” [p.22] ¶ “The original testimony taken and the signed affidavits subsequently prepared from that testimony were in many instances more important for acknowledgment purposes than the schedule itself. This was because the affiant often identified all of his tribal blood and Roblin selected one ancestry over others for use on the schedule.” [p.23] The proposed finding “utilized Roblin’s original notes of testimony taken from and affidavits subsequently signed by the ‘original ancestors’ themselves or their immediate descendants.” [p.24] (Snohomish PF 1983, 22-23, 24). *See also: FD 2003, 51.*
- ▲ “The ‘detrribalization rolls’ refer to the lists of persons drawn up in 1880 and 1881 who were determined to be tribal members and eligible to share in the \$5,000 to be paid by the State [of Rhode Island] for common tribal land.” A commission was created by the State “to conduct hearings in order to establish who were tribal members. . . .” [p.16] ¶ “The primary consideration of the commissioners, beyond Narragansett descent, . . . was whether an individual had maintained tribal relations. The determination of having maintained tribal relations was tightly drawn by the commission.” ¶ Therefore, “the ‘detrribalization rolls’ described a core of actively participating members. . . . Given the nature of ‘detrribalization rolls’ and the circumstances surrounding their preparation, they are considered to be acceptable as evidence of Narragansett Indian ancestry for acknowledgment purposes.” [p.17] (Narragansett PF 1982, 16-17)
- ▲ “The work of anthropologists in the late 1800’s and early 1900’s and a list prepared by a representative of the Bureau in the 1930’s were used in conjunction with other



recorded documents, the 1900 Federal Population census, and testimony from a 1915 civil court suit to establish Indian ancestry in the historical tribes.” (Tunica-Biloxi PF 1980, 4). *See also: FD 1981, 46 F.R. 38411.*

Evidence that has NOT been accepted as evidence of Indian or tribal descent:

- ▼ “The receipt of an allotment in the Cheboygan reserve in 1875 was not limited to members of the historical Cheboygan band. . . . Thus, appearing on the final 1875 list of allottees of land in the Cheboygan reserve does not automatically translate to affiliation with the Cheboygan band, nor did the 1875 list encompass Cheboygan Indians who were allotted elsewhere. As it cannot be relied upon to identify ‘ancestors of present members as being descendants of’ the Cheboygan, Joseph Way-bway-dum, or Burt Lake historical band, the 1875 schedule of allottees is not considered acceptable evidence of descent from the historical band under criterion (e).” [p.92] ¶ “No records reviewed to date identify John Vincent as an Indian of the Cheboygan band, but only as an [1875] allottee within the Cheboygan reserve. . . . Hence, unless evidence emerges that identifies John Vincent as an Indian of the Cheboygan band, his descendants cannot be considered to have Cheboygan band ancestry on the basis of John Vincent’s [1875] allotment.” [p.97] (Burt Lake Band PF 2004, 92, 97; see also, D&A 7-13). *Note: The PF made a distinction between preliminary allotment schedules and the final 1875 schedule. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “While the 1857 and 1864 allotment selection records did identify band affiliations, the Indian homestead records of 1872 and 1875 did not. . . . As they cannot be relied upon to identify ‘ancestors of present members as being descendants of’ the Cheboygan, Joseph Way-bway-dum, or Burt Lake historical band, the 1872 Indian homestead records are not considered acceptable evidence of descent from the historical band under criterion (e). However, the records contain genealogical detail which made them useful in documenting overall descent.” (Burt Lake Band PF 2004, 93). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The descendants of these Indian/HBC [Hudson’s Bay Company] marriages cannot be categorized as a metis (mixed-blood) group descended from the historical Steilacoom band, because the Indian wives came from a wide variety of tribal origins. . . . None of their children or grandchildren, in any of the affidavits made for BIA Special Agent Charles E. Roblin between 1910 and 1918, described an ancestress as Steilacoom.” (Steilacoom PF 2000, 20). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The MOWA [petitioner] core ancestors do not descend from the signers and beneficiaries of [the] 1830 Treaty of Dancing Rabbit Creek nor from persons listed on

. . . the Dawes Rolls.” (MOWA Band of Choctaw FD 1997, 5). *Note: See also the PF:*

“No direct ancestors of the MBC [petitioner] were included as members of the Choctaw tribe on the final Dawes Roll.” (MOWA Band of Choctaw PF 1994, 10)

- ▼ “The petitioner presented no State, Federal, or other official records or evidence identifying the earliest known ancestors of present members as being descendants of a historical tribe or tribes that combined . . . (83.7[e](1)(ii)).” (Ramapough FD 1996, 31)
- ▼ “The one-time identification of Richard DeGroat (b. 1845) as ‘Indian’ by the [New York State] census enumerator in 1875 is not acceptable evidence of Indian tribal ancestry for this individual on its face because other identifications in census records differed.” (Ramapough FD 1996, TR 97)
- ▼ “The Proposed Finding indicated repeatedly that the terms ‘mulatto’ and ‘colored’ in census and other records were sometimes used to identify individuals who were part Indian. The Proposed Finding also indicated that ‘mulatto’ and ‘colored’ were not always synonymous with Indian ancestry. In the absence of other reliable evidence, it cannot be assumed that the census taker meant to imply Indian ancestry when employing these racial designations. These two terms were also used generally for people of mixed race, with no necessary implication that the person was an Indian descendant. Thus, while being labeled ‘mulatto’ or ‘colored’ by the census taker does not rule out Indian ancestry, it does not clearly demonstrate it in the absence of other supporting evidence.” (Ramapough FD 1996, TR 117)
- ▼ “Although individual MBC [petitioner] ancestors submitted *applications* for the Guion Miller Roll of Eastern Cherokees, and the 1972 Creek claims, these applications were rejected on the grounds that the applicants had not demonstrated any Cherokee ancestry or any Creek ancestry. *Rejected* applications do not provide evidence of Indian ancestry. . . .” (MOWA Band of Choctaw PF 1994, 10)
- ▼ “The petitioner’s current membership criteria also include ‘Federal census records of Miami Indians of Indiana (1840-1910)’ as adequate proof of eligibility; however, these records do not specifically designate individuals as ‘Indiana’ Miami Indians and, therefore, do not provide reliable evidence of ‘Indiana’ Miami heritage.” (Miami PF 1990, 15)
- ▼ “Since Snoqualmies as well as Snohomish are labeled as ‘Snohomish’ on the 1934 census [roll of the Tulalip Reservation], it could not be used by itself as evidence of Snohomish ancestry.” (Snohomish PF 1983, 25). *See also: FD 2003, 51.*

- ▼ “No federal, state, or territorial population census records were found enumerating the members or ancestors of the petitioning organization as a separate group, identified as Snohomish or otherwise. . . . Census records in general did not provide information relative to the specific tribal ancestry of individual families except in a very few instances.” (Snohomish PF 1983, 25). *See also: FD 2003, 51.*
- ▼ “No population records, Federal, state, or territorial, could be found which enumerated the members and ancestors of the Samish Indian Tribe as a separate group as it is said to have existed in the historical past.” ¶ “Use of census records as evidence of Samish tribal ancestry in this case was limited to a very few instances where members or their ancestors appeared in the Indian schedules of the 1900 Federal population census identified as being of Samish ancestry.” (Samish PF 1982, 25)
- ▼ “Clyde Bungard, organizer of the petitioning group, did not provide evidence to substantiate his claim to Indian ancestry.” ¶ “A record of his birth, however, was found in the State of Ohio vital records. This record indicates that Bungard and his parents were non-Indian.” (Munsee-Delaware PF 1982, 4).
- ▼ “None of the individuals appearing on the MTD [petitioner] roll are enrolled with either of the two Delaware tribes in Oklahoma. . . .” (Munsee-Delaware PF 1982, 4).
- ▼ “The LMC [petitioner] argues that continued existence of the tribe is evidenced by Calhoun County, Florida, voting records which purport to show Creek Indians voted in State elections in 1920 and later. A page was submitted from an October 9, 1920 voter registration roll, listing two individuals designated as ‘C.I.’ apparently an abbreviation for Creek Indian. According to current county officials, this was probably self-identification. Subsequent research could not identify these two individuals as Creek Indians or as being related to the current LMC membership without further documentation.” (Lower Muskogee Creek FD 1981, 4).

**(e)(1)(iii) Church, school, and other similar enrollment records:**

- “These church records constitute acceptable evidence of the few individual events they document . . . and therefore are considered supporting evidence of descent under 83.7(e).” (Muwekma PF 2001, 50)
- “The very nature of the baptism, marriage, and burial records in defining the individual’s relationship to the church, through having received the necessary sacraments, also identified their family relationships (‘child of,’ ‘wife of,’ etc.) or ethnic origins (‘a woman of the country,’ ‘Chinook,’ ‘child of infidel parents,’ etc.),

thus distinguishing them from someone of a similar name or origins.” (Chinook PF 1997, GTR 3-4)

- “The lines of descent for individual families have been verified through . . . [BIA, Federal, and public records] and Roman Catholic sacramental records of baptisms, marriages, and burials.” (Cowlitz PF 1997, 46-47)
- “Because of the extensive . . . Catholic church records in southern Louisiana, verification of lines of descent for individuals who lived in Terrebonne and Lafourche Parishes in the nineteenth and twentieth century did not present a problem in the case of this petitioner.” (Houma PF 1994, 26). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT been accepted as evidence of Indian or tribal descent:

- ▼ “The petitioner presented no church, school, or other similar enrollment records identifying the earliest known ancestors of present members as being descendants of a historical tribe or tribes that combined . . . (83.7[e](1)(iii)).” (Ramapough FD 1996, 31)

**(e)(1)(iv) Affidavits of recognition by tribal elders:**

- No examples

**(e)(1)(v) Other records or evidence:**

- “The following records do not contain identifications of ancestors of present members as being descendants of a historical tribe, but instead provide evidence such as names, residence, and ages, which helped in the process of documenting the direct descendants of claimed ancestors.” (Burt Lake Band PF 2004, 95). *Note: The categories of evidence were: Civil War service and pension records, a 1881 manuscript census without provenance, a 1894 State census, GAR [Grand Army of the Republic] records, and a 1935 IRA petition. NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “Some of the sources [used] include . . . vital records, published county histories, the work of the Washington Pioneer History Project, newspapers, land records, miscellaneous agency correspondence and records. . . . These sources were used mainly to confirm family relationships. They did not generally speak to the question of Indian ancestry.” (Snohomish PF 1983, 25)

Evidence that has been ACCEPTED as evidence of Indian descent:

- ▲ “The following records contain evidence accepted as identification of ancestors of present members as being descendants of a historical tribe.” ¶ “. . . a letter sent by John W. McGinn to the 22 individuals who, on December 5, 1897, owned homes on the land in Burt Lake Village that McGinn had purchased.” [p.94] ¶ “. . . a ‘map’ purportedly drafted by Albert Shananquet in the 1950's, naming the owners and illustrating the relative positions of houses and buildings in Burt Lake Village in 1899.” [p.95] (Burt Lake Band PF 2004, 94-95). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “Acceptable evidence of their ancestry as Paiute appears in . . . records of the Navajo, Ute Mountain Ute, and Paiute Indians of Utah tribes, as well as in the writings and field notes of anthropologists who have worked with the San Juan Paiutes and other Indians in the area.” (San Juan Paiute FD 1989, 11)
- ▲ “Evidence of this descent is based [in part] on . . . a manuscript genealogy of the Mohegan Indians prepared in 1861 by a Mohegan.” (Mohegan PF 1989, 11)
- ▲ “Evidence to connect the group’s 1871 ancestors [on a census of the inhabitants of Gay Head, Massachusetts] with the Gay Head Indians of 1792 was found in the personal notes of Richard L. Pease who was appointed by the Commonwealth of Massachusetts in 1866 to determine the boundaries of severalty-owned and common land at Gay Head.” (Wampanoag of Gay Head PF 1986, 7)
- ▲ “Although numerous other sources were also used, the degree to which they could be relied upon as evidence of tribal ancestry was largely dependent upon the nature of the individual document or source itself. [¶] One of the frequently used sources was probate records, especially early ones involving intestate estates and the determination of heirs. Another valuable source was the research notes and writings of anthropologists. . . . Other sources used included . . . testimony from the *Duwamish* case and Docket 261 from the Indian Claims Commission, testimony given for proving homestead claims, school applications, early correspondence to and from the Bureau, and some affidavits. Determinations were based on a preponderance of the best evidence available. . . .” (Samish PF 1982, 25). *Note: In this case, there were no official Federal rolls, BIA Indian census rolls, or accepted descendency rolls for the Samish (PF 1982, 23, 25).*
- ▲ “The work of anthropologists in the late 1800’s and early 1900’s . . . [was] used in conjunction with other recorded documents . . . and testimony from a 1915 civil court suit to establish Indian ancestry in the historical tribes.” (Tunica-Biloxi PF 1980, 4).

Evidence that has NOT been accepted as evidence of Indian or tribal descent:

- ▼ “Much of the evidence was oral history and unreliable when tested. Most of the sources . . . had no direct knowledge of the events. . . . The taped interviews . . . revealed that the memories of those interviewed were vague, and that specific names and relationships were unknown. Most of the information was found to be unsubstantiated by primary documentation.” (MOWA Band of Choctaw FD 1997, 5)
- ▼ The Vineland Study “was found wanting as a reliable source of evidence for documenting descent from a historical tribe. The Vineland Study’s assertions about supposed Indian ancestry of the ‘Jackson Whites’ were not based on primary source evidence.” “The occasional references to some of the RMI [petitioner] ancestors as being of ‘Indian type’ were either based on notions of phenotype . . . or stereotypical social behaviors attributed to Indians by many non-Indians at that time. . . .” (Ramapough FD 1996, TR 91, 92-93)
- ▼ “In addition to the documented Indians named above, . . . oral tradition of the petitioner ascribes Indian ancestry to five other persons whose descendants married into the group during the first half of the nineteenth century. The available documentation neither demonstrated nor disproved such Indian ancestry for these five persons. . . . The oral tradition did not include a clear ascription of tribal origin for any of these five individuals.” (Houma PF 1994, 25-26). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “In spite of the ‘Houma’ name ascribed to the community by anthropologists since the first study by ethnologist John Reed Swanton in 1907, there is no evidence that any of the Indian individuals in the UHN [petitioner] ancestral community originated in the historical Houma Indian tribe of Louisiana. There are no documents indicating why Swanton referred to them as ‘Houma.’ His own field notes indicate that he believed the UHN ancestors descended from a variety of tribes. The oral history of the group did not claim Houma origin, but referred to Biloxi and Attakapas.” (Houma PF 1994, 27). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “Personal affidavits submitted were insufficient as evidence of Indian heritage since they were of recent origin and unsupported by other corroborating evidence. Vital records and corrections thereto were of recent origin, based in unsupported personal affidavits and, thus, were insufficient as evidence in the context within which they were used.” (Southeastern Cherokee FD 1985, 50 F.R. 39047).
- ▼ “Approximately 21 ‘Questionnaire(s) for Enrollment in Snohomish Tribe’ were available from the 1926 claims organization. These undocumented applications could not be used for purposes of establishing tribal ancestry because they had been prepared for the purpose of asserting the individual’s claim to being Snohomish in

anticipation of a potential judgment award. . . . Because the applications of the late twenties included individuals not of Snohomish ancestry, this cast doubt on their value as evidence.” (Snohomish PF 1983, 24)

- ▼ “A list which contained 35 names and was entitled ‘Frinley Creeks’ was included to demonstrate the existence of an historical tribe. However, no information was provided regarding the origins of the list, its purpose, its author, or the date when it was prepared. . . . Any connection between the names on this list and the LMC [petitioner] ancestors, however, is impossible to substantiate without further information. For this reason, the list of ‘Frinley Creeks’ cannot be used to prove Creek ancestry or to document the historical existence of a covert Creek group.” (Lower Muskogee Creek FD 1981, 5)

**(e)(2) Official membership list:**

- “Analysis of this petition under criterion (e) encountered challenges in identifying . . . the petitioner’s current members. . . . OFA found 43 percent fewer current members than the petitioner claimed on its membership list. . . .” [p.89] ¶ “. . . the members evaluated under the criteria for purposes of the proposed finding include those who (1) were alive, (2) had submitted signed application forms, and (3) had not subsequently submitted signed relinquishments. The total number of members meeting those three definitions is 490 [of 816 names on the list]. . . .” [p.90] ¶ “The petitioner’s membership list fails to provide fully the required birth and residential address data. In addition, the membership list includes individuals who are deceased, have not submitted signed applications, or have relinquished their membership. The petitioner has the opportunity during the comment period to prepare and certify a list of all known current members, with the required birth and residential data, which does not include deceased persons, non-members, or former members. Copies of membership lists prior to 1994 should also be submitted. These additional steps are necessary in order to meet the regulations at subsection 83.7(e)(2).” [p.97] (Burt Lake Band PF 2004, 89, 90, 97; see also, 96). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- The petitioner “submitted a revised membership list (actually two separate membership lists) . . . to satisfy the requirement for an up-to-date accounting of the petitioner’s membership for the Final Determination.” (Snohomish FD 2003, 49). *Note: OFA corrected the membership list for duplicate entries, deaths, withdrawals, and other discrepancies to produce an adjusted membership total (FD 2003, 50). Note: In this case, an updated list was necessary because the PF and FD were 20 years apart.*

- “The petitioner did not provide an up-date of its 1995 membership list [for the final determination]. . . . Should the petitioner become acknowledged, it will need to make current its membership list. . . .” (Chinook RFD 2002, 107). *See also: PF 1997, 38.*
- “The petitioner submitted an official membership list, dated 1987, and subsequent supplemental lists of 1990, 1991, and 1992. . . . The BIA staff combined the lists of 1987, 1990, 1991, and 1992, eliminated duplicate names and deceased individuals, and concluded that there are 3,893 members of the petitioner’s organization.” [p.36] ¶ Therefore, “The petitioner submitted its most current membership lists. . . .” [p.41] (Little Shell PF 2000, 36, 41). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The petitioner has indicated that it has a large number of pending applications for membership which it does not plan to act upon until after the Department of the Interior has made a ‘decision’ on its petition for acknowledgment. The petitioner is advised that it should prepare its complete and final membership list prior to a final determination on its petition. . . . [I]f the petitioner is acknowledged, that membership list will form the base roll of its tribal members.” (Little Shell PF 2000, 41). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “For tribes acknowledged under 25 CFR 83, the acknowledgment roll becomes the base roll of the newly acknowledged tribe. The 1986 list [for the FD] will be used as the base roll of the STO [petitioner], subject to verification that individuals consent to be listed as members. This roll cannot be modified to such an extent that the validity of the acknowledgment decision becomes questionable. However, individuals may be added to the roll who are politically and socially part of the tribe and meet its membership requirements.” (Samish FD 1995, 3)
- “The November 17, 1992, membership list of the RMI [petitioner] contained 2,815 names, including 122 names marked as deceased. For acknowledgment purposes, names of deceased persons were subtracted from the 1992 list. . . . The petitioner did not submit an updated membership list in its Response to the Proposed Finding. Therefore, the 1992 list was referred to for this final determination. The BIA has no reason to believe that the membership of the RMI changed in any significant manner since the Proposed Finding.” (Ramapough FD 1996, 30). *See also: PF 1993, 19.*
- “The Proposed Finding concluded that the 1994 HPI [petitioner] membership list, after eliminating deceased members and duplicate names, contained 819 actual living persons.” [p.66315] Prior to the Final Determination, many dually enrolled individuals relinquished membership, but the petitioner “did not add any members between the February 18, 1994, and December 1, 1995, membership lists. . . . The list dated December 1, 1995, contained 602 names.” [p.66316] (Huron Potawatomi FD 1995, 60 F.R. 66315-66316)



- “The situation of dual enrollment of HPI [petitioner] members with the Pokagon Potawatomi, . . . which was legislatively recognized in 1994, . . . will need to be clarified prior to the issuance of the Final Determination in order to have the HPI membership list conform to the petitioner’s constitution.” (Huron Potawatomi PF 1995, 22; see also, 23). *Note: See also the FD:*

“These relinquishments [by dually enrolled members] resolved any problem caused by dual enrollment in another federally-recognized tribe.” (Huron Potawatomi FD 1995, 60 F.R. 66316)
- “The revised membership roll submitted during the comment period has an additional 32 members. . . . The additional individuals are the children and grandchildren of individuals on the previous roll.” ¶ “Under 25 CFR 83.12(b), the revised roll . . . will be considered as the base roll of the Jena Choctaw. . . .” (Jena Choctaw FD 1995, 60 F.R. 28480)
- “For acknowledgment purposes, it is necessary that BAR have a current membership list of the petitioner. Because of the length of time which had passed since the petition was submitted, the BAR obtained a 1993 membership list from the MT [petitioner].” [p.30] ¶ The proposed finding concluded that “descent from the historical tribe could not be documented for 15 percent of the 1989 membership. . . . In April 1990 [after the PF], the tribal council decided to remove . . . all of them [the family members of three non-Mohegan who had been active in American Indian Development, Inc.] from the membership list.” [p.31] (Mohegan FD 1994, 30, 31)
- “The petitioner has provided a current list of its 4,381 members.” (Miami PF 1990, 15)
- “The total number of members being considered for acknowledgment purposes is. . . . the number of members living as of . . . the date when the petition was placed on active consideration.” (Mohegan PF 1989, 11)
- “A membership list . . . was submitted with the . . . petition.” (MaChis Creek PF 1987, 5).
- “The San Juan Paiute membership roll for acknowledgment purposes includes 188 living members. The roll was initially prepared in May 1984, with supplements dated September, October, and December 1985.” ¶ “A small number of individuals (probably no more than 20, most of whom are the children of enrolled or deceased San Juan Paiute members) who are considered to be members in terms of the traditional concept of membership . . . have not requested enrollment and therefore do not appear on the tribal roll submitted with the petition. . . . The band’s leadership

has stated it would be willing to add these individuals to the roll at a later date if they requested it.” (San Juan Paiute PF 1987, xii). *See also: FD 1989, 11.*

- “A membership list dated May 1, 1983, was submitted with the Gay Head Wampanoag petitioner. This list was subsequently updated by a list dated June 1, 1985. For acknowledgment purposes, the total number of living members as of June 1, 1985, was 521.” (Wampanoag of Gay Head PF 1986, 7)
- “Current membership lists were submitted by each group. . . .” (Southeastern Cherokee PF 1985, 8). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- “A list of 304 current members was submitted with the group’s petition.” (Tchinouk PF 1985, 10)
- “Two KIN [petitioner] rolls were available for review. . . . The first was submitted in July 1981 . . . and contained the names and roll numbers of 1,530 persons. The second roll, submitted . . . in July 1982, contained the names and roll numbers of 1,204 persons. One thousand one hundred sixty-four of the names . . . were common to both rolls.” ¶ “The two KIN rolls and the ULN [United Lumbee Nation petitioner] roll . . . were compared. . . .” [p.3] ¶ “. . . it appears that the groups [KIN and ULN] are claiming essentially the same members.” [p.4] (Kaweah PF 1984, 3, 4)
- “The PCN [petitioner] submitted a copy of their current membership roll. . . .” (Principal Creek PF 1984, 4)
- “The only roll available for review was one provided by Mrs. Reed on February 25, 1980, which contained the names of 1,321 members. The group presently claims over 2,000 members. . . .” (United Lumbee PF 1984, 6)
- “Two membership rolls were provided; one dated 1979, the other 1982. The current roll, [was] prepared as of October 1982. . . .” (Poarch Band of Creeks PF 1983, 6)
- “A list of the group’s current members was submitted with the petition.” (Samish PF 1982, 20). *Note: The vacated FD reported that: “Ancestry charts were received . . . for 80 members who have been added to the group’s current membership roll since the proposed finding. . . .” (Samish FD 1987, 27). Note: See also the FD:*

“In order to evaluate the character of a petitioning group, the acknowledgment findings require a complete list of the petitioner’s members. In this case there are two lists. The membership list used for the 1987 administrative decision [final determination] . . . will be referred to here as the 1986 list. A second list was compiled by the Government in 1994, based on several lists provided by the STO

[petitioner] in response to a discovery request for an updated membership list. . . . [I]t is clear that the ALJ [administrative law judge] relied on the 1986 list for purposes of defining the STO. We defer to this decision.” (Samish FD 1995, 2-3)

- “Two current lists of tribal members were prepared and submitted for acknowledgment purposes. The first, a partial listing dated October, 1979, was submitted with the petition and included 284 members. . . . In response to a request from the Acknowledgment staff for a complete list of members, a supplementary list dated March 19, 1981, was provided which contained the names of 932 additional members. The total membership submitted included approximately 1,170 members, once duplicates were removed.” (Narragansett PF 1982, 15; see also, 18)
- “Tribal membership and corporation membership are not considered to be the same. Corporation membership is and has been more limited. While some partial lists of corporation members did exist, no recent official and complete list of tribal members had been prepared prior to the lists . . . which were prepared for acknowledgment purposes.” (Narragansett PF 1982, 15-16)
- “The Timbi-Sha Shoshone Band [petitioner] provided . . . the current membership list dated March 1978. . . .” (Death Valley Shoshone PF 1982, 6)
- “A list of the current members was provided to the Bureau. . . .” (Munsee-Delaware PF 1982, 4)
- “The petitioner submitted two membership lists: one with the original petition in July 1977; the second, dated December 1978, with the revised petition. . . .” (Lower Muskogee Creek PF 1981, 4). *Note: See also the FD:*

“The LMC-Florida [Creeks East of the Mississippi] rebuttal [of the PF] included a list containing the names of roughly 2,700 members who it stated had been omitted from the membership roll submitted with the original petition. . . . The submission of a list of members who were omitted which is 2-½ times larger than the membership roll submitted with the petition, only serves to further emphasize the instability of the group.” (Lower Muskogee Creek FD 1981, 7)
- “A total of four membership rolls were provided by the petitioner. . . . The latest revision was approved by the tribal council on December 2, 1979.” (Tunica-Biloxi PF 1980, 4)
- “The band submitted its current membership list. . . .” (Jamestown Clallam PF 1980, 4)

- “The petitioner submitted a list of all known current members.” (Grand Traverse PF 1979, 8)

Evidence that has been ACCEPTED under the subsection:

- ▲ “The petitioner submitted its most current membership lists, and those lists were certified by its governing body as being accurate and complete. The petitioner also submitted its available previous membership lists. Therefore, the petitioner meets the requirements of section 83.7(e)(2). . . .” (Little Shell PF 2000, 41). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**(e)(2) “separately certified by the group’s governing body”:**

- “The membership list received by OFA on January 21, 2003, was certified by the petitioner as being complete. . . .” (Burt Lake Band PF 2004, 89). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The membership lists were certified separately from the rest of the submission as required under criterion 83.7(e)(2) by a letter. . . .” (Snohomish FD 2003, 51).
- “. . . the petitioner submitted an updated membership list. . . . [that] was separately certified by Resolution No. MOT-02-1031, which was signed by all 11 members of the governing body.” (Muwekma FD 2002, 156)
- The proposed finding “found that the petitioner had submitted a membership list . . . which was certified by the CIT/CN [petitioner] council as being accurate and complete.” (Chinook RFD 2002, 107). *See also: PF 1997, 38.*
- “The petitioner submitted its most current membership lists, and those lists were certified by its governing body as being accurate and complete.” (Little Shell PF 2000, 41; see also, 36). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “There are 390 names on the 1992 membership roll, which was certified by the chairman and council members.” (Duwamish PF 1996, 19)
- The revised membership roll for the final determination was “approved by the Jena tribal council. . . .” (Jena Choctaw FD 1995, 60 F.R. 28480)
- “The petitioner submitted a total of three membership lists dated 1987, 1989, and 1992. None of the lists were signed or certified by the governing body.” (Ramapough PF 1993, 19)

- “The petitioner has provided a current list . . . certified as the official membership roll for acknowledgment purposes.” (Miami PF 1990, 15)

**(e)(2) “This list must include. . .”:**

- “The petitioner’s membership list. . . included columns for the recording of the mandatory aspects of a certified membership list. However, the list of 861 names was missing 68 birth dates and 185 residential addresses, contained 59 non-residential addresses, and included 38 deceased members.” [p.96] ¶ “The petitioner has the opportunity during the comment period to prepare and certify a list of all known current members, with the required birth and residential data. . . .” [p.97] (Burt Lake Band PF 2004, 96, 97; see also, 89-90). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “A significant number (120 or 11 percent) of the members’ addresses were blank, incomplete, or given as post office boxes rather than the required residence address.” (Snohomish FD 2003, 49-50)
- “The membership lists include the name, address, birthdate and RMI [petitioner] roll number, but not every entry has complete information. . . .” (Ramapough PF 1993, 19)
- “No addresses or genealogical information were provided [by the petitioner]. . . . [Mr.] Webber . . . stated that ‘It is against Kaweah Indian Nation laws to finish [furnish] the US Govt. addresses of members and family histories which we have on file. . . .’ ” (Kaweah PF 1984, 3)
- “Information furnished for each member [on the membership roll] included his name and ULN [petitioner] roll number. Addresses were provided for roughly half of the names listed. However, except for a few notations indicating individuals to be ‘mother’ or ‘children of roll number,’ the roll contained no other information of a personal nature.” (United Lumbee PF 1984, 6)
- “The current roll . . . contains complete information including full names, addresses, and other personal information for the 1,470 members. . . .” (Poarch Band of Creeks PF 1983, 6)
- The petitioner’s list of current members “only lists names and ages of members. . . .” (Munsee-Delaware PF 1982, 4)

**(e)(2) “a copy of each available former list of members”:**

- “A total of nine membership lists served as the basis for the positive PF [proposed finding] on this criterion. . . . [T]he petitioner submitted a total of three additional former lists of members [for the final determination]. . . .” (Duwamish FD 2001, 66-67)
- “The evidence does not indicate that the petitioner generated these [American Indian Historical Society] lists as membership lists . . . and thus these documents are not considered to be former lists of members as described in criterion 83.7(e)(2).” (Muwekma PF 2001, 51)
- “The petitioner also submitted, as the group’s previous membership lists, a list of 258 applicants dated April 1978 and a membership list of 1,871 names dated September 25, 1984.” [p.36] ¶ Therefore, “The petitioner also submitted its available previous membership lists.” [p.41] (Little Shell PF 2000, 36, 41). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The petitioner provided lists dated 1953, 1981, 1983, 1987, 1994, and 1995, which it considered its membership lists. The July 8, 1995, membership list was certified by the CIT [petitioner] council. . . .” (Chinook PF 1997, 38)
- “The petitioner submitted copies of membership rolls dated . . . 1974, . . . 1982, . . . 1984, . . . 1990, and . . . 1993. There was no formal membership roll prior to incorporation in 1974.” (Jena Choctaw PF 1994, 12)
- “Eight former lists of members were either submitted by the petitioner or were already on file with the Bureau [of Indian Affairs]. The lists date from 1916 to 1976. . . .” (Snoqualmie PF 1993, 32-33)
- “Former lists of members of the petitioning group . . . were submitted with the petition in four different formats. All four appear to have been prepared in the 1980’s for submission with the group’s acknowledgment petition.” (Miami PF 1990, 15)
- “The petitioner submitted copies of three lists prepared in (about) 1979, 1981 and 1982. According to the petition, these lists, as well as a list prepared about 1977 which was not submitted, were used to compile the membership lists submitted for acknowledgment purposes. . . . The petitioner also submitted copies of four lists identifying Mohegans living in 1934. Other than the 1934 lists, no comprehensive lists of Mohegans prepared between 1861 and 1977 are known to exist.” (Mohegan PF 1989, 11)

- “No former rolls or lists were provided and no formal ones are known to exist.” (San Juan Paiute PF 1987, xii). *See also: FD 1989, 11.*
- “Seven former lists of members compiled in the 1970's and early 1980's were also submitted. . . .” (Wampanoag of Gay Head PF 1986, 7)
- The petitioner submitted “former lists where they existed.” (Southeastern Cherokee PF 1985, 8)
- “The group submitted a copy of a former list of members that was prepared about 1974.” (Tchinouk PF 1985, 11)
- The petitioner submitted “copies of former lists of members.” (Principal Creek PF 1984, 4)
- “No membership roll/list was provided for the group covering the period when the ULN [petitioner] was under the leadership of Mr. Webber.” (United Lumbee PF 1984, 6)
- “A total of eight separate lists/rolls were available to Acknowledgment researchers: four provided by the petitioner, the balance obtained from evidence submitted to the courts.” [p.18] “. . . the petitioner has technically met two of the three aspects of 83.7(e). They have presented current and previous membership rolls.” [p.22] (Snohomish PF 1983, 18, 22)
- “. . . eight former lists were submitted.. Considerable fluctuation exists among the lists suggesting a general lack of stability . . . as well as a lack of continuity. . . .” [pp.19-20] ¶ “The eight former lists of the group’s members include four from the 1926-27 period, two dated ca. 1930, and two from the early 1950's. . . .” [p.20] “Three statements can safely be said to apply to most of the former lists submitted: 1) no consistent membership criteria appear to have been used . . . 2) almost all former lists were prepared for a purpose other than as a record of the group’s general membership . . . 3) most lists include a substantial number of members whose ancestry has not been established as Samish. . . .” [pp.20-21] (Samish PF 1982, 19-21). *See also: FD 1987, 26.*
- “Several former lists of Narragansetts . . . were obtained.” (Narragansett PF 1982, 16; see also, 18).
- “The Timbi-Sha Shoshone Band [petitioner] provided . . . 1933 and 1936 censuses prepared by the Bureau of Indian Affairs. The Acknowledgment staff was also able to obtain a membership list submitted in 1976 with the group’s request for Federal recognition of the band as a half-blood community pursuant to Section 19 of the

Indian Reorganization Act. Rolls prepared from 1916 through 1940 by the Bishop and Carson agency staffs were also researched. . . .” (Death Valley Shoshone PF 1982, 6)

- “. . . no previous membership lists were submitted.” (Munsee-Delaware PF 1982, 4)
- “A total of four membership rolls were provided by the petitioner. The earliest roll was prepared in 1969. . . .” (Tunica-Biloxi PF 1980, 4)
- “The band submitted . . . all previous [membership] lists.” (Jamestown Clallam PF 1980, 4)
- “There were no other lists of members as membership in the past was controlled by community knowledge.” (Grand Traverse PF 1979, 7)

**(e)(2) “a statement describing . . . the preparation of the current list”:**

- “The petition evaluated for the FD did not include a statement describing the circumstances surrounding the preparation of the membership lists dated March 12, 1999. Such statements are required under criterion 83.7(e)(2).” (Snohomish FD 2003, 51)





## Criterion 83.7(f)

### The text of criterion 83.7(f):

“(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.” (59 F.R. 9293)

### The text of section 83.8(d):

“(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).” (59 F.R. 9293)

### The text of criterion (f) from 1978 to 1994:

“(f) The membership of the petitioning group is composed principally of persons who are not members of any other North American Indian tribe.” (43 F.R. 39361)

### Compilation of precedents:

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:**

**“members of any acknowledged North American Indian tribe”:**

- “A general principle concerning membership in an Indian tribe is that a bilateral political relationship between the members and the tribe is fundamental (Cohen 1934, 1941).” (San Juan Paiute FD 1989, 21, 22)
- “The definition of membership in a recognized tribe (in section 83.1(k)), has two parts, each with two subparts. To meet the definition of ‘member of an Indian tribe,’ the individual must meet at least one subpart in each of the two halves of the definition. . . .” (San Juan Paiute FD 1989, 12)
- “Since the 1940 census [of Indians on the Navajo reservation] does not constitute a tribal roll within the meaning and intent of the regulations and the petitioners have not been maintaining tribal relations with the Navajo Tribe, the petitioners cannot satisfy, as to the Navajo Tribe, the second element of the definition of tribal member. . . . they are not maintaining tribal relations with the Navajo Tribe and are not on a tribal membership list. We conclude that the 119 Paiutes with ‘Navajo census numbers (64%)’ do not meet the definition of membership in a recognized tribe set forth in the Acknowledgment regulations.” (San Juan Paiute FD 1989, 28)
- “The ‘official roll’ [of the Navajo Tribe] referred to is a BIA census of the Navajo Reservation. . . . The fact that this was a census enumeration and not a membership process, is well documented. No applications were taken.” “The forms now being given out by the Tribe’s Vital Statistics Office to ‘persons wishing to enroll’ are BIA information collection forms. . . . These forms do not resemble application forms whereon an individual makes a clear statement about his intent to apply for membership. In fact, there is no evidence to show that the forms are ever completed by the individual. . . .” “. . . although the [Navajo] Tribe has had legally established membership criteria and an enrollment application process which provides for a formal review by Tribal officials, there is virtually no evidence to show that they have ever been used to determine membership eligibility. . . . The Navajo Tribe’s governing body has not acted to determine the Tribe’s membership. . . .” “We conclude that the defacto ‘Navajo Tribal Roll’ (i.e., the BIA census) is not a tribal roll of members of the Navajo Tribe as intended by the Acknowledgment regulations.” (San Juan Paiute FD 1989, 22, 24, 26, 26-27)

- A comment on the proposed finding contended that “because of the subordination of the Mohegan to the Pequot during part of the first half of the 17th century, and the fact that the Mashantucket Pequot were federally recognized by act of Congress in 1993, the MT [petitioner] did not meet criterion (f).” The intent of the regulations is that maintenance of tribal relations is part of the definition of membership in a recognized tribe [citing San Juan Paiute]. “Historically the Mohegan have not been regarded as Pequots . . . for more than 350 years. The Mohegan have not maintained tribal relations with the Pequot.” (Mohegan FD 1994, 32)
- “The MBPI [petitioner] members as a group relinquished their membership in HPI [Huron Potawatomi Inc.] before HPI received Federal acknowledgment. . . . Former membership in other unacknowledged Indian groups is not prohibited by criterion 83.7(f).” (Match-e-be-nash-she-wish Band FD 1998, 20) “The prohibition under 83.7(f) does not apply to prior enrollment with another non-recognized Indian group.” (Match-e-be-nash-she-wish Band PF 1997, 20)
- “The comments [on the proposed finding] also stated that many MBPI [petitioner] members were leaving MBPI and enrolling elsewhere, specifically with the Little River Band of Ottawa Indians. . . . However, because the persons who had disenrolled with MBPI since 1994 are no longer on the current MBPI membership list, by definition their status does not impact the analysis under criterion 83.7(f), which concerns membership in the petitioner.” (Match-e-be-nash-she-wish Band FD 1998, 20)
- “These relinquishments [of membership in the petitioner’s organization between the proposed finding and final determination] resolved any problem caused by dual enrollment in another federally-recognized tribe.” (Huron Potawatomi FD 1995, 60 F.R. 66316)
- “At the time the HPI [petitioner] petition was submitted, the Potawatomi of Michigan and Indiana, Inc., aka Pokagon Potawatomi Band, was not a federally acknowledged tribe, so dual listing on the rolls of both groups did not represent a problem under the requirements of section 83.7(f). The Pokagon Potawatomi Band was legislatively acknowledged during 1994, while the HPI petition was under active consideration in the administrative process. [¶] BAR researchers have identified 171 persons (out of a total membership roll of 819) . . . who were as of 1994 carried on the rolls of both groups. In order for the HPI membership to conform with the provisions of the petitioner’s own constitution, . . . this situation will need to be clarified before issuance of the HPI Final Determination, with those persons eligible for enrollment in both tribes making a choice.” (Huron Potawatomi PF 1995, 24).

- “By identifying Choctaws from LaSalle Parish, Louisiana, as Mississippi Choctaws, the Dawes Commission dealt with them as eligible for membership in a recognized tribe, not as members of that tribe.” (Jena Choctaw PF 1994, 13)

### **EVIDENCE UNDER 83.7(f):**

#### Evidence that has MET the criterion:

- ▲ “No members . . . are known to be dually enrolled with any federally acknowledged American Indian tribe.” (Schaghticoke FD 2004, 69 F.R. 5574)
- ▲ “No members . . . are known to be dually enrolled with any federally acknowledged American Indian tribe.” (Nipmuc Nation FD 2004, 69 F.R. 35671)
- ▲ The petitioner “does not have any members who are known to be enrolled with any acknowledged North American Indian tribe. . . .” (Webster/Dudley Band of Nipmuck Indians FD 2004, 69 F.R. 35667)
- ▲ “The existing members of the MT [petitioner] have never been enrolled as members of the Mashantucket Pequot Tribe or any other tribe.” (Mohegan FD 1994, 33)
- ▲ “The petitioner’s membership does not include individuals who are members of any federally recognized tribe.” (Houma PF 1994, 28). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The available evidence does not demonstrate that any members of the GHP [petitioner] are enrolled with any federally acknowledged North American Indian tribe.” (Golden Hill Paugussett FD 2004, 69 F.R. 34393)
- ▲ “Members of the Jena Choctaw were not found to be members” of any acknowledged Indian tribe. (Jena Choctaw FD 1995, 60 F.R. 28480)
- ▲ “No evidence was found that the members of the Poarch Band of Creeks are members of any other Indian tribes. . . .” (Poarch Band of Creeks FD 1984, 49 F.R. 24083)  
“ . . . members of the Poarch Band of Creeks are not eligible for membership in the Muscogee (Creek) Nation of Oklahoma.” (Poarch Band of Creeks PF 1983, 7)
- ▲ “No evidence was found that members of the group are members of any other Indian tribes. . . .” (Narragansett FD 1983, 48 F.R. 6177)
- ▲ “No evidence was found that the members of the band are members of any other Indian tribes. . . .” (Death Valley Shoshone FD 1982, 47 F.R. 50109)

- ▲ “No evidence was found that the members of the tribe are members of any other Indian tribes. . . .” (Tunica-Biloxi FD 1981, 46 F.R. 38412)
- ▲ “No evidence was found that the members of the group are members of any other Indian tribes. . . .” (Jamestown Clallam FD 1980, 45 F.R. 81890)
- ▲ “No evidence was found that the members of the band are members of any other Indian tribes. . . .” (Grand Traverse Band FD 1980, 45 F.R. 19322)
- ▲ “. . . none of the petitioner’s members appear to be enrolled in a federally recognized tribe at this time.” (Snohomish FD 2003, 54)
- ▲ There is “no indication that any of the MTD [petitioner] are members of any North American Indian tribe.” (Munsee-Thames Delaware PF 1982, 5)
- ▲ “There is no indication that a significant number of the LMC [petitioner] are members of other North American Indian tribes.” (Lower Muskogee Creek PF 1981, 4)
- ▲ “. . . a predominant portion of neither petitioner’s members were enrolled with any federally acknowledged tribe. The same conclusion is applicable to the Eastern Pequot tribe as a whole.” (Historical Eastern Pequot FD 2002, 67 F.R. 44240). *Note: The combined petitioners were the Eastern Pequot and the Paucatuck Eastern Pequot.*
- ▲ “No evidence was found that the members are principally enrolled in any other Indian tribe.” (MaChis Creek PF 1987, 5)
- ▲ “. . . there was no evidence that the membership of the RMI [petitioner] was composed principally of persons who were members” of federally acknowledged tribes (Ramapough FD 1996, 33)
- ▲ “The petitioner’s constitution prohibits dual enrollment. . . . The membership of the STI [petitioner] is composed principally of persons who are not members of any acknowledged North American Indian tribe.” (Steilacoom PF 2000, 21). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The members have no Indian ancestry that would make them eligible for membership in any federally recognized Indian tribe.” (Wampanoag of Gay Head PF 1986, 7)

- ▲ Various “relinquishments resolved any problem caused by dual enrollment” in a federally recognized tribe. Thus, the petitioner “is not principally composed of persons who are members” of an acknowledged North American Indian tribe. (Huron Potawatomi FD, 60 F.R. 66316)
- ▲ “One current member indicated he belonged to a federally acknowledged tribe, and was sent a letter advising him he would be ‘disenrolled,’ yet his folder (and name) continued to be categorized as ‘current’ rather than ‘disenrolled’.” (Muwekma FD 2002, 161 n.77)
- ▲ “One current Tchinouk member is also currently enrolled with the Rosebud Sioux Tribe.” (Tchinouk PF 1985, 11)
- ▲ “. . . only two or three members from the total combined memberships of the three petitioning groups were found to be also enrolled members of federally recognized tribes.” (Southeastern Cherokee PF 1985, 8). *Note: The three petitioning groups were the Southeastern Cherokee, Northwest Cherokee, and Red Clay Inter-Tribal Band.*
- ▲ “Five names on the petitioner’s membership roll . . . appeared on the rolls of the recognized Tulalip or Suquamish tribes.” (Duwamish PF 1996, 20)
- ▲ “. . . there are approximately six [members] . . . who are dually enrolled with the Lummi tribe.” (Cowlitz FD 2000, 19)
- ▲ “Less than one percent of the Snohomish membership appears to be dually enrolled at this time.” (Snohomish PF 1983, 26)
- ▲ “Fewer than one percent of the current members are enrolled in any other North American Indian tribe or group.” (Principal Creek PF 1984, 4)
- ▲ “Less than 1 percent of the Indiana Miami membership of 4,381 could be identified as members of recognized tribes. . . .” (Miami PF 1990, 15)
- ▲ “. . . less than 1 percent of the members of the petitioning group are members of any acknowledged North American Indian tribe.” (Little Shell PF 2000, 45). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . slightly more than 8 percent of the CIT/CN [petitioner’s] membership were also members of the Quinault Nation.” (Chinook RFD 2002, 108)

- ▲ “The portion of the petitioner’s members enrolled in acknowledged North American Indian tribes is just over 10 percent. . . .” (Burt Lake Band PF 2004, 100). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “. . . the names of 23 of them [petitioner’s members] (12%) appear on the rolls of one of three” recognized tribes. (San Juan Paiute FD 1989, 28)
- ▲ “. . . 14 percent of the members on the revised membership roll . . . are also enrolled in recognized tribes.” (Snoqualmie FD 1997, 17). *Note: 20 percent was accepted as meeting the criterion for the PF (Snoqualmie PF 1993, 33-34).*
- ▲ 28 of the petitioner’s 143 members [about 20 percent] are enrolled in federally recognized tribes. (Match-e-be-nash-she-wish Band FD 1998, 20-21)
- ▲ “31 percent [of the petitioner’s members] . . . are enrolled with recognized tribes.” (Samish FD 1995, 8). *Note: This conclusion was included in the discussion of criterion 83.7(c); criterion 83.7(f) was not in dispute for the FD. Note: 9 percent was accepted as meeting the criterion for the PF (Samish PF 1982, 26).*

Evidence that has NOT met the criterion:

- ▼ “. . . 85 percent of the 327 YTO [petitioner] members, and 93 percent of the adult YTO members, . . . are members of the federally-recognized MCN [Muscogee (Creek) Nation].” (Yuchi FD 1999, 16)
- ▼ The KIN petitioner “is composed of individuals who claim membership in or descendancy from a variety of recognized and unrecognized Indian tribes and groups. . . . Because no personal information was provided for KIN members, it was impossible to verify or determine the extent to which KIN members were or were not enrolled in other tribes. . . .” (Kaweah PF 1984, 5). *See also: United Lumbee PF 1984, 7.*

**CONDITIONS:**

The first condition:

The first condition requires that the petitioning GROUP “has functioned throughout history until the present as a separate and autonomous Indian tribal entity”:

- “. . . for the purposes of the first condition the petitioner must demonstrate that . . . [it] as a group has been an autonomous entity throughout history, which includes the recent past and the present.” (Yuchi FD 1999, 15)



- ▼ “Because the [Yuchi Tribal Organization] petitioner says that it is not now the governing body of a Yuchi tribe, and because the available evidence does not show that the YTO organization is an autonomous entity at present, the available evidence is insufficient to demonstrate that the YTO petitioner has been an autonomous tribal entity throughout history. . . .” (Yuchi FD 1999, 15-16)

The second condition:

The second condition requires that the petitioner’s individual MEMBERS “do not maintain a bilateral political relationship” with an acknowledged tribe:

- “The acknowledgment regulations . . . require an analysis of whether or not a petitioner’s individual ‘members’ maintain a bilateral political relationship with an acknowledged tribe.” (Yuchi FD 1999, 15)
- “. . . for the purposes of criterion 83.7(f) a bilateral political relationship with a federally-recognized tribe is presumed to exist when it can be demonstrated that reciprocal consent was involved in the process by which an individual came to be included on the tribal roll of a federally-recognized tribe. Because, as a recognized tribe, the MCN [Muscogee (Creek) Nation] has a functioning political process, a presumption can be made that a member of the MCN participates in a bilateral political relationship with a recognized tribe.” ¶ “. . . this presumption is rebuttable. . . .” (Yuchi FD 1999, 14)
- ▼ The evidence indicated that YTO petitioner “individuals gave their consent to be on the MCN [Muscogee (Creek) Nation] roll by applying for membership, and that a MCN Citizenship Board acted to accept individuals as members [citing the PF]. This reciprocal consent demonstrates that the political relationship between the MCN and its members, including those who also are on the YTO membership list, is a bilateral relationship under the regulations.” (Yuchi FD 1999, 14)
- ▼ “Although this presumption is rebuttable, in this case the presumption is confirmed because the evidence shows the actual participation of YTO [petitioner] members in MCN [Muscogee (Creek) Nation] governmental activities.” (Yuchi FD 1999, 14)  
“Because the evidence shows that YTO members who are also members of the MCN have consented to participate, and do participate, in a bilateral political relationship with a federally-recognized tribe, the YTO petitioner does not meet a condition of the regulations.” (Yuchi FD 1999, 15)
- ▼ “. . . Navajo political leaders and institutions have not exercised political influence over internal decisions among the San Juan Paiute membership. While there has been some occasional involvement of the Paiutes in Navajo tribal political institutions in

the past 15 to 20 years, the available evidence indicates this was not of a nature and extent that could be considered to indicate the continuous maintenance of tribal relations. . . . Therefore, a bilateral political relationship, which is fundamental to tribal membership, does not now exist and has not existed in the past between the San Juan Paiutes and the Navajo Tribe.” (San Juan Paiute FD 1989, 21, 22)

The third condition:

The third condition requires that the petitioner’s MEMBERS must have provided “written confirmation of their membership in the petitioning group”:

- “These signatures [on genealogical charts] are not explicit confirmation of an individual’s willingness to belong to the petitioning group.” (Yuchi FD 1999, 13)
- “Criterion (f) requires that a petitioner’s members provide written confirmation of their wish to be members of the petitioning group. This may take the form of a letter, an application for membership in the group, or a form the group has devised. The only conditions are that it contain the individual’s signature and clearly indicate his or her wish to be a member of the petitioning group.” (Yuchi PF 1995, TR 32)
- ▼ “The YTO [petitioner] and the commenters have not responded in any way to the third condition. . . . Because sufficient confirmations have not been supplied by the YTO, it clearly does not satisfy one of the three conditions of the regulations. . . .” (Yuchi FD 1999, 13)



## Criterion 83.7(g)

### The text of criterion 83.7(g):

“(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.” (59 F.R. 9293)

### The text of section 83.8(d):

“(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).” (59 F.R. 9293)

### The text of criterion (g) from 1978 to 1994:

“(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.” (43 F.R. 39361)

### Compilation of precedents:

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in inverse chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:****“legislation that has expressly terminated or forbidden the Federal relationship”:**

- “The Navajo response argues that the 1974 Hopi-Navajo Settlement Act, which provides for individual allotments for Paiutes ‘not now members of the Navajo Tribe,’ terminates the Paiutes. . . . The act makes no reference to, nor provisions for or against, the San Juan Paiutes as a tribal entity and thus does not forbid their acknowledgment as a tribe.” (San Juan Paiute FD 1989, 29)
- The Western Oregon Termination Act of August 13, 1954 “terminated any ‘tribe, band, group or community of Indians west of the Cascade Mountains of Oregon’ . . . . Although the act did not specifically refer to the petitioner, the inclusive character of this language, and the inclusive intent of the act . . . indicates this language would forbid the Federal relationship as Indians to members of the Tchinouk group.” “Based on the inclusive language of the act and BIA policies and legislative records concerning the act, we conclude that the Western Oregon Termination Act applies to the Tchinouk even though they were not previously recognized as a distinct tribe.” (Tchinouk PF 1985, 12)
- “Because the [western Oregon termination] act [of 1954] listed the historical tribes of western Oregon, not just the tribes which were currently recognized by the Federal Government, the act not only terminated any existing relationships, but also prohibited the establishment of a Federal relationship with any of those historical tribes.” (Chinook PF 1997, 40)
- “The Lower Band of Chinook was always identified as a historical tribe or band north of the Columbia River in modern Washington State. . . . Because the 1954 western Oregon termination act was applicable only to tribes, bands, or groups of Indians located in the state of Oregon, that act’s reference to the ‘Chinook’ did not refer to the historical Lower Band of Chinook of Washington State, or to its descendants. Therefore, the act did not prohibit a Federal relationship with the Lower Band of Chinook.” (Chinook PF 1997, 40)
- “The Clatsop Tribe, however, was always identified as a historical tribe or band south of the Columbia River in the modern state of Oregon. . . . Therefore, a Federal relationship with the Clatsop Tribe was prohibited by the western Oregon termination act of 1954. In addition, the act clearly stated that its intent was to prohibit Federal services to the individual members of such a tribe. Therefore, those members of the petitioning group whose Indian descent is exclusively from the historical Clatsop Tribe cannot receive Federal services because of their status as Indians.” “Thus, with the reservation that, if acknowledged, a few of the petitioner’s current members who

trace their ancestry only to the historical Clatsop Tribe would be forbidden Federal services as Indians, the petitioner meets criterion (g).” (Chinook PF 1997, 40, 41)

- An 1897 opinion by the Department of the Interior’s Assistant Attorney General Willis Van Devanter “effectively resulted in a loss of administrative recognition” of the Indiana Miami. However, “The 1872 and 1881 acts cited by Van Devanter do not explicitly sever the tribal relations of the Indiana Miami. . . . In regard to the General Allotment Act of 1887, the Supreme Court has rejected the doctrine that allotment and citizenship under that act imply the termination of tribal existence.” “Therefore, we conclude that the petitioner meets criterion 25 CFR 83.7(g).” (Miami PF 1990, 17)
- “. . . the general ending of treaty negotiations in 1871 has not been interpreted by the Department of Interior as legislation specifically terminating the Federal acknowledgment of a specific American Indian tribe.” (Match-e-be-nash-she-wish Band PF 1997, 21)

### **EVIDENCE UNDER 83.7(g):**

#### Evidence that has MET the criterion:

- ▲ “. . . a search of the Federal statutes did not reveal any legislation terminating or forbidding the Federal relationship.” (Grand Traverse Band PF 1979, 8)
- ▲ “Research revealed no legislation terminating or forbidding the Federal relationship with the group or members of it.” (Death Valley Shoshone PF 1982, 7)
- ▲ The petitioner has “not been the subject of congressional legislation which expressly terminated a previous Federal relationship.” (Narragansett PF 1982, 18)
- ▲ The petitioner “does not appear on the current list of ‘Indian Tribes Terminated from Federal Supervision’ prepared by the Bureau of Indian Affairs. . . .” (Poarch Band of Creeks PF 1983, 7)
- ▲ “Although the group’s name was included in a rough draft of termination legislation prepared by the Bureau in September 1953, the draft was marked ‘For Discussion Purposes Only’ and it was not even enacted into law. The Samish are, therefore, determined to meet Section 83.7(g) of the regulations.” (Samish PF 1982, 27). *See also: Snohomish PF 1983, 26.*
- ▲ “The Navajo response argues that the 1922 executive branch action restoring the reservation established in 1907 for the San Juan Paiutes to the public domain

constituted ‘termination’ of them as a tribe. There was no executive branch action taken indicating that the tribe was no longer recognized. Correspondence immediately subsequent to the 1922 reservation withdrawal clearly indicated that the BIA considered the San Juan Paiutes a tribe under its jurisdiction.” (San Juan Paiute FD 1989, 28-29)

Evidence that has NOT met the criterion:

- ▼ “. . . the Western Oregon Termination Act applies to the Tchinouk. . . . The Tchinouk are the subject of legislation forbidding the Federal relationship and therefore do not meet the requirements of the criterion. . . .” (Tchinouk PF 1985, 12)
- ▼ “Many of the petitioning group’s members were given termination services under Section 13 of the [Western Oregon] termination act, although many had not received services previously and many if not most do not appear on the available rolls of Southwestern Oregon Indians. . . . It is clear the act was viewed by the BIA as applying to these individuals even though they were not part of a distinct recognized tribe.” (Tchinouk PF 1985, 12)

## Section 83.8: Previous Federal Acknowledgment

### The text of section 83.8:

“(a) Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment. If a petitioner provides substantial evidence of unambiguous Federal acknowledgment, the petitioner will then only be required to demonstrate that it meets the requirements of § 83.7 to the extent required by this section.” (59 F.R. 9293)

“(d) To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that:

(1) The group meets the requirements of the criterion in § 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity.

(2) The group meets the requirements of the criterion in § 83.7(b) to demonstrate that it comprises a distinct community at present. However, it need not provide evidence to demonstrate existence as a community historically.

(3) The group meets the requirements of the criterion in § 83.7(c) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in § 83.7(c) from the point of last Federal acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in § 83.7(c).

(4) The group meets the requirements of the criteria in paragraphs 83.7(d) through (g).

(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d)(1) and (3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in § 83.7(a) through (c) from last Federal acknowledgment until the present.” (59 F.R. 9293)

### The definition in section 83.1:

“*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.” (59 F.R. 9293)



**Explanation in the “Review of Public Comments” in the regulations:**

“. . . the regulations require that previous acknowledgment be unambiguous and clearly premised on acknowledgment of a government-to-government relationship with the United States. . . .” (59 F.R. 9283)

**The regulations from 1978 to 1994:**

There were no provisions of the regulations relating to previous Federal acknowledgment prior to the publication of revised acknowledgment regulations on Feb. 25, 1994.

**Compilation of precedents:**

For petitions which have received a final determination, selections have been made from the “Summary under the Criteria” or memorandum signed by the Assistant Secretary - Indian Affairs for both the final determination (FD) and the proposed finding (PF). A note identifies selections from petitions which have received only a proposed finding.

Internal citations have been omitted from the selected quotations. Interpretive examples have been arranged in inverse chronological order by the date of the finding. Evidentiary examples have been arranged in chronological order by the date of the evidence.

Selections include those which:

- Interpret the regulations, provide definitions, or comment on evidence;
- ▲ Provide examples of evidence cited as capable of meeting the criterion in part;
- ▼ Provide examples of evidence cited as not meeting the criterion.

**CRITERION:****“Previous Federal acknowledgment” (§83.1):**

- “The first aspect of the test of previous Federal acknowledgment is to determine whether the Government acknowledged an Indian tribe.” ¶ “The second aspect of the test of previous Federal acknowledgment is to determine whether the petitioner is the same tribal entity, or a portion that has evolved from the entity, that was previously acknowledged.” (Burt Lake Band PF 2004, 25). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The first aspect of the test of previous Federal acknowledgment is to determine whether or not the Government acknowledged, by its actions, a government-to-

government relationship between the United States and an Indian tribe.” [p.59] ¶  
“The second aspect of the test of previous Federal acknowledgment, based on precedent, is to determine whether or not the petitioner can demonstrate that it can claim to have evolved from the previously acknowledged tribe. . . . The regulations do not envision a petitioner demonstrating that it *meets* the acknowledgment criteria in order to be able to be *evaluated* under section 83.8 (see 59 FR 9282).” ¶ “To meet the second aspect of the test for previous acknowledgment, a petitioner must demonstrate a link to the previously acknowledged tribe, not that it has evolved as a tribe from the previously acknowledged tribe. . . . [The petitioner must] show that the predominant portion of its members descend from the previously acknowledged tribe and that it will be able to advance a claim that some of its members or ancestors with descent from the historical tribe participated in group activities at various times since last Federal acknowledgment. The *merits* of that claim about continuous tribal existence are to be evaluated against the acknowledgment criteria, as modified by section 83.8, during active consideration.” [p.60] (Chinook RFD 2002, 59, 60)

- “Petitioners which meet the definition of unambiguous previous Federal acknowledgment in section 83.1 are evaluated under modified requirements provided in section 83.8 of the regulations.” [p.1] ¶ “The definition of previous Federal acknowledgment in section 83.1 has two essential elements. . . . In order for section 83.8 to apply, it must also be established that the petitioner is the same as the previously acknowledged tribe or is a portion that has evolved from the tribe as it existed at the last time of Federal acknowledgment (83.8(d)(1)).” [p.2] (Snoqualmie FD 1997, 1-2). *See also: Snohomish FD 2003, 4.*

**“clearly premised on identification of a tribal political entity” (§83.1):**

- “For purposes of an evaluation under Section 83.8 of the regulations . . . the issue is not the reality of Indian political organization and autonomy, but the Federal Government’s definition of the Indian entities it treated as political units.” (Burt Lake Band PF 2004, 20). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “. . . I conclude that the 1925 claims statute was not ‘clearly premised’ on the existence in 1925 of a Chinook political entity with a government-to-government relationship with the United States. That is what the acknowledgment regulations expressly require for finding that a petitioner has been unambiguously previously acknowledged by the Federal Government.” (Chinook RFD 2002, 54)

**“unambiguous”** Federal acknowledgment:

- “The ‘unambiguous’ test posed by the acknowledgment regulations is interpreted to require that a significant Federal action constituted ‘unambiguous’ acknowledgment, not that every Federal action at that time was unambiguous.” (Burt Lake Band PF 2004, 23). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The 1873 Executive Order expanded the size of the Quinault Reservation. It did not explicitly mention the Chinook, but can be considered to have referred to them as one of the ‘fish-eating’ Indians of the Pacific Coast. . . . it is not sufficient to constitute *unambiguous* prior Federal acknowledgment.” (Chinook FD 2001, 12)
- “. . . the issue discussed from 1911 to 1913 was whether the Chinook tribe was one of the unspecified ‘tribes of Indians . . . affiliated with the Quinault and Quileute tribes in the [1855/1856] treaty,’ and whether its descendants had a right to allotments on Quinault under the 1911 Act. . . . [Despite] the reference in the 1911 Act to ‘members’ of the subject tribes. . . . this statute falls short of an *unambiguous* prior Federal recognition.” (Chinook FD 2001, 12). *See also: RFD 2002, 18, 19.*
- “The Supreme Court [in *Halbert v. United States* (1931)] did not directly rule that the Chinook was a tribe at that time or that any of the plaintiffs in *Halbert* were members of a Chinook Tribe. . . . [T]he Supreme Court in 1930 and 1931 was aware . . . that there was an entity known as the Chinook Tribe. This alone, though, is not an *unambiguous* prior Federal recognition.” [p.14] (Chinook FD 2001, 12-14)
- “The regulations require that acknowledgment be unambiguous.” The petitioner’s status “became less clear . . . as termination policies were implemented.” [p.2] The termination policy of the 1950’s “considered that Federal responsibility was limited to tribes which had Federal trust land. Consequently, after 1953, as the termination policy came fully into play, the Federal view of the status of the Snoqualmie changed, as did the status of the other non-reservation ‘public domain tribes’ in Washington State. . . . January 1953 is the last date when the documentation of acknowledged status is unambiguous.” [p.3] (Snoqualmie FD 1997, 2, 3)

Federal acknowledgment by unratified treaties:

- “For the purposes of a finding of unambiguous previous Federal acknowledgment, it does not matter that the Chinook do not have a ratified treaty, as the Senate refused to ratify the 1851 treaties and the Chinook representatives refused to sign the 1855/1856 treaty. By undertaking negotiations with the Chinook to obtain a treaty, the Government treated them as a tribal political entity.” (Chinook RFD 2002, 60)

- “Although the Lower Cowlitz refused to sign the Chehalis River Treaty, their participation in the negotiations constitutes unambiguous Federal acknowledgment of the tribe’s sovereignty.” (Cowlitz PF 1997, 62 F.R. 8983)

**“substantial evidence” of unambiguous Federal acknowledgment:**

- “Therefore, because the petitioner did not provide substantial evidence of unambiguous prior Federal acknowledgment, the STI [petitioner] petition has been evaluated under the provisions of 25 CFR 83.7.” (Steilacoom PF 2000, 65 F.R. 5881).  
*NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

**“evidence of . . . tribal character . . . to the date of the last” acknowledgment:**

- “Petitioner’s contention that no record withdraws [Federal] recognition fails not only because the petitioner did not carry its burden to demonstrate they had previous unambiguous acknowledgment, but also because it erroneously shifts the burden to the agency. This shifting of the burden was rejected in *United Tribes of Shawnee Indians v. U.S.* and in *Burt Lake Band v. Norton.*” (Snohomish FD 2003, 5 n.2)
- A third party “contended that the FD improperly presumes the continued existence of the Chinook tribe. . . .” ¶ “The Department’s position in acknowledgment proceedings, upheld in litigation, is that there is no general ‘presumption of continued existence’ for petitioners who previously have been unambiguously federally acknowledged.” ¶ “Both the Final Determination itself and the *Federal Register* notice of that determination expressly reaffirmed the general principle that continuity of tribal relations is not presumed for previously acknowledged petitioners. At the same time, however, the *Federal Register* notice also asserted that the FD would not ‘presume an abandonment of tribal relations once the tribe is recognized,’ and that . . . there was ‘no affirmative indication of abandonment.’ In addition, the FD stated that . . . ‘because there has been no voluntary abandonment, the recognition stands’ . . . . These additional statements seem to suggest for a group that has been previously acknowledged, a favorable determination is required unless the Department satisfies some burden to show evidence affirmatively indicating abandonment. If that is what was meant, the FD is incorrect. . . .” (Chinook RFD 2002, 51)
- “Conclusions concerning previous acknowledgment under section 83.8 are solely for the purposes of a determination of previous acknowledgment under 25 CFR Part 83, and are not intended to reflect conclusions concerning successorship in interest to a particular treaty or other rights.” (Snoqualmie FD 1997, 3). *See also: Match-e-be-nash-she-wish Band FD 1998, 63 F.R. 56936.*

Petitions evaluated prior to the provisions of section 83.8:

- “The Samish have not been federally recognized as a separate and distinct tribe since the early 1900’s, when the core of the tribe moved to the reservations. The [Federal district] court in *Greene* rejected the contention that the Samish petitioner was a recognized tribe until the 1970’s in its decision of February 25, 1992. The court stated that ‘The evidence, when viewed in the light most favorable to the defendants, is not sufficient to establish that the BIA treated the Samish as a recognized tribe.’ The testimony of the long-time STO [petitioner] Secretary Mary Hansen at the hearing concerning the Samish clearly identified them as unrecognized in the 1950’s. The ALJ’s [administrative law judge’s] supplementary finding 110 is rejected, as are all other findings to the extent that they imply that the Samish petitioner was a recognized tribe until the 1970’s.” (Samish FD 1995, 16). *Note: In the Greene case, the Federal district court vacated the original FD. The petitioner’s rejected contention was described in the vacated FD (Samish FD 1987, 29). For the FD, the Samish petitioner chose to be evaluated under the 1978 regulations, which did not contain the provisions of section 83.8 (FD 1996, 1).*
- “The Miami response to the proposed finding argues that by virtue of the treaty signed with the Miami on June 5, 1854, the United States Government recognized the Indiana Miami. . . . The response holds that the Department’s responsibility is limited to determining whether the Indiana Miami had voluntarily abandoned tribal relations. [¶] There is no merit to the Miami position. . . . Continued tribal existence . . . is the essential requirement for acknowledgment of a government-to-government relationship. The Ninth Circuit Court . . . in *United States v. Washington*, came to a conclusion exactly opposite to the Miami argument: ‘We reject their argument that, because their ancestors belonged to treaty tribes, the appellants benefitted from a presumption of continuing existence.’ [¶] The Ninth Circuit Court’s decision supports the responsibility of the Executive branch to inquire as to the maintenance of tribal existence, notwithstanding an earlier treaty.” ¶ “The Ninth Circuit’s analysis or conclusions are equally applicable to the Miami Nation of Indians of the State of Indiana.” (Miami FD 1992, 24-25)

**“the date of the last such previous acknowledgment”:**

- “The proposed finding [which was prepared before the provisions relating to previous acknowledgment were added to the regulations in 1994] concluded that the end of acknowledgment of the Snoqualmie was in 1955, the first date when the available documentation indicated the Snoqualmie were not recognized. For purposes of this final determination under section 83.8 . . . January 1953 is the last date when the documentation of acknowledged status is unambiguous.” (Snoqualmie FD 1997, 3)

- “In the case of this petitioner, the date of September 27, 1833, that of the ‘Supplementary Articles’ to the Treaty of Chicago, was used as the last date of unambiguous previous Federal acknowledgment. It is not to be taken as a determination by the Department that this was necessarily the latest date of prior Federal acknowledgment. As the petitioner had already completed the research process and had submitted a complete, documented petition at the time the revised regulations became effective, expenditure of staff time to determine the latest date of prior acknowledgment would not have reduced the research burden on the petitioner. Acceptance of the obvious date of the last in a series of treaties was sufficient to enable the petitioner to proceed under the provisions of section 83.8.” (Huron Potawatomi FD 1995, 2). *See also: Cowlitz PF 1997, 3; Match-e-be-nash-she-wish Band PF 1997, 2, and FD 1998, 3.*

**“the same tribal entity that was previously acknowledged”:**

- “Less than 50 percent of the current members of the [Burt Lake] petitioning group have ancestry from a member of the historical Cheboygan band or a resident of Indian Village at Burt Lake prior to the burnout of 1900. In view of this evidence, the petitioner has not established that it is the same entity or is a portion that has evolved from either the previously acknowledged treaty band or the band for which the *McGinn* lawsuit was brought. In addition, the petitioner’s members who lack descent from the historical band were not gradually incorporated into that band over time in any process of evolutionary change, nor were they part of an Indian entity that amalgamated with that band. Because most of the petitioner’s current members neither descend from nor have evolved as a group from a previously acknowledged tribal entity, the petitioner’s current membership does not meet the second test of being the same entity as, or as having evolved from, a previously acknowledged tribe or band.” (Burt Lake Band PF 2004, 26). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “It has been shown that the Chinook petitioner meets a threshold determination that its members are the descendants of the tribe acknowledged by the Government by the conclusion in the 2001 Final Determination that the petitioner meets criterion (e). Because some members or ancestors of the petitioner’s members, with descent from historical Chinook bands, have been involved in Chinook organizations or activities at several different times since the date of last Federal acknowledgment in 1855, the petitioning group can advance a claim, to be tested by the requirements of the regulations, that it has evolved from the previously acknowledged tribe. Because the Chinook petitioner has demonstrated a link to a previously acknowledged Chinook tribe, but not necessarily that it has evolved as a tribe from that tribe, it meets the

second aspect of the test of previous acknowledgment for the purpose of utilizing section 83.8.” (Chinook RFD 2002, 61)

- The evidence “. . . was insufficient to determine whether or not the modern petitioner’s members were descended from the people in the ‘Steilacoom’ group which was party to the 1854 Treaty. . . .” ¶ “. . . petitioners may claim to descend from a treaty tribe, but cannot demonstrate that descent. This . . . is the case for the STI [petitioner].” ¶ “. . . other evidence provided information that as of 1854, the identified Indian ancestors of the petitioner’s current membership . . . were not part of the entity that was recognized by the Treaty of Medicine Creek.” ¶ There are “facts which show that the ancestors of the current petitioner were not the same entity as the historical Steilacoom band that attended the negotiations and signed the treaty in 1854, and that the modern STI [petitioner] organization does not represent a continuation of the historical Steilacoom band. . . .” (Steilacoom PF 2000, 4). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The Department cannot accord evaluation under 83.8 to petitioners claiming previous acknowledgment without a showing that the group connects to the same tribe that was recognized in the past.” (Steilacoom PF 2000, 4). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “In order for section 83.8 to apply, it must also be established that the petitioner is the same as the previously acknowledged tribe or is a portion that has evolved from the tribe as it existed at the last time of Federal acknowledgment (83.8(d)(1)).” (Snoqualmie FD 1997, 2). *See also: Snohomish FD 2003, 4.*

**“To be acknowledged, a petitioner . . . must show that”:**

- “The regulations provide that the burden of proof is on a petitioner to demonstrate its continued tribal existence. As stated in the preamble to the regulations, the question before the Assistant Secretary is whether the level of evidence in the record is high enough, even in the absence of negative evidence, to demonstrate by a reasonable likelihood that a petitioner has satisfied the regulatory criteria. 59 Fed. Reg. at 9280. By stating that there was ‘no affirmative evidence of abandonment,’ and that the statutory recognition was ‘definitive,’ the FD appears incorrectly to imply that for previously acknowledged petitioners the absence of negative evidence may itself carry evidentiary weight in favor of the petitioner. That is not the case. Even though the 1994 regulations reduce and streamline the evidentiary burden for previously acknowledged petitioners, they still retain the burden of proof placed on petitioners to satisfy the regulatory criteria and standards.” (Chinook RFD 2002, 51-52)

- “It may be that the FD intended to give ‘greater weight’ to the evidence upon which it was relying. . . . However, the statement in the 1994 preamble about giving ‘greater weight’ to evidence of continued existence for previously acknowledged petitioners was referring to the streamlined demonstration of criterion (c) in section 83.8. In other words, the 1994 regulations already incorporate the ‘greater weight’ concept in the regulatory requirements themselves, both as to the reduced evidentiary requirements and the appropriate timeframes for which evidence is required. There is no separate ‘greater weight’ generically given to evidence submitted by previously acknowledged petitioners.” (Chinook RFD 2002, 52)
- “The Department’s policy is that the essential requirement for acknowledgment is continuity of tribal existence rather than previous acknowledgment alone.” (Steilacoom PF 2000, 4). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- “The Department’s position is, and has always been, that the essential requirement for acknowledgment is continuity of tribal existence rather than previous acknowledgment. . . . The Department cannot accord acknowledgment to petitioners claiming previous acknowledgment without a showing that the group is the same one as recognized in the past. The present-day group is required to demonstrate that it connects with the previously acknowledged tribe through continuous historical existence as a distinct political community.” (Cowlitz PF 1997, 3-4)

## **EVIDENCE:**

### **The date of last previous acknowledgment:**

- 1833. (Huron Potawatomi PF 1995, 2; FD 1995, 60 F.R. 66315)
- 1855. (Chinook RFD 2002, 61)
- 1870. (Match-e-be-nash-she-wish Band FD 1998, 3)
- 1880. (Cowlitz FD 2000, 4). *Note: Described as 1878/1880.*
- 1927. (Muwekma PF 2001, 6-7; FD 2002, 5)
- 1953. (Snoqualmie FD 1997, 2)



**Treaties and treaty annuities (1833-1870's)**Evidence that has MET the requirements at a specific time:

- ▲ “. . . the date of September 27, 1833, that of the ‘Supplementary Articles’ to the Treaty of Chicago, was used as the last date of unambiguous previous Federal acknowledgment.” (Huron Potawatomi PF 1995, 2). *Note: See also the F.R. notice:*

The petitioner’s “members are descendants specifically of the Potawatomi of Huron, a band which signed treaties with the Federal Government from the Treaty of Greenville in 1795 through the Articles Supplementary to the Treaty of Chicago in 1833. . . . Because of these treaties, the petitioner meets the requirements of § 83.8 as having unambiguous previous Federal acknowledgment. . . .” (Huron Potawatomi PF 1995, 60 F.R. 28426). *See also: FD 1995, 60 F.R. 66315.*

- ▲ “. . . the date of March 2, 1855, the end of the Chehalis River treaty negotiations, was used as the last date of unambiguous previous Federal acknowledgment. It is not to be taken as a determination by the Department that this was necessarily the latest date of prior Federal acknowledgment.” [p.3] “The Upper Cowlitz Indians . . . who were not represented at the Chehalis River Treaty Council, were later gradually amalgamated with the Lower Cowlitz Indians. . . . [Therefore,] the prior unambiguous Federal acknowledgment, for purposes of 83.8, extended to the Upper Cowlitz Indians.” ¶ “Additionally, . . . the prior unambiguous Federal acknowledgment extended to the Cowlitz métis by virtue of their direct descent from, continuing close relationship to, and regular interaction from before 1855 through the latter 19th century with the Lower Cowlitz bands which were represented at the Chehalis River Treaty Council.” [p.4] (Cowlitz PF 1997, 3-4; see also, 62 F.R. 8983. See also the description of these PF conclusions in Cowlitz FD 2000, 2). *Note: The FD extended the last date of Federal acknowledgment to 1878-1880, and relied upon Federal administrative action (Cowlitz FD 2000, 4).*
- ▲ The petitioner “had unambiguous previous Federal acknowledgment through the date of the 1855 Treaty of Detroit, to which the band’s chief was a signatory, and subsequently through the date of 1870 at which annuity payments under prior treaties were commuted.” (Match-e-be-nash-she-wish Band PF 1997, 1). *Note: The FD revised the PF on the date of last acknowledgment (FD 1998, 3; see also, 63 F.R. 56936).*
- ▲ “The Snoqualmie tribe was acknowledged by the Treaty of Point Elliott in 1855 and continued to be acknowledged after that point.” (Snoqualmie FD 1997, 2)
- ▲ The Proposed Finding concluded “that, ‘[t]he United States Government recognized the Lower Band of Chinook Indians by negotiating a treaty with it, and with several

other bands of Chinookans, in 1851.’ It also noted that, ‘[i]n 1855, the Government made another attempt to negotiate a treaty with the Chinook and other tribes.’ Because the Federal Government’s treaty negotiations with Chinook representatives were clearly premised on an identification of a Chinook tribal political entity, these treaty negotiations meet the definition of previous Federal acknowledgment in section 83.1 of the regulations.” [pp.59-60] “The evaluation of the Chinook petition under the 1994 regulations will be made in accordance with the provisions of section 83.8, with 1855 as the date of last Federal acknowledgment, based on the conclusion that the Chinook had unambiguous previous Federal acknowledgment as a tribal political entity as late as 1855.” [p.61] (Chinook RFD 2002, 61)

- ▲ “That the Indians of the Cheboygan village were parties to the Treaties of 1836 and 1855 is not in dispute, and the treaties constitute unambiguous Federal acknowledgment of them, whether as a band or a confederation.” (Burt Lake Band PF 2004, 20-21; see also, 25). *Note: The PF found, however, that “most of the petitioner’s current members neither descend from nor have evolved as a group from a previously acknowledged tribal entity. . . .” NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▲ “The date of the band’s final annuity payment under this treaty [1855 Treaty of Detroit], 1870, was used as the date of last unambiguous prior Federal acknowledgment.” (Match-e-be-nash-she-wish Band FD 1998, 3; see also, 63 F.R. 56936). *Note: The FD revised the PF on the date of last acknowledgment (PF 1997, 1).*
- ▲ “Federal acknowledgment under the treaties [of 1836 and 1855] extended until the 1870's when the last treaty annuity payments and treaty allotments were made.” (Burt Lake Band PF 2004, 25). *Note: The PF found, however, that “most of the petitioner’s current members neither descend from nor have evolved as a group from a previously acknowledged tribal entity. . . .” NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence that has NOT met the requirements:

- ▼ “By negotiating this proposed treaty with individuals the Government’s agent considered to be legitimate representatives of a ‘Pembina band,’ the United States acknowledged the existence of a Pembina Band of Chippewa Indians in 1851.” ¶ “Governor Ramsey, however, refused to negotiate with the Métis. Congress had authorized negotiations with Indians and Métis, but had not indicated whether it considered them to be one group or separate groups. . . . Thus, the Pembina band recognized by the Government’s agent in the treaty of 1851 did not include the Métis.” (Little Shell PF 2000, TR 22). *Note: The Federal Register notice of the PF concluded that the petitioner had not demonstrated unambiguous previous Federal*

*acknowledgment (65 F.R. 45394-95). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ “Although a group described as the ‘Steilacoom Indians’ was included in, and was recognized by, the Treaty of Medicine Creek [1854], evidence . . . was insufficient to determine whether or not the modern petitioner’s members were descended from the people in the ‘Steilacoom’ group which was party to the 1854 Treaty. . . .” ¶ “. . . other evidence provided information that as of 1854, the identified Indian ancestors of the petitioner’s current membership . . . were not part of the entity that was recognized by the Treaty of Medicine Creek.” ¶ There are “facts which show that the ancestors of the current petitioner were not the same entity as the historical Steilacoom band that attended the negotiations and signed the treaty in 1854. . . .” (Steilacoom PF 2000, 4). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence considered prior to the provisions of section 83.8:

- A “rebuttal [of the proposed finding] also argues that a treaty made in 1833 recognized the existence of the ‘greater body of the Creek Nation’ which at that point remained on the eastern side of the Mississippi. This treaty predates the removal of the majority of the Creek Nation and hence does not indicate acknowledgment of a continuing body of Eastern Creeks after the 1830’s.” (Lower Muskogee Creek FD 1981, 7)
- “. . . Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859, when the United States Senate and the President ratified the Treaty of Point Elliott, to sometime between 1955 and 1961. . . .” (Snoqualmie PF 1993, 4). *Note: The FD clarified this conclusion by specifying a period of Federal acknowledgment of the petitioner as a separate Snoqualmie entity (FD 1997, 2-3).*

**Bureau of Indian Affairs and Department of the Interior (1859- )**

Evidence that has MET the requirements at a specific time:

- ▲ “. . . this determination now extends the date of previous Federal acknowledgment of the Lower Cowlitz Indians at least to 1878-1880 and determines that the Upper Cowlitz Indians also had previous unambiguous Federal acknowledgment until at least 1878/1880.” ¶ “The determination of previous Federal acknowledgment is based on the previous acknowledgment of two entities, the Lower and the Upper Cowlitz, which were administratively amalgamated by the Government in 1878-1880. Both entities were previously acknowledged.” ¶ “The administrative analysis of the two bands is demonstrated by the actions of Federal Indian agents, when they

appointed Atwin Stockum chief of the ‘Cowlitz Indians’ in 1878. The OIA [Office of Indian Affairs] also enumerated both the Lower Cowlitz and Upper Cowlitz bands in two OIA censuses taken in 1878 and 1880. They compiled separate lists for each band, but then listed the two groups together in the statistical tabulation.” [p.4] ¶  
“Both the Upper and Lower Bands were recognized separately by the Federal government and by 1878-80 were treated as one by the Federal government.” [p.5] (Cowlitz FD 2000, 4-5). *Note: See also the F.R. notice:*

“The proposed finding found that the government administratively joined the Lower Cowlitz, which included the Lower Cowlitz metis, and the Upper Cowlitz. . . . First, the Cowlitz metis were always part of the Lower Cowlitz. Second, the regulations allow for amalgamations of historical tribes at § 83.6(f).” (Cowlitz FD 2000, 65 F.R. 8436)

- ▲ “The BIA informed the Muwekma petitioner . . . that it had concluded, ‘on a preliminary basis,’ that the Pleasanton or Verona band of Alameda County was previously acknowledged by the Federal Government between 1914 and 1927. . . .” ¶  
“In response to a U.S. District Court order. . . . The BIA informed the court [that its review of additional submissions] would allow ‘the petitioner to proceed under 25 CFR § 83.8’. Therefore, this proposed finding has evaluated the Muwekma petition under the provisions of section 83.8 since 1927.” (Muwekma PF 2001, 3; see also, 10). *Note: See the TA letter of May 24, 1996, and the letter of October 30, 2000. Note: Context for the dates of prior acknowledgment was provided in the “historical overview” of the PF: “A Verona band in Alameda County was first mentioned as a potential beneficiary of the program [to purchase land on behalf of the landless, non-reservation Indians of California] in statements by Agent C. H. Asbury in 1914. . . . In 1927, Superintendent L. A. Dorrington referred to the band but concluded that land should not be purchased on its behalf.” (Muwekma PF 2001, 6-7). See also: FD 2002, 5.*
- ▲ “Before the 1930's, the Snoqualmie Tribal Organization was acknowledged as part of the Snoqualmie tribe as a whole. It is not necessary to establish a specific date for initial acknowledgment of the STO as a separate Snoqualmie entity, but acknowledgment as a separate entity was clearly established by 1934.” (Snoqualmie FD 1997, 2)
- ▲ “The Snoqualmie Tribal Organization was acknowledged as a separate, non-reservation tribal entity from approximately 1934 until January 1953. That political body was clearly identified as derived from the historical treaty-signing Snoqualmie tribe. . . . the ending date of January 1953 has been used, since the status [of the Snoqualmie] became less clear after that date, as termination policies were implemented.” ¶ “Evidence of recognition in these years [between 1934 and 1953] includes consistent identification in documents in which the Western Washington

Agency clearly identified the tribes under its jurisdiction, and in Congressional reports and reports of the central office of the Indian Service. The Snoqualmie were listed in these Federal documents as a non-reservation, 'public domain' tribe. . . .” [p.2] “. . . the Government’s statements and actions in the 1930's and 1940's showed previous acknowledgment of the petitioner separate from the rest of the Snoqualmie. . . .” [p.3] (Snoqualmie FD 1997, 2-3)

Evidence that has NOT met the requirements:

- ▼ “The Federal Government recognized only the historic Snohomish Indian tribe residing on or carried on census records at the Tulalip agency. The Federal Government negotiated a treaty with the historic Snohomish and 21 other allied tribes in 1855, which it ratified in 1859. . . . Many of the petitioner’s ancestors, as Federal censuses and other data show, settled in predominately non-Indian areas where they integrated into mainstream society. As such, the petitioning group did not evolve as a group from the recognized entity.” (Snohomish FD 2003, 5)
- ▼ “In 1872, replying to a report of the Commissioner of Indian Affairs that the last treaty annuity payment soon would be made and that patents for treaty land selections were being issued, the Secretary of the Interior stated the policy that, ‘[u]pon full [annuity] payment being made tribal relations will be terminated.’ The Secretary concluded that the members of the tribe then would become citizens of the United States, and be subject to Federal jurisdiction as citizens rather than as tribal members.” (Burt Lake Band PF 2004, 21). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The question of Federal responsibility toward the land purchased by Cheboygan Indians and patented to the Governor in trust for the Cheboygan band was considered by the Department of the Interior in 1878 and 1900. In both cases the Department took the position that it lacked the responsibility or authority to take any action on behalf of those lands.” (Burt Lake Band PF 2004, 21). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “The Durant Roll of 1910 did not constitute Federal acknowledgment of any Michigan tribe or band. In the Act of 1908 that required the roll, Congress directed the Secretary of the Interior ‘to make a complete roll of the Ottawa and Chippewa Indians of the State of Michigan entitled to participate in the funds arising from the judgment of the Court of Claims,’ not to identify current members of any particular bands. The Act authorized the Government to deal with Ottawa and Chippewa Indians for a single, limited purpose, not to establish a government-to-government relationship with any specific band. In producing the roll, Special Agent Horace Durant did not seek to identify members of bands existing in 1910, but to identify Ottawa and Chippewa Indians who had received annuities in 1870 and to list their

lineal descendants.” (Burt Lake Band PF 2004, 21). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

- ▼ The petitioner “argues that enumeration of individuals on BIA census schedules shows the identification of individuals with Chinook ancestry as a tribal group [within Quinault Reservation] and constitutes unambiguous prior Federal acknowledgment.” [p.17] ¶ The petitioner presumes that “the individuals identified as ‘Chinook,’ ‘Quinaielt- Chinook,’ ‘Quin.-Chinook,’ and ‘Chinook-Cowlitz’ on the 1933 census were members of a Chinook Indian Tribe, a separate and distinct political entity. . . . The AS-IA concludes otherwise. First, the identifications as Chinook-Cowlitz, etc. are ancestral categories, not tribal membership. Second, following [the petitioner’s] analysis would lead to the conclusion that the ‘Chinook,’ ‘Quinaielt- Chinook,’ ‘Quin.-Chinook,’ and ‘Chinook-Cowlitz’ were all separate tribes.” [p.19] (Chinook FD 2001, 17, 19)
- ▼ “When contemplating the removal of these families to trust lands in Mississippi about 1938, Federal officials indicated that they considered these Indians to be eligible for membership in the recognized Mississippi Choctaw tribe; not part of a continuing Louisiana tribal entity. Although the Federal Government briefly provided some Federal services to individuals in the group during the 1930’s, . . . the Federal Government did not recognize the Jena Choctaw Indians as a separate tribal entity.” (Jena Choctaw PF 1994, 1)
- ▼ “The petitioner cites . . . a [BIA] ‘Directory of Tribal Officials Portland Area’ dated September 1975. . . . [as] ‘evidence that Chinook was among the Indian groups which had formal organization approved by the Department’ . . .” [p.16] ¶ “The ‘Chinook Nation Non-reservation’ is listed on page 19. . . . Under ‘organization,’ is the statement: ‘General Council - Organization not recognized’ . . . . The plain language of the document indicates that inclusion of the Chinook does not denote an official recognition or acknowledgment that its group was a tribe under Federal law.” [p.17] (Chinook FD 2001, 16-17)

Evidence considered prior to the provisions of section 83.8:

- “Ms. Simmons, an employee of the Bureau of Indian Affairs for 30 years, testified that she began preparing lists of Indian tribes ‘with whom we had dealings’ in 1966. Her preliminary list was ‘based on a review of the files’ in her office. . . . ‘It was never intended to be a list of federally recognized tribes as such,’ she recalled. . . .” ¶ “Ms. Simmons explained that initially, ‘we just listed everybody that there was a file records section for’ in the Bureau’s Washington, D.C. offices. The draft was then sent to Area Offices and Agency Superintendents to identify which of the groups listed had a ‘formal relationship’ with them.” ¶ “She recalled that the Samish had been taken off her 1969 list because the Bureau’s Portland Area advised her that they

were ‘recognized for claims purposes only’ . . . .” (Samish FD 1995, 38-39). *Note: This finding of the administrative law judge, listed in a section of “factual findings” rather than under a specific criterion, was accepted for the FD.*

- “. . . Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859 . . . to sometime between 1955 and 1961. . . .” ¶ “Although the tribe lacked its own federally reserved land base, the BIA generally recognized that the Federal Government maintained some level of responsibility for the Snoqualmie as a result of the Point Elliott treaty provisions and the trust land allotted to individual Snoqualmie members on the public domain. During the 1940’s, for example, the Tulalip Agency sought to obtain a reservation for the Snoqualmie in the Tolt Valley. . . .” ¶ By 1944, the BIA was classifying the western Washington tribes into three categories: (1) those based on reservations; (2) those with individual public domain allotments; and (3) those with no Federal trust land. The Snoqualmie were considered to be a public domain tribe under the second category.” (Snoqualmie PF 1993, 4). *Note: The FD clarified this conclusion by specifying a period of Federal acknowledgment of the petitioner as a separate Snoqualmie entity (FD 1997, 2-3).*
- “A number of inquiries to the Bureau of Indian Affairs between 1880 and 1934 elicited the reply that there was no Federal responsibility for or jurisdiction over the group.” (Narragansett PF 1982, 8)
- “In 1897, . . . Interior Department Assistant Attorney General Willis Van Devanter issued an opinion declaring that the Federal Government no longer recognized the ‘tribal capacity’ of the Indiana Miami.” (Miami PF 1990, 2; see also, 9)
- “There is no evidence of Federal recognition of a distinct Samish tribe after 1900. The Samish on Swinomish Reservation after this point were considered one of the component ‘bands’ [of the reservation]. . . .” (Samish PF 1982, 10)
- “The group was considered to be under Bureau of Indian Affairs (BIA) jurisdiction and was provided services from as early as 1908 until 1956, although considered non-ward Indians in the 1930’s. Allotments were provided some members and a reservation was created from land belonging to one part of the group. The BIA unsuccessfully sought to create a reservation for the rest of the group in the 1930’s.” (Death Valley Shoshone FD 1982, 47 F.R. 50109). *Note: See also, PF 1982, 3.*
- “. . . between 1921 and 1924, the Indian Affairs office probably dealt with the group . . . to formulate treaty claims. The identification was as a group representing Samish interests as far as proposed legislation to settle treaty claims, but not as a tribe.” (Samish PF 1982, 8)

- “Efforts were made in the 1930's to organize Jamestown [Clallam] under the Indian Reorganization Act, based on a solicitor’s opinion that they were a recognized tribe.” (Jamestown Clallam PF 1980, 2). *Note: This entry notes the “solicitor’s opinion.”*
- “Services continued to be provided to the group by the Bureau as late as 1956 when the Sacramento Area Director stated the Bureau had little or no responsibility for the band because it did not have trust lands.” (Death Valley Shoshone PF 1982, 4)
- “The Bureau . . . denied a request from the group for recognition in 1972. A BIA study commission in 1975 also recommended against recognition. . . .” (Samish PF 1982, 10)

### Executive (1873- )

#### Evidence that has MET the requirements at a specific time:

- ▲ “In his initial bill of complaint [in Federal court], the U.S. attorney claimed that the ‘Cheboygan band of Indians’ was ‘now’ and historically had been ‘under the care, control, and guardianship’ of the United States, and that it was ‘now . . . recognized by the plaintiff [United States] as a tribe’ . . . . This representation, made on behalf of the Federal Government by a U.S. Attorney, was an unequivocal statement of Federal acknowledgment of a Cheboygan band.” [p.21] ¶ “In addition, that position [of the U.S. Attorney] was not the isolated action of a single Federal agency, but was an action supported by the Department of the Interior, the Federal agency charged with supervision of Indian policy.” [p.23] ¶ “There is ‘substantial evidence’ that the Government accepted a responsibility to Indians at Burt Lake by pursuing the *McGinn* litigation on their behalf between 1911 and 1917. That Federal action, which was undertaken by a U.S. Attorney, meets the test of ‘unambiguous’ acknowledgment. Federal acknowledgment during the *McGinn* case ended with the Federal court decision of 1917.” [p.25] (Burt Lake Band PF 2004, 21-23, 25). *Note: The PF found, however, that “most of the petitioner’s current members neither descend from nor have evolved as a group from a previously acknowledged tribal entity. . . .” NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

#### Evidence that has NOT met the requirements:

- ▼ “The 1873 Executive Order expanded the size of the Quinault Reservation. It did not explicitly mention the Chinook, but can be considered to have referred to them as one of the ‘fish-eating’ Indians of the Pacific Coast. . . . it is not sufficient to constitute *unambiguous* prior Federal acknowledgment.” (Chinook FD 2001, 12)



- ▼ “By identifying Choctaws from LaSalle Parish, Louisiana, as Mississippi Choctaws, the Dawes Commission dealt with them as eligible for membership in a recognized tribe; not as a separate tribe. It dealt with the individual applicants directly, not through a political entity which represented them as its members. The commission anticipated their removal to Indian Territory in 1903; not their perpetuation as a separate tribe in Louisiana.” (Jena Choctaw PF 1994, 1)

### Congress (1911- )

#### Evidence that has NOT met the requirements:

- ▼ Issues referred by the Secretary “raise questions about the Final Determination’s interpretations of three separate statutes – a 1911 Quinault Allotment Act, 1912 claims legislation, and 1925 claims legislation. The Final Determination gave strong evidentiary weight to each of these statutes, and concluded that the 1925 legislation unambiguously showed Federal acknowledgment of a Chinook tribe as existing in 1925.” [p.15] “. . . the Final Determination misinterpreted the effect and evidentiary character and weight to be given to the 1911, 1912, and 1925 legislation. Further, the FD improperly departed from prior Departmental interpretations and the historical evidence regarding those statutes, in construing them as strong evidence of Federal acknowledgment within the meaning of the acknowledgment regulations. . . . [Also,] the FD erred in finding that the 1925 Act constituted unambiguous previous Federal acknowledgment of a Chinook tribe as existing in 1925, within the meaning of the 1994 regulations. . . . none [of these statutes] can fairly be construed as affirmative evidence that either Congress or the Executive Branch at the time in fact believed that a Chinook tribe still existed as an intact political entity. The contemporaneous evidence either is ambiguous on this point, or more often suggests that the Federal Government did not believe that a Chinook tribe still existed.” [pp.15-16] ¶ The discussion of issues “referred by the Secretary of the Interior concluded that, contrary to the interpretation used in the original Final Determination, the Acts of 1911, 1912, and 1925 do not constitute unambiguous prior Federal acknowledgment of the Chinook petitioner. Therefore, this Reconsidered Final Determination will not rely upon such an interpretation in its evaluation of the petition under the 1994 regulations.” [p.59] (Chinook RFD 2002, 15-16, 59)
- ▼ “. . . the issue discussed from 1911 to 1913 was whether the Chinook tribe was one of the unspecified ‘tribes of Indians . . . affiliated with the Quinault and Quileute tribes in the [1855/1856] treaty,’ and whether its descendants had a right to allotments on Quinault under the 1911 Act. . . . [Despite] the reference in the 1911 Act to ‘members’ of the subject tribes. . . . this statute falls short of an *unambiguous* prior Federal recognition.” (Chinook FD 2001, 12). *Note: See also the RFD:*

“ . . . the actual historical evidence and contemporaneous interpretation of the 1911 Act quite uniformly indicate that ‘membership’ in a still-existing Chinook ‘tribe’ was not considered essential in order for a Chinook individual to receive an allotment on the Quinault Reservation pursuant to the Act. [¶] Neither the language of the 1911 Act itself nor the legislative history expressly lists or names a ‘Chinook’ tribe or band. . . . Even if Congress understood that allotments would be provided to ‘members’ of ‘tribes’ existing in 1911, nothing on the face of the statute indicates that Congress itself . . . had identified who those ‘other tribes’ were, or whether it thought that all, or only some, of the ‘tribes’ affiliated in the 1855/1856 treaty still existed in 1911. The language ‘are affiliated . . . in’ the 1855/1856 treaty is itself ambiguous – the temporal point of reference for the word ‘tribes’ would appear to be 1855/1856, and not 1911. Therefore, the 1911 Act by itself cannot properly be construed as evidence of an actual congressional understanding or acknowledgment that a Chinook tribe was existing in 1911.” [p.18] “Significantly, the historical evidence indicates that the Department implemented the 1911 Act. . . . to allow individuals to obtain allotments on the Quinault Reservation even if the tribe to which they had belonged no longer existed.” [p.19] (Chinook RFD 2002, 18, 19; see also, 17 n.10)

- ▼ “The 1912 legislation specifically denominates the ‘Lower Band of Chinook Indians,’ and . . . it would appear that this language at least implies that the denominated band was in existence at the time. Ambiguity arises, however, from other language in the statute. First, the statute provides that the claim amount be ‘apportioned among those now living and the lineal descendants of those who may be dead,’ indicating that the actual beneficiaries and ultimate payees of the claim monies were individuals – and not even necessarily ‘members,’ past or present, of a still-existing tribe or band. . . . Second, the statute specifically provided that if the Secretary determined that ‘all of the Indians of either of said tribes or bands and their lineal descendants are dead, then none of the money hereby appropriated for such tribe or band shall be paid to any person for any purpose.’ This latter clause indicates that Congress was making no judgment whether all, any, or which ones of the denominated tribes or bands were still, in fact, in existence. Therefore, an analysis of the language and structure of the 1912 Act itself does not support the FD’s finding that the Act was strong affirmative evidence of Federal acknowledgment or identification of a Chinook tribe as still existing in 1912.” [pp.23-24] ¶ “On balance, and giving full consideration to the statutory language and the legislative history of the 1912 Act, I conclude that the Act does not constitute affirmative evidence that the Congress recognized or identified the Lower Chinook Band, or a Chinook tribe, as still existing in 1912.” [p.27] (Chinook RFD 2002, 23-24, 27; see also, 29 n.18)
- ▼ “The 1925 Act specifically names the ‘Chinook’ as among the ‘Tribes or Bands’ of Indians, and expressly authorizes that entity, or entities, as ‘parties plaintiff,’ to submit claims on behalf of the Chinook to the Court of Claims.” ¶ “. . . the characterization of a party plaintiff as a ‘tribe’ for purposes of prosecuting an historic

- tribal claim against the United States is not ‘clearly premised’ on that entity as still having a political character or as having government-to-government relationship with the United States. . . . Thus, even if the 1925 Act might be read as consistent with a congressional understanding that a Chinook tribe or band . . . still existed in 1925, I do not believe that the Act itself can properly be read as unambiguous in that respect.” [p.30] ¶ “. . . what the acknowledgment regulations require is Federal action ‘clearly premised’ on identification of a ‘tribal political entity,’ and ‘indicating clearly’ the recognition of a *government-to-government relationship* with the United States. In that respect, the 1925 Act falls short, because a ‘Chinook Tribe’ of descendants, organized for purposes of bringing a claim, did not *require* that it be organized as, or function as, a political or governmental entity, or that it have a government-to-government relationship with the United States.” [p.31] ¶ “. . . by naming a group in the 1925 legislation, Congress did not mean to legislatively recognize or acknowledge them as existing as a tribe.” [p.32] (Chinook RFD 2002, 30-32)
- ▼ In 1994, “. . . Congress considered a bill to ‘reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe’ . . . . The Burt Lake bill failed to pass. The Act of 1994 that ‘reaffirmed’ the Federal recognition of the Little Traverse Bay Bands did not include any mention of a Burt Lake band. . . . In its 1994 legislation, . . . Congress did not recognize a separate Burt Lake band.” (Burt Lake Band PF 2004, 25). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- Courts (1917- )**
- Evidence that has NOT met the requirements:
- ▼ “Federal acknowledgment during the *McGinn* case ended with the Federal court decision of 1917.” [p.25] (Burt Lake Band PF 2004, 21-23, 25). *Note: The PF found, however, that “most of the petitioner’s current members neither descend from nor have evolved as a group from a previously acknowledged tribal entity. . . .” NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ In *Halbert v. United States* (1931), “The Supreme Court did not rule that there was a government-to-government relationship between the Cowlitz and the United States, nor did the Court rule that the Cowlitz were a tribe in 1911 or in 1931. The Court did not rule that any of the plaintiffs were members of the Cowlitz Tribe. Thus, the Supreme Court ruling does not establish a date of last unambiguous federal recognition” (Cowlitz FD 2000, TR 64). *Note: This text was cited in the Chinook FD 2001, 13-14.*

- ▼ “The petitioner asserts that ‘[i]t is beyond question that in 1931 the Chinook Tribe was unambiguously recognized as an Indian Tribe with Federally-protected rights at the Quinault Reservation, and this recognition was confirmed by the Supreme Court in the *Halbert* Litigation’.” [pp.12-13] ¶ “The AS-IA disagrees that a Chinook tribe was unambiguously recognized and that this recognition was confirmed by the Supreme Court.” [p.13] ¶ “The Supreme Court [in *Halbert v. United States* (1931)] did not directly rule that the Chinook was a tribe at that time or that any of the plaintiffs in *Halbert* were members of a Chinook Tribe. . . . [T]he Supreme Court in 1930 and 1931 was aware . . . that there was an entity known as the Chinook Tribe. This alone, though, is not an *unambiguous* prior Federal recognition.” [p.14] (Chinook FD 2001, 12-14). *Note: See also the RFD:*

“The Federal district court in *Halbert v. United States* [1928] . . . concluded that the Chinook tribe had ‘no tribal organization’ . . . however, the court held that certain individual Chinook Indians were nevertheless entitled to allotments on the Quinault Reservation. . . .” [p.20] ¶ “The Supreme Court’s decision in *Halbert* [1931], which upheld the district court decision, must be understood in the context of the district court’s very explicit discussion about what it meant in referring to ‘members’ of ‘tribes’ covered by the 1911 Act. As such, even though the Supreme Court referred . . . generally to the ‘members’ of these ‘tribes’ as being entitled to take allotments on the Quinault Reservation, the Court did not consider or decide the meaning of the words ‘members’ and ‘tribes’ under the Act, and therefore the Court’s decision cannot be interpreted as indicating a departure from how the district court expressly addressed this issue. Therefore, I conclude that the FD erred in finding that the Supreme Court in *Halbert*, ruling on the 1911 Act, ‘did recognize the Chinook Tribe existed [in 1911]. . . .’ ” [p.21] (Chinook RFD 2002, 20, 21)

- ▼ “Neither the district court nor the Ninth Court of Appeals [in *Wahkiakum Band of Chinook Indians* (1981)] ruled that the Chinook or Wahkiakum bands were tribes.” (Chinook FD 2001, 15)
- ▼ “This case [*Williams v. Clark* (9<sup>th</sup> Cir. 1984)] involves only the right of a Quileute tribal member under Section 4 of the Indian Reorganization Act (IRA) to devise his allotment on the Quinault Reservation. It provides no support for CIT/CN’s [petitioner’s] argument that the Chinook was unambiguously recognized as an Indian Tribe. The Court specifically did not consider if other tribes also have jurisdiction over the Quinault Reservation for IRA §4 purposes. . . . The court in *Williams* did not unambiguously recognize CIT/CN as a tribe.” (Chinook FD 2001, 15-16)

**Claims cases and Indian Claims Commission (1925- )**Evidence that has NOT met the requirements:

- ▼ “. . . the Steilacoom claims organizations that existed from 1925 onward were not a federally acknowledged Indian tribe.” (Steilacoom PF 2000, 6). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “Some ancestors of the current petitioner were members of the ‘Snohomish Tribe of Indians,’ a claims organization formed in 1926 and incorporated in 1927. . . . This organization contained both Tulalip [Reservation] Snohomish and off-reservation descendants, some of whom were the ancestors of the petitioning group. But BIA officials had very limited dealings with this 1926 claims group and the available evidence does not demonstrate they ever unambiguously recognized it as a tribal political entity. . . .” (Snohomish FD 2003, 6)
- ▼ “In 1956, the [Indian Claims] Commission allowed the current petitioner to seek claims . . . for the aboriginal Snohomish Tribe of Indians. . . . such action did not constitute an acknowledgment by the Federal Government that the group was tribal in character, only that it had standing as descendants to bring suit. From the 1950's to the 1970's, the BIA dealt with the group as a claims organization but did not recognize it as a tribal political entity.” (Snohomish FD 2003, 6)

Evidence considered prior to the provisions of section 83.8:

- “. . . approximately 7,000 Creek descendants in the Eastern United States received payment under Indian Claims Commission Docket Number 21. . . . Taking the Claims Commission contacts as Government recognition, the petitioner in effect projects the group backward from that point to argue for its historical existence. These Government contacts do not constitute recognition of the group as a tribe or a determination that the group has had a continuing historical existence as a tribe.” [p.2] ¶ “The award of funds under Docket 21 made to both Oklahoma and Eastern Creeks was not, as contended, made under ‘eligibility criteria substantially similar to those demanded for Federal Recognition.’” ¶ “The Court [of Claims] held that the Eastern Creek organization constituted an ‘identifiable group’ of Indians under the Claims Commission Act. . . . It specifically held that the Claims Commission was unreasonable and incorrect in making the category ‘identifiable group’ the same as ‘a recognized tribe or band’. . . . Thus the requirement for the Eastern Creeks to be included in Docket 21 was only that it was a group of Creek descendants and not that it show continuity of tribal political organization.” ¶ “. . . the responsibility for determining which persons or groups were eligible to share in the award was that of the Bureau of Indian Affairs. . . . payment was made on a per capita basis because

‘the Eastern Creeks comprise an unorganized descendant group’.” [p.6] (Lower Muskogee Creek FD 1981, 2, 6)

### **Indian Reorganization Act (1934- )**

#### Evidence that has MET the requirements at a specific time:

- ▲ “Between 1937 and 1944, agency and central office officials [of the Indian Service] developed plans to provide a reservation for the band, which they considered to be under the 1934 Indian Reorganization Act but which needed a reservation land base in order to organize its tribal government under the act. The band was not proposed for land purchase and organization as a community of Indians of one-half degree Indian blood or more, an approach used by the Indian Service to extend recognition and benefits to unrecognized tribes.” (Snoqualmie FD 1997, 2-3)

#### Evidence that has NOT met the requirements:

- ▼ “That evidence indicates that the BIA gave consideration to a land acquisition program for Indians in the vicinity of Cross Village that might have resulted in the organization of a tribe that might have included Indian residents of the Indian Road settlement at Burt Lake. With respect to an evaluation of the current petitioning group, there was no mention of any Burt Lake band in any of the available evidence relating to administration of the IRA [Indian Reorganization Act]. The petitioner has not demonstrated, with any evidence or argument, that the BIA had any plans or intention, if it received adequate appropriations for land purchases and rehabilitation under the IRA, to organize a Cheboygan band or Burt Lake band as a separate entity. Therefore, the available evidence does not demonstrate any previous Federal acknowledgment of a Burt Lake band during implementation of the IRA.” (Burt Lake Band PF 2004, 25). *NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*
- ▼ “It does not appear that serious consideration was given by the Office of Indian Affairs to organizing the landless Indians of Montana as a tribal government. In 1938, Joseph Dussome inquired about the status of a constitution which his group apparently had submitted to the Indian Service for approval. The Indian Office replied that ‘at present you don’t have the status whereby a constitution under the IRA [Indian Reorganization Act of 1934] can be considered or approved’.” Because land was not purchased for a new reservation, “. . . the basis for organizing a new tribal government under the Indian Reorganization Act did not exist. Therefore, none of the landless Indians of Montana were recognized as a separate community of ‘half-blood’ Indians.” (Little Shell PF 2000, TR 107). *Note: The Federal Register notice of the PF concluded that the petitioner had not demonstrated unambiguous previous*

*Federal acknowledgment (65 F.R. 45394-95). NOTE: A FD HAS NOT BEEN ISSUED ON THIS PETITION.*

Evidence considered prior to the provisions of section 83.8:

- “The BIA unsuccessfully sought to create a reservation for the rest of the group in the 1930's. The group was determined eligible to organize as a community of half-blood Indians under the Indian Reorganization Act in 1977.” (Death Valley Shoshone FD 1982, 47 F.R. 50109)
  
- “Efforts were made in the 1930's to organize Jamestown [Clallam] under the Indian Reorganization Act, based on a solicitor's opinion that they were a recognized tribe.” (Jamestown Clallam PF 1980, 2).