

Summary under the Criteria and Evidence for
Final Determination against Federal Acknowledgment

of the

Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians

Prepared in response to a petition submitted to the Secretary of the Interior for Federal Acknowledgment that this group exists as an Indian tribe.

Approved: June 18, 2004
(Date)

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Introduction

Introduction

The Office of Federal Acknowledgment (OFA) under the authority of the Principal Deputy Assistant Secretary - Indian Affairs (PDAS-IA) of the Department of the Interior (Department), prepared this Final Determination (FD) in response to the petition from the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians (petitioner 69B), seeking Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR Part 83), "Procedures for establishing that an American Indian Group exists as an Indian Tribe." The regulations establish procedures by which Indian groups may seek Federal acknowledgment of a government-to-government relationship with the United States. To be entitled to this political relationship with the United States, the petitioner must submit evidence demonstrating that it meets all of the seven mandatory criteria set forth in 25 CFR Section 83.7. Failure to meet any one of the seven criteria will result in the Department's determination that the group does not exist as an Indian tribe within the meaning of Federal law.

Summary Conclusions of this FD

Evidence submitted by the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians (hereinafter petitioner 69B or the petitioner) for both the PF and FD, submitted by interested parties, and obtained through independent research by the OFA staff demonstrates that petitioner 69B does not meet all seven criteria required for Federal acknowledgment. Specifically, the petitioner does not meet criteria 83.7(a), 83.7(b), and 83.7(c). In accordance with the regulations set forth in 25 CFR Part 83 under section 83.10(m), failure to meet any one of the seven criteria requires a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

This determination is final and will become effective 90 days from the date of publication of the notice of final determination in the *Federal Register*, unless a request for reconsideration is filed with the Interior Board of Indian Appeals (IBIA) pursuant to 25 CFR 83.11.

The evidentiary basis for the FD consists of the documentation used in preparation of the Proposed Finding (PF), the petitioner's comments on the PF, third party comments on the PF, the petitioner's response to the third party comments, and other pertinent material that the OFA staff collected as part of the verification and evaluation process. The data will be discussed under the appropriate criteria.

This FD is the Department's evaluation of the evidence based on the criteria and standards set forth in the regulations at 25 CFR Part 83, and the standards of the disciplines of

anthropological, historical, and genealogical research. This FD does not respond to the issues raised in each submission on a point-by-point basis, but responds as they relate to the criteria.

Name and Address of the Petitioner

The formal name of petitioner 69B, as listed in the current governing document and the name on its letterhead, varies. The group is incorporated under the name Nipmuck Indian Council, Inc. The usual letterhead reads, as it has for over 15 years, "Nipmuck Indian Council of Chaubunagungamaug." In the letters written on the above letterhead, withdrawing from petitioner 69, Edmund W. Morse Sr. referred to his group as the Chaubunagungamaug Band (Morse to Vickers, 5/22/1996; Morse to Reckord 5/22/1996). The "Certification of Status as Separate Petitioner" referred to the officers and members of the "Chaubunagungamaug Nipmuck Indian Council of the Webster/Dudley Nipmuck Indians" and stated that the formal name of the group will henceforth be "Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians" (Nipmuc Pet. 69B Suppl. 12/10/1996).

The materials submitted by 69B in response to the PF used the name Nipmuck Indian Council of Chaubunagungamaug on the title page of the narrative (69B PF Comments 2002.09.27), but the running header on the same document read: "Prepared for the Chaubunagungamaug Band of Nipmuck Indians" (69B PF Comments 2002.09.27), as did the certification of the Comments (Morse *et al.* to McCaleb 9/30/2002). Petitioner's response to third party comments used Chaubunagungamaug Band of Nipmuck Indians on the title page of the narrative (69B Response to Third Parties 2002.12.02). The Department has received no formal notice from petitioner 69B that the name adopted in 1996 has been changed. Therefore, this FD continues to use the name employed in the PF.

Petitioner 69B's mailing address uses another variant name: Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, c/o Mr. Edwin Morse Sr., 265 West Main Street, P.O. Box 275, Dudley, Massachusetts 01501.

Office of Federal Acknowledgment

On July 28, 2003, the Branch of Acknowledgment and Research (BAR), the office in the Bureau of Indian Affairs within the Department of the Interior principally responsible for administering the regulations, 25 CFR Part 83, became the Office of Federal Acknowledgment (OFA) under the Assistant Secretary - Indian Affairs (AS-IA). The duties and responsibilities of OFA remain the same as those of BAR, as do the requirements set forth in the regulations. In this report, OFA should be read to mean BAR when discussing activities conducted prior to July 28, 2003.

By Secretarial Order No. 3252, dated April 9, 2004, the Secretary delegated authority through the AS-IA to the PDAS-IA "to execute all documents, including regulations and other Federal Register notices, and perform all other duties relating to federal recognition of Native American tribes" to the PDAS-IA (Norton 4/9/2004). Under this Order, the PDAS-IA makes the

determination regarding the petitioner's status, as set forth in the regulations as one of the duties delegated by the Secretary of the Interior to the AS-IA (209 Department Manual 8).

Summary of Administrative History Prior to the PF

In 1977, Zara CiscoeBrough [*sic*] asked for information concerning the proposed Federal acknowledgment regulations (CiscoeBrough to Director, Office of Indian Services, 7/13/1977). A formal letter of intent to petition was filed on April 22, 1980, by Zara CiscoeBrough as "chief of the Nipmuc Tribal Council" (CiscoeBrough to Shapard, 4/22/1980). The BIA assigned number 69 to this petition. The *Federal Register* notice was published June 10, 1980 (45 FR 113, 39344, 6/10/1980). The 1980 letter of intent was very limited in scope, encompassing in the wording on its face only the small state-recognized "reservation" at Hassanamisco, in the Town of Grafton, Worcester County, Massachusetts.¹ However, evidence in the record indicates that by 1980, some descendants of the Dudley/Webster Indians (Nipmuck Indian Council of Chaubuna-gungamaug), *i.e.* some descendants of the 19th century Massachusetts state reservation in the Town of Dudley near Lake Chaubunagungamaug in southern Worcester County, later set off into the Town of Webster, were cooperating in the petition with the "Hassanamisco Band Council." The 1984 narrative and documentation (Nipmuc 69 Pet. 1984) and the 1987 response (Nipmuc 69 Resp. 1987) focused on these two specific Nipmuc groups. The joint organization, the "Nipmuc Tribe (or Nation)" never filed a letter of intent to petition separate from that presented by Zara CiscoeBrough on behalf of the "Hassanamisco Reservation" at Grafton, Massachusetts, in 1980.

The first formal governing document of the joint "Nipmuc Tribe (or Nation)," dated November 21, 1983, was signed by Walter A. Vickers, who about 1982 had been appointed by Zara CiscoeBrough as her successor as leader of the "Hassanamisco Band of Nipmuc," and by Edwin W. Morse Sr. as leader of the "Chaubunagungamaug Band of Nipmuck" (Nipmuc #69 Pet. 1984, 220-220b). Mr. Vickers and Mr. Morse continued to cooperate on preparation of the documented petition in succeeding years (Vickers and Morse to Reno, 5/11/1984). The documented petition, received by the Bureau of Indian Affairs (BIA) on July 20, 1984, was submitted by "The Nipmuc Tribal Council Federal Recognition Committee."

On February 16, 1995, a letter from BAR to Edwin W. Morse Sr. [Wise Owl] declared the Nipmuc 69 petition ready for active consideration (Reckord to Morse, 2/16/1995). On May 10, 1995, BAR notified Edwin W. Morse, Sr. [Wise Owl] stating that the full tribal membership list must be submitted before the petition could be placed on active consideration (Reckord to Morse, 5/10/1995). This material was received on July 11, 1995, and the petition was officially placed on active consideration the same date.

¹State recognition of Hassanamisco was terminated by the Massachusetts Enfranchisement Act of 1869 and reinstated in 1976 by proclamation of the governor (Dukakis 1976, 3).

At a council meeting of the Nipmuc Nation, May 8, 1996, Morse announced that the Chaubunagungamaug Band was withdrawing from the petitioner (Nipmuc Nation Minutes 5/8/1996; 69B Pet. Supp. 6/19/1997). On May 22, 1996, an unsigned faxed copy of a letter from Edwin W. Morse [“Chief Wise Owl,” Nipmuck Indian Council of Chaubunagungamaug] formally notified the BIA, “. . . of the decision of the Chaubunagungamaug Band to proceed for recognition solely on its own. We will not be allied, associated, or affiliated with the Hassanimisco [*sic*] Band or any other group of Nipmuck Indians” (Morse to Reckord 5/22/1996).

The BIA decided to accept the withdrawal of the Chaubunagungamaug Band, thus separating petitioner 69 into two separate petitioners effective that date and regarding them as sharing the same petition up to the date of May 31, 1996; thenceforth to have two separate sets of petition materials. The Nipmuc Nation was denominated 69A. The Chaubunagungamaug Band was denominated 69B. Informally, the BIA indicated to the petitioners that in spite of the separation, the research on both petitions would be done at the same time.

For more details concerning the administrative history of the petition prior to the issuance of the PF, see the appropriate subsection of the introduction to the PF.

Litigation

There is no litigation that impacts the handling of this case.

Administrative History Since the PF

Notice of a negative PF was published in the *Federal Register* on October 1, 2001 (66 Fed. reg. 10/1/2001). Under the provisions of the 25 CFR Part 83 regulations, the comment period was scheduled to close on April 1, 2002. At the request of petitioner 69A, the Nipmuc Nation, the comment period for petitioners 69A and 69B was successively extended to July 1, 2002, and October 1, 2002. The period for the petitioner to respond to third party comments closed on December 2, 2002. Both the State of Massachusetts and the State of Connecticut are interested parties to petitions 69A and 69B. Connecticut submitted comments (CT/NCCOG Comments 2002.09.30)² with accompanying exhibits; Massachusetts did not. The Town of Sturbridge submitted comments identified as pertaining to both petitions (Malloy to Fleming 2002.10.01), but less than a page discussed petitioner 69B.

²State of Connecticut and Northeastern Connecticut Council of Governments, Comments of the State of Connecticut and the Northeastern Connecticut Council of Governments on the Proposed Findings on the Petitions for Tribal Acknowledgment of the Nipmuc Nation and the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians. September 30, 2002.

Petitioner 69B's Comments consisted of a narrative (69B PF Comments 2002.09.27)³ and extensive exhibits, described in a cover letter (McClurken to BAR Staff 9/27/2002) and certified by the petitioner's governing body (Morse *et al.* to McCaleb 9/30/2002), and some additional materials submitted separately, also described in a cover letter (Heath to McCaleb 9/30/2002). Petitioner 69B responded to third party comments on December 2, 2002, with a narrative (69B Response to Third Parties 2002.12.02)⁴ and exhibits, described in a cover letter (Heath to McCaleb 12/2/2002), and certification by the governing body (Morse *et al.* to McCaleb 12/2/2002).

Neither petitioner 69B nor any third parties requested a formal on-the-record technical assistance meeting under 83.10(j)(2). At the request of petitioner 69A, the BIA held an on-the-record technical assistance meeting with petitioner 69A on January 23, 2002 (OTR Transcript 2002.01.23). Observers from petitioner 69B and the Connecticut Attorney General's Office were present at this meeting. Representatives of the Massachusetts Attorney General's Office participated by telephone. The transcript of the on-the-record meeting held for petitioner 69A was made available to petitioner 69B and to the interested parties.

The Department began preparation of the FD on March 31, 2003 (Martin to Vickers 1/22/2003; Smith to Vickers 3/31/2003; Smith to Morse 3/31/2003). Under the regulations (25 CFR § 83.10(l)(2)), the Department has 60 days from the date of beginning consideration to publish notice of the FD in the *Federal Register*. However, § 83.10(l)(3) gives the Assistant Secretary discretion to extend the period for the preparation of a FD if warranted by the extent and nature of the evidence and arguments received during the response period. On May 30, 2003, the BIA requested a 120-day extension for preparation of the final determinations (FD) on petitioners 69A and 69B, to September 26, 2003 (Bird Bear to AS-IA 5/30/2003). The request was approved by the Acting AS-IA on June 2, 2003 (Martin 6/2/2003). The BIA notified the petitioners and interested parties (Bird Bear to Vickers 6/2/2003; Bird Bear to Morse 6/2/2003; Skibine to Glodis [*et al.*] 6/6/2003).

Because of conflicts caused by the negotiated agreement in regard to preparation of the FD on the Schaghticoke Tribal Nation (STN), on August 27, 2003, OFA requested that the AS-IA grant a further extension of time for preparation of the FDs on petitioners 69A and 69B, to May 1, 2004 (Fleming to AS-IA 8/27/2003). This request was approved on September 16, 2003 (Martin 9/16/2003). OFA made an additional request to extend the consideration period to June 15, 2004, and this request was approved on April 20, 2004 (Martin 4/20/2004).

³James M. McClurken, *et al.*, Nipmuck Indian Council of Chaubunagungamaug. Comments on The Proposed Finding Issued by the United States Department of Interior, Bureau of Indian Affairs. September 27, 2002.

⁴Kathleen J. Bragdon, *et al.*, Chaubunagungamaug Band of Nipmuck Indians Response to Third Party Comments on the Proposed Finding Issued by the United States Department of the Interior, Bureau of Indian Affairs on September 25, 2001. December 2, 2002.

Abbreviations and Acronyms

These have been used in the Summary under the Criteria and the accompanying charts.

ANA	Administration for Native Americans, Department of Health and Human Services.
AS-IA	Assistant Secretary - Indian Affairs.
BAR	Branch of Acknowledgment and Research, Bureau of Indian Affairs.
BIA	Bureau of Indian Affairs.
CB	Chaubunagungamaug Band.
Ex.	Documentary exhibit submitted by petitioner or third parties.
FD	Final Determination.
FR	<i>Federal Register</i> .
MCIA	Massachusetts Commission on Indian Affairs.
NAIC	National Algonquin Indian Council.
Narr.	Petition narrative.
NNTC	Nipmuc Nation Tribal Council
NTAP	Nipmuc Tribal Acknowledgment Project.
OD	Obvious deficiencies letter issued by the BIA.
OFA	Office of Federal Acknowledgment (formerly BAR).
PDAS-IA	Principal Deputy Assistant Secretary - Indian Affairs
PF	Proposed Finding.
TA	Technical assistance letter issued by the BIA.

Standardized Spellings

When discussing Indian tribes and bands, and names of individuals, this Summary uses the current standardized spellings. Where specific historical documents are quoted, these names are spelled as found in the original. One concrete example of this is the variation in tribal name itself, whether Nipnet, Nipmuc, or Nipmuck, while another is the band name Chaubunagungamaug.

Summary Evaluation under the Criteria

Brief Overview of the Petitioner

Petitioner 69B asserts continuity with the historical Dudley/Webster Nipmuc(k) Indians, who from the 1670's through 1870 were centered first, prior to King Philip's War, in a Praying Town near Lake Chaubunagungamaug in southern Worcester County, Massachusetts, and then, from 1724 onwards, on a reservation also located in the southern portion of Worcester County, in the town of Dudley (later set off into the Town of Webster) near the Connecticut border. For a more extensive geographical and historical background of the petitioner, consult the PF. The majority of the petitioner's members descend from the Dudley/Webster Indians as listed on the 1849 *Briggs Report*, the 1861 *Earle Report* compiled by the Massachusetts Superintendent of Indian Affairs and on the 1890 distribution list for the assets resulting from the last sale of the reservation property in the Town of Webster, Massachusetts.

The evidence in the record shows continuity of the Dudley/Webster Indians from colonial times through 1869, the date of the Massachusetts Enfranchisement Act and termination of the Dudley/Webster reservation. The continuity continued on a weaker level through 1891. References to descendants of the Dudley/Webster families in newspaper coverage of historical commemorations and other ceremonial events from the first three-quarters of the 20th century are to individuals or to nuclear families rather than to a group or to an American Indian entity.

The current organization, the Chaubunagungamaug Band, or Clan, of Nipmuck Indians (CB; for variant names see above), as organized in the late 1970's and early 1980's, consisted essentially of only part of one family line of the Dudley/Webster descendants, namely most of the direct descendants of Elizabeth (Henries) Morse. There is little indication in the record that its leadership included other branches of the Henries family, much less the other Dudley/Webster family lines, until the mid-1980's. It was not until after the May 1996 split with petitioner 69A that the current petitioner, 69B, added some descendants of two other Dudley/Webster families to its council.

For a summary of the conclusions reached in the PF, see under each individual criterion.

Petition Review Process

This FD was completed under the terms of the Assistant Secretary's directive of February 11, 2000 (AS-IA 2/11/2000). The directive applied to all future FD's. In particular, this FD focuses on evaluating the petitioner's specific conclusions and description of the group concerning and the new evidence submitted in regard to identification as an external entity between 1900 and 1980, maintenance of a tribal community between the 1890's and the present, and maintenance of political authority and influence between the 1890's and the present. The FD incorporates the PF (69B PF 2001).

The “General provisions for the documented petition,” § 83.6(d), state that:

A petitioner may be denied acknowledgment if the evidence available demonstrates that it does not meet one or more criteria. A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria. A criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met (*59 Federal Register 9295*).

Procedures

Petitioners 69A and 69B have been considered simultaneously. The PDAS-IA is issuing simultaneous, but separate, final determinations in these cases.

The following summary under the criteria for the FD is the Department’s evaluation of all of the evidence in the administrative record to date. In the summary of evidence which follows, each criterion has been reproduced in boldface type as it appears in the regulations. Summary statements of the evidence relied upon follow the respective criteria.

83.7(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.

Summary of the PF

Criterion 83.7(a). From 1900 through 1978, the record contains occasional external identifications of individuals and single families as descendants of the Chaubunagungamaug, or Dudley/Webster, Nipmuck Indians, but no external identifications of the petitioner or any group antecedent to the petitioner as an American Indian entity. Additionally, many of the identifications of Dudley/Webster descendants pertained to persons who have no descendants in the membership of the current petitioner, so may not be used collectively or in combination to demonstrate the identification of an entity. There are external identifications of the petitioner as an American Indian entity only from 1981 to the present. Therefore, the petitioner does not meet criterion 83.7(a) (69B PF 2001, Summ. Crit. 79; see also 86-87).

New Evidence Submitted for the FD

69B Comments and Response to Third Party Comments

Petitioner 69B addressed criterion 83.7(a) in two different submissions, the Comments (69B PF Comments 2002.09.27, 6-9, 18-113) with accompanying exhibits⁵ and the Response to third-party comments (69B Response to Third Parties 2002.12.02, 1, 9-22), which contains a table, “Summary of Evidence for Criterion 83.7(a) (69B Response to Third Parties 2002.12.02, 20-23).

The introduction to petitioner 69B’s Response to Third Parties states:

This response to third party comments, which takes an anthropological, rather than an historical and genealogical perspective, focuses on a number of issues the tribe wishes to further elaborate upon:

1. The recognition of the Chaubunagungamaug Band “entity” by outsiders (Criterion 83.7(a)) according to principles articulated by BAR in its Proposed Finding for Petitioner #69B, and more recently, in an on-the-record Technical Assistance Meeting for Petitioner #69A held on January 23, 2002 (69B Response to Third Parties 2002.12.02, 1).

Thus, the 69B Response essentially constitutes additional Comments rather than a response to third party comments, which it subsequently specifies by stating that, “[e]ach of these topics is supported by newly collected data, and further analysis of existing materials” (69B Response to Third Parties 2002.12.02, 3).

Third Party Comments

The third parties submitted no new argumentation or evidence in regard to criterion 83.7(a), but rather limited comment to quotations from the PF (CT/NCCOG Comments 2002.09.30, 38-39).

The Town of Sturbridge submitted comments identified as pertaining to both petitions (Malloy to Fleming 2002.10.01), but less than a page discussed petitioner 69B. It stated: “As with Petitioner 69A, petitioner 69B also must meet its burden of proof under the criteria. In particular, this group needs to address the deficiencies noted in the BIA proposed finding for criteria (a), (b), and (c). The Town has not identified additional evidence in its research that would allow the Dudley/Webster group to meet these standards” (Malloy to Fleming 2002.10.01, 9).

⁵The additional materials submitted by 69B (Heath to McCaleb 9/30/2002) did not address criterion 83.7(a).

Analysis

69B Comments

In regard to criterion 83.7(a), petitioner 69B presented a considerable amount of documentation and argumentation that relates to the 19th century.⁶ The regulations require external identifications of a petitioner as an American Indian entity only from 1900 to the present.

The 69B Comments state that, “BAR regulations anticipate no single form of Indian ‘entity’ to which a Petitioner must conform”(69B PF Comments 2002.09.27, 6).⁷ This is true, but criterion 83.7(a) does require that the external identifications from 1900 to the present indicate the existence of some form of group or collective entity. The 69B Comments argue that external identifications of the antecedents of petitioner 69B as an “entity” in the sense described by the *Official Guidelines* are scarce because:

due to the unique history and social position that the Chaubunagungamaug Band occupied in south central Massachusetts, northern Connecticut and in Rhode Island, that persons who represented governments, either Indian or non-Indian, failed to recognize the nature of the Chaubunagungamaug Band “entity.” Scholars had little or no interest in any Nipmucks throughout the nineteenth or twentieth century (69B PF Comments 2002.09.27, 7).

The 69B Comments state:

The failure of the Dudley/Webster Nipmucks to form corporate structures above their extended families and lineages makes the task of finding outside references to a Nipmuck “entity” during the twentieth century a difficult one. Local populations did not necessarily recognize the families who sustained the Dudley/Webster community as a unique socio-political structure different from their own (69B PF Comments 2002.09.27, 21).

The 69B Comments also assert that, “[t]here was no exotic feature of Nipmuck Society that drew nineteenth and twentieth centuries [*sic*] anthropologists to record the distinctiveness of their

⁶Some of the material presented under 83.7(a) (69B PF Comments 2002.09.27, 22-37, 38-41, 43-45, 47-49, 118-127) has been considered where relevant for criteria 83.7(b), (c), and (e) in this FD. It should be noted, however, that the PF found that petitioner 69B met criteria 83.7(b) and (c) through 1891 and met criterion 83.7(e). The Comments and Response for these criteria that pertain to periods during which the petitioner was found to meet have been evaluated for relevance to other periods and other criteria as well as the way they were designated in the submission.

⁷The regulations are not those of the BAR (Branch of Acknowledgment and Research) but rather comprise 25 CFR Part 83, being regulations of the Department of the Interior.

‘entity’” (69B PF Comments 2002.09.27, 21).⁸ These statements are inconsistent with the 69B Response (69B Response to Third Parties 2002.12.02, 27, see below), but were not formally withdrawn by the Response. The regulations do not require identification by either government agents or by scholars (those are among the acceptable forms of evidence, but neither is required).

The 69B Comments also assert that the “Federal acknowledgment process regulations do not define the word ‘entity’ which is the subject of mandatory criterion 83.7(a)” (69B PF Comments 2002.09.27, 18) and then present the definition of “entity” as a “kin-based structure” that they will use (69B PF Comments 2002.09.27, 18-21):

This report . . . describes the Chaubunagungamaug Band “entity” in its own terms -- terms of kinship, extended families, and historic lineages. The Dudley/Webster Chaubunagungamaug Nipmucks, left landless by European colonial invasion and expansion, unrecognized as a tribe by the United States from confederation to the present, and the object of intense racial discrimination in their homeland, had little reason or incentive to form the kind of elected tribal councils most often associated with other “entities” that the United States has recognized as Indian tribes (69B PF Comments 2002.09.27, 7).

The 69B Comments note the existence of newspaper articles which, “are important because they reveal local non-Indian attitudes about local Indians, declaring that another person who passes the non-Indian criteria for ‘Indianness’ has died” (69B PF Comments 2002.09.27, 55) and the research of a local historian, Helen G. Holley, who interviewed Indians in south central Massachusetts and northwestern Connecticut from 1936-1938 and “looked for ‘cultural survivals’”(69B PF Comments 2002.09.27, 71).

External Identification of an American Indian Entity

The 69B Comments analyze a whole sequence of “last of the Nipmuck” articles (69B PF Comments 2002.09.27, 56-76), many of which indicate that the individual named was of Nipmuck ancestry, often specifying Dudley/Webster Nipmuck ancestry,⁹ but none of which

⁸As a matter of perspective, it should be noted that there are, in fact, 20th century external identifications of “Nipmuck Society” (Speck 1943; Gilbert 1947), but that these identifications do not mention the antecedents of petitioner 69B. The 69B Response states that Sarah (Sisco) Sullivan, in her communications with Speck, made only “vague reference to the group” (69B Response to Third Parties 2002.12.02, 16), while Speck does not record that he attempted to contact any families antecedent to petitioner 69B, much less identifying an existing entity.

The issue of external identification is independent of criterion 83.7(e), descent from the historical tribe. The PF found that petitioner 69B met criterion 83.7(e).

⁹See the following selected examples. This FD does not see the necessity of addressing each example individually.

“The Last of the Nipmucks.” The article is retrospective, containing reference to the Indian burying ground near the southern boundary of Webster. It mentioned several late 19th century members of the

indicated that there was any continuing Nipmuck entity, group, settlement, or community of which the individual was a part. Others of the articles referenced did not even mention Nipmuck ancestry.¹⁰

The petitioner states:

Dudley/Webster community, but gave no indication that an entity was still in existence at the date of the article (*Webster Times*, 11/12/1908).

“Last Survivor of the Nipmuck Tribe of Indians.” This was an article on Angela (Sprague) Lynch of East Brimfield (Curnick 1914.09.06). She identified her tribal ancestry as the “Webster or Dudley tribe of Nipmucks. Sometimes we were called Pegans” but gave no indication that it still existed as an entity (*Boston Sunday Herald*, 9/6/1914).

“Nipmuck Indian Passes Away.”

Mrs. Matilda Henry a direct descendant of the Nipmuck Indians, died at her home on Pine street, Dudley, this (Thursday) morning, aged 94 years. She was one of the few remaining survivors of a race that once dominated the land where Webster, Dudley, Southbridge, and vicinity is now located. She is a great-great-grandmother, and during her last few days was cared for by her daughter and a great-grand-daughter. The Henry family, known to be among the last of the race of the Nipmuck Indians, is widely known in Webster and vicinity. No arrangements for the funeral have been made. Rev. Charles E. Davis, pastor of the Methodist church, has visited the woman during her last illness (Obituary, unidentified newspaper, 4/22/1920).

The deceased was Matilda Maria (Nichols) Henries.

“Military funeral for Private Israel Henries” of Quinebaug, Connecticut, mentions that the deceased soldier was of Nipmuck Indian descent and the presence of Orin Hakey of Worcester, who was a buddy of Henries in the army “and is himself a descendant of the Nipmuck Indians also” (unidentified newspaper 9/15/1921). Hakey does not appear in any other records submitted for either petition 69A or 69B, nor was any family of the Hakey surname included in the genealogical records submitted by the petitioner.

The sequence of articles concerning Payne Henries, published in the mid-1930’s, was discussed in the PF.

The 69B Comments reference an article from the *Webster Times*, published 20 April 1936, in regard to Henry E. Dorus, aged 76, living in Hampton, Connecticut, as the first “native” to receive an old-age assistance check. The Comments describe the article as “another window on the Pegan/Nedson core family” (69B PF Comments 2002.09.27, 180). Quoting the description of Dorus as “a full-blooded Indian, son of Charles and Mary Ann (Dixon) Dorus,” the Comments interpret this as, “the writer identified and recognized the Dudley/Webster Nipmuck Pegan/Nedson family, identifying a family line and their location” (69B PF Comments 2002.09.27, 180), which definitely overstates what the article said, since it says nothing about either Dudley/Webster or Nipmucks. It does link him to Wabaquasset (69B PF Comments 2002.09.27, 181), but the date at which the tornado occurred at Hatchet Pond was in the late 18th century, not in the lifetime of Henry Edmund Dorus.

“Earl Edward Henries. Indian Draftee. Earl Henries is Direct Descendant of Nipmuck Indians. Called in List for July 10” (*Webster Times*, 7/2/1942). The article noted that he was a son of the late Walter Henries, who was a full-blooded Nipmuck, “one of the last of the once great tribe that owned and roamed this territory.”

¹⁰“Charles N. Hewitt Dies at Hospital” (Obituary, unidentified newspaper, 4/28/1947).

“Chester White, 68, Dies in Sturbridge” (Obituary, unidentified newspaper, 10/20/1950). This names survivors; it makes no mention of Indian ancestry or affiliation. The 69B Comments argue that, “the paper also provided evidence of family interaction by listing surviving kin and including those family members beyond Charles Chester White’s nuclear family” (69B PF Comments 2002.09.27, 191). Given that this mention was of his parents, who were named, brothers, named, and nephews and niece, unnamed, this interpretation is not valid. The White/Hewitt marriage mentioned in the Comments took place in 1910 (Ephraim Nedson White to Charlotte Hewitt); Franklin Erastus White and Jane Louise Hewitt had been married in 1896.

This report compiled and reanalyzed miscellaneous newspaper articles submitted with the earlier Nipmuck petition. The analysis places the information presented within the historical and cultural context in which they become meaningful evidence of continuity of the Dudley/Webster Nipmuck “entity” by others between 1891 and 1880 [*sic*] (69B PF Comments 2002.09.27, 116-117).

The PF looked at some of these articles and evaluated them as not providing evidence of identification of an entity under 83.7(a) (69B PF 2001, Summ. Crit. 82-83). To interpret these articles as “meaningful evidence” for criterion 83.7(a), based upon its own identification of the Dudley/Webster Nipmuck “entity,” the 69B Comments assert that:

Every document identifying a Dudley/Webster Nipmuck as “Indian” becomes significant evidence for recognition of a Nipmuck ‘entity’ by persons outside the community when the traditional form of Nipmuck socio-political organization is considered. Each time an external source identifies an “Indian,” they refer indirectly to the larger kin-based society that raises, nurtures, and preserves the person’s “Indian” identity. Given the history of Nipmuck and Euro-American interactions throughout the nineteenth and twentieth centuries, it is amazing that any such documents exist at all (69B PF Comments 2002.09.27, 8).¹¹

The assertions made by 69B in the above passage do not conform to the requirements of the regulations. The *Official Guidelines* indicate specifically that identifications of individuals do not constitute the identification of an entity. They reply to the question, “What does it mean to be ‘identified. . . as an Indian entity?’” The answer is:

Basically, the external identifications of your group should not just say, “Joe Blow is an Indian” or “Jane Doe’s family had Indian ancestry.” Ideally, it should say something such as, “There is an Indian settlement located on Whitewicker Creek” or “The Indians around here run that church on Stonewall Road,” or “There’s a group of Creeks who have been there for as long as anyone remembers.” A group is identified, not only an individual (*Official Guidelines* 1997, 42).

Statements indicating that a family had “Indian ancestry” such as contained in 69B Comments’ discussion of Social Service Records, 1910-1970 (69B PF Comments 2002.09.27, 49-55) are not

¹¹The 69B Comments state that, “[s]ince the United States government had no treaty created trust relationship to maintain with the Dudley/Webster Nipmucks, the single largest source of information about the political continuity of Indian tribes, contained no information regarding the Dudley/Webster Nipmucks” (69B PF Comments 2002.09.27, 21).

The function of the Federal acknowledgment process is to extend recognition to tribes that have not had a government-to-government (including treaty or trust) relationship with the Federal Government, but which nonetheless have continued to exist since first sustained contact. The 25 CFR Part 83 regulations neither require nor expect that petitioners will present documentation generated as the result of a Federal trust relationship.

identifications of an entity under 83.7(a). These do not constitute identifications of an existing entity to which the antecedents of petitioner 69B belonged at the time the record was created, but only indicate the ancestry ascribed to various individuals and nuclear families.

Additionally, at least one of the newspaper articles submitted as evidence not only fails to identify an entity, but states that no contemporary entity existed: "Israel Henries Dies in Battle. He Is a Descendant of the Defunct Nipmuck Tribe of Indians" (Israel Henries 1918.07.25). This is not interpreted as conclusive evidence that an entity did not exist in 1918, but it cannot be interpreted as evidence that one did exist.

The 69B Comments assert that:

The group is a product of its own distinct history and the social pressures they faced throughout the eighteenth, nineteenth, and twentieth century. As colonists and American settlers claimed Nipmuck lands, the Nipmucks were compelled to rapidly abandon the hunting/fishing/gathering activities that supported the band level political organization that had characterized the historic Nipmuck "entity." Bands are understood as extended family groups organized for seasonal exploitation of natural resources over a wide territory. They are a collection of extended families who come together or disperse as the need and opportunity arises. Nipmuck socio-political organization never in recorded history, superceded band organization (69B PF Comments 2002.09.27, 114).

The above statement ignores the history of Dudley/Webster from the 1720's to 1869, during which period it was a state-recognized reservation-based entity with overseers and was clearly identified by external observers. The precedents do not require that identifications of an entity be comprehensive¹² or even that they be accurate.¹³ They do, however, require that external identifications of the petitioner and its antecedents as an entity, a group, exist. It is not sufficient evidence for 83.7(a) that, "... a number of documents note the existence of the individuals who

¹²"External identifications of the Cowlitz Indians as an entity in non-Federal records were complicated by the nature of Cowlitz history. The bands ancestral to the modern petitioner were never, from the earliest historical records, in one village. Instead, they were scattered for a distance of some 80 miles along the length of the Cowlitz river. As a result, most external observers in the second half of the 19th century and first half of the 20th century did not see the complete 'Cowlitz entity'. Rather, external observers identified Cowlitz who happened to live in the vicinity of Kelso or Olequa, or Cowlitz Indians who had contact with their own particular organization, or Cowlitz Indians who were known to their immediate neighbors.

"Extended external identifications of individuals known generically as Cowlitz Indians, of families known similarly as Cowlitz Indian, and of the component Cowlitz settlements which were part of the Cowlitz Tribal Organization and its successors, were frequent. However, other than the BIA records discussed above, few of these external observers referred to the whole of which the components were a part" (CIT PF 1997 Summ. Crit. 13).

¹³"Additionally, criterion 83.7(a) does not require that the identification as an Indian entity was factually accurate on the part of the observer, or that the observer was a specialist in anthropology or ethnography. There is no requirement that the observer's assertions be documented or verified by historical evidence" (RMI FD 1996, 12).

comprised the Dudley/Webster community as American Indians” (69B PF Comments 2002.09.27, 22). Some of the documents cited as evidence for criterion 83.7(a) by the 69B Comments identify only individuals and have no mention whatsoever of their ethnic background¹⁴

The Federal census records for the 20th century were discussed in the PF. None of them identified any American Indian entity comprising Dudley/Webster descendants who are antecedents of petitioner 69B, or even a clustered residential settlement comprising ancestors of the petitioner’s current members, although some identified individual families. This is confirmed by the petitioner’s analysis (69B PF Comments 2002.09.27, 41-42 (1900 census), 43-44 (1910 census), 45-46 (1920 census), and 46-47 (1930 census)).¹⁵

The 69B Comments also used “racial discrimination” as a form of identification of a Dudley/Webster “entity” (69B PF Comments 2002.09.27, 99-113), stating:

The instances where people outside of the Nipmuck community testify to their own racism are nonexistent. However, the Dudley/Webster Nipmucks themselves clearly identify racism leveled against them as a substantial force in their lives. Their accounts span the entire twentieth century. Their testimony shows that people outside the Dudley/Webster Nipmuck community identified

¹⁴See, for example, the following probate (Worcester Co., MA, Probate Court Record on Ellen Ann (Brown) Brown Morrison; at request of Ozias Milligan. 1909.02.24). In this, there is no mention of Indian heritage or indication that Indian ancestry was a factor in the handling of the case; the only list of heirs is the decedent’s immediate family.

The same is true of the social service records in regard to the descendants of Winifred [*sic*] and Angenette (Arkless) Goins Henries (Society for the Prevention of Cruelty to Children 1913.03.08 - 1914.04.23).

The marriage certificate for Charles E. Morse and Elizabeth R. Henries, October 17, 1918, Marlborough, Massachusetts, gives her parents as Winfred Henries and Anginette Noyes, but there is no indication of ethnicity.

Report of Investigation made of the home of Mrs. Charles E. Morse, 109 Mt. Pleasant St., Marlboro, MA, March 17, 1919, in regard to her desire to take custody of her minor brothers and sisters; no indication of Indian heritage.

Social service report in regard to foster care for Henry alias Henries, Ethel, 9-17-24 to 12-06-28, in Providence, RI; case closed when she reached 21 and married; no indication of Indian heritage. RI State Public Welfare Commission; report on Ethel Henries, age 16/18; no reference to Indian heritage. 1925.01.30 - 1925.02.02

The Children’s Mission to Children, Boston, MA. Henry, Elsie et al. alias Henries. State of Rhode Island; State Sanatorium; August 3, 1925. First page of a letter, signature missing, to Dr. Asa S. Briggs, State Home & School, Providence, RI; no reference to Indian heritage.

The 69B Comments also have an extended discussion of the Heath extended family and relationships; state intervention and placement of children in foster care, 1940 ff (69B PF Comments 2002.09.27, 252-261). Throughout these documents, there was no mention of Indian ancestry or heritage.

¹⁵Some of the households and individuals included in the 69B Comments’ census analysis, for example, Addie (Johnson) Moynihan and her daughter Agnes Moynihan in 1920 (69B PF Comments 2002.09.27, 45), did not contain people considered Dudley/Webster under petitioner 69B’s membership criteria nor have descendants of this family been members of petitioner 69B.

that community and drew a boundary around the families that helped to preserve the kin-based structure which formed the Nipmuck “entity” during the twentieth century (69B PF Comments 2002.09.27, 100).

As presented above, the testimony, which comes, as the Comments themselves state, almost entirely from within the petitioner’s membership, is a form of self-identification and thus relevant to criterion 83.7(b) rather than to 83.7(a). The petitioner did not present any contemporary primary documents showing external racially-based identifications of an American Indian entity between 1900 and 1980.

The 69B Comments place extensive reliance upon an interview with George Munyan (69B PF Comments 2002.12.02, 100-102), a non-Nipmuck who, although prominently associated with the Chaubunagungamaug Band as its “medicine man” from the late 1970’s onward, does not descend from any ancestor on the lists used by the petitioner to define membership eligibility.¹⁶ Munyan was not and is not a member of petitioner 69B, but neither can his statements be considered an “external identification” of an American Indian entity, since he functioned within 69B.

The statements by Lillian (Bates) Lane and her sister Mary (Bates) Williams pertained primarily to objections within the Dorus/Bates family to intermarriage with African-Americans with some reference on their own insistence on having the wider society identify them as Indian rather than African-American (69B PF Comments 2002.12.02, 103-106), which were irrelevant to 83.7(a).¹⁷

69B Response to Third Party Comments

The petitioner’s Response (69B Response to Third Parties 2002.12.02, 9-22) noted the problems under 83.7(a),¹⁸ stating:

¹⁶This is contrary to the assertion in the 69B Comments that, “[a]ll of the people who addressed the issue of racism are direct descendants of families whose ancestors appear on either the *1861 Earle Report* or upon the 1891 distribution list” and that, “[a]ll of the persons who testified about racism’s effect on the community have family members or direct descendants [*sic*] who appear on the Chaubunagungamaug Band list or who are eligible for membership in the Band, should they choose to join” (69B PF Comments 2002.09.27, 113).

¹⁷While it is true that the Bates and Morse families were “kin” (69B PF Comments 2002.09.27, 106), the kinship was a distant one, through the Dorus family. There is no evidence in the record that they were neighbors during the 1930’s and 1940’s (69B PF Comments 2002.09.27, 106) prior to the Morse family’s move to Worcester.

¹⁸The 69B Response states: “The recently submitted Comments on the Proposed Finding for Petitioner #69B (McClurken 2002), emphasize the kin-based nature of the Chaubunagungamaug Band “entity,” (pp. 20-21), and suggest, correctly, that band-level organizations are difficult for outsiders to identify (ibid. 22). Dr. McClurken reports that: outsider recognition tended to be focused on specific Nipmuck individuals, but that such recognition was in reality recognition of the entity as a whole (ibid.23). Dr. McClurken’s work lays out evidence of **reasonable likelihood** that the Chaubunagungamaug Band was recognized as an entity” (69B Response to Third Parties 2002.12.02, 9). [punctuation and emphasis in original]

Yet, since strictly interpreted, Criterion 83.7(a) also “requires [specific] external identification of an Indian entity, not just Indian individuals” (TA 2002: 23), the Chaubunagungamaug Band here includes additional evidence of outside recognition of the band, evidence that corroborates and expands upon Dr. McClurken’s detailed discussion of the recognition by outsiders of the many Chaubunagungamaug Nipmucks whose participation in the band community made them “Indian” (69B Response to Third Parties 2002.12.02, 9). [punctuation and emphasis in original]

In the Response to Third Parties, the petitioner attempted once more to provide a sequence of external identifications. Contrary to the assertions in the 69B Comments that outsiders “failed to recognize the nature of the Chaubunagungamaug Band ‘entity’” (69B PF Comments 2002.09.27, 7),¹⁹ the Response states that:

The Chaubunagungamaug Band and its predecessor, the Dudley/Webster Nipmucks or Pegan band, was and is identified by local residents as an entity whose traditions, products, and people have shaped the “tri-state region,” and have given it its distinct character. Such recognition has of course been in the best interests of the jurisdictions of the region, whose economic prosperity hinges in large part on the attractiveness of their historical places and beauty spots, all of which have strong Nipmuck associations (69B Response to Third Parties 2002.12.02, 9-10).

and

. . . the Chaubunagungamaug Band of Nipmuck were the subjects of local ethnographic interest, particularly among folklorists and material culture specialists, many of whom were collecting for museums ((69B Response to Third Parties 2002.12.02, 27).

The Response states: “In sum, there is ample evidence that the Chaubunagungamaug Band both self-identified and was identified by others as an Indian entity with both a spatial and a temporal presence” (69B Response to Third Parties 2002.12.02, 17).

Retrospective Identifications of an American Indian Entity

Self-identification does not contribute to the meeting of criterion 83.7(a). The majority of the items cited in the 69B Response were retrospective, dealing with history (the Sturbridge bicentennial celebration, for example) or historical preservation (of the Indian cemetery at

¹⁹It is to be noted that the above would be clearer if the 69B Response used the words “external identification” as contained in the 25 CFR Part 83 regulations for criterion 83.7(a) rather than the word “recognition” and “recognized,” which are often used as a synonyms for acknowledgment and acknowledged.

Hatchet Pond, for example, or of the chair “seated” by Lydia Sprague in the Old Sturbridge Village Museum) (69B Response to Third Parties 2002.12.02, 17). In these cases also, the “external identifications” were of Dudley Webster Indians who had lived during the 19th century or of individuals known to be descended from the 19th-century Dudley/Webster Nipmuck Indians, rather than of a continuing Dudley/Webster entity that continued to exist in the period from 1900 to 1980.

Petitioner 69B’s Table 1, “Summary of Evidence for Criterion 83.7(a) (69B Response to Third Parties 2002.12.02, 20-23), is arranged by provenance rather than chronologically, which makes it difficult to determine whether external identifications exist on a substantially continuous basis from 1900 to the present. Many of the items are dated before 1891²⁰ and since 1978,²¹ time periods during which the PF found that 69B met criterion 83.7(a). Some items do not refer to the antecedents of petitioner 69B²² or refer to non-Indian groups that had adopted Indian names.²³

Inapplicable Identifications of an American Indian Entity

OFA staff re-examined more closely two events that might have provided occasion for public mention of an existing Dudley/Webster entity: the formation of Thomas Bicknell’s pan-Indian organization in New England in 1923 and the formation of a Worcester County chapter of the National Algonquin Indian Council (NAIC), a New England pan-Indian group, in 1950. Neither showed any identification of a Dudley/Webster entity comprising the antecedents of petitioner 69B. All but one of the Dudley/Webster descendants mentioned in connection with Bicknell’s organization were from families now associated with petitioner 69A.²⁴

²⁰Federal Census 1880 (69B Response to Third Parties 2002.12.02, 20).

²¹For example, “Litigation over Deer Island” (69B Response to Third Parties 2002.12.02, 20).

²²For example, “American Indian Policy Review Commission (1978:89) (69B Response to Third Parties 2002.12.02, 20).

²³“Great Powwow Proclamation” in *Webster Times*, 6/21/1917 (69B Response to Third Parties 2002.12.02, 21).

²⁴Formation of Bicknell's organization, 1923.12.13: Header: The Indian Council of New England.

Preamble: Council of the Indian Tribes of New England.

Art. I, Sec. 1, "This body shall be known as The New England Council of Indian Tribes.

Purpose (preamble): “formed to promote acquaintance, friendship, business cooperation, education, finance protection of civil right, benefits of aged, sick and helpless, social and moral reforms, the preservation of Indian language, folk-lore, traditions, history, The records of achievements of great chiefs and tribesmen and The erection of monuments, memorials, tablets, to the perpetuals, the memories of the events and the braves of early days.”

Under “Tribal Sachems” it identified John Braxton for “Nipmucks” and James L. Cisco for “Hassanamisco.” In regard to membership eligibility, it stated: Art. II Sec. 1: “Any person who is a lineal descendant of a family of any one of the ancient Indian tribes of New England, of good moral characters, may be a

The articles that described the 1950 NAIC organization also failed to refer to an existing Dudley/Webster entity. In one place, the 69B Comments themselves referred to the founders of this chapter as “Urban Indians of Worcester” (69B PF Comments 2002.09.27, 191). One newspaper article, “Trade Student is Son of Indian Chief,” not only did not mention Dudley/Webster as antecedent to the organization, just calling it Worcester's Nipmuck Chapter of the NAIC, but also ascribed for Carl O. Bates and his son Harry E. Bates, the NAIC members mentioned in the article, Mohegan and Pequot ancestry (69B PF Comments 2002.09.2, 192-193).

At the end of the period during which the PF found that the petitioner’s antecedents failed to meet criterion 83.7(a), Edith (Morse) Hopewell, sister of Edwin W. Morse, Sr., compiled an *Indian Census Notebook* during 1976 (Hopewell 1976.00.00 ca.). The 69B Comments assert that Zara Ciscoe Brough, head of the Hassanamisco group,

recruited Edith to compile a list of the Indian families who lived in the area. From her home in Oxford, she visited and recorded the names and addresses of many families from all of the tribes who resided in the area. The Nipmuck families she recorded included Lillian King, who was interviewed by the petitioner, and Lillian Lane, a descendant of the Bates family Hazzards, Henries, Vickers, and Walleys, “all immediate or distant kin to Edith. . . . (69B PF Comments 2002.09.27, 223-224).

The 69B Comments claim that the fact Edith Hopewell could find descendants of Dudley/Webster Indian families “is an indicator of community continuity and of her knowledge of its parameters” (69B PF Comments 2002.09.27, 224), which, since she was a member, would apply to criterion 83.7(b) rather than to criterion 83.7(a) (see further discussion under criterion 83.7(b)). However, since she compiled the census on behalf of an outside agency, it might be considered an external identification if it showed the existence of a group. However, the notebook also indicates that Mrs. Hopewell located a lot of people who asserted descent from other Indian tribes and it did not group the antecedents of petitioner 69B, other than the

member of the Council.”

Braxton resided in Boston. The 69B Comments, in discussing the Dudley/Webster community during the first third of the twentieth century (69B PF Comments 2002.09.27, 181), although admitting that, “there is no evidence existing to show that any Nipmucks respected Braxton or viewed him as their leader” (69B PF Comments 2002.09.27, 182) and indicating that, “[n]one of the documents surrounding this [Bicknell's] powwow, however, denote the actions or activities of participating Dudley/Webster Nipmucks” (69B PF Comments 2002.09.27, 182), nonetheless refer to the Bicknell organization as evidence of external identification of a Dudley/Webster entity.

In an article concerning planning for the formation and original meeting of Bicknell’s organization, no Nipmuck was named, but “Nipmucks” were listed as one of the twelve tribes participating (New England Indian Council to Be Formed, *Norwich Bulletin*, 1923.12.08).

An attendance list, apparently from the first meeting, with typed transcription contains only two possible Nipmuck descendants, Clara (Bates) Smith and Alice Susan (Dorus) Bates (Indian Council 1923.12.23). Clara (Bates) Smith was of documented Punkapoag ancestry; her family at various times also claimed to be Narragansett, Mohawk, and Pequot. The Dorus and Dixon ancestry of Alice Susan Dorus was identified as Indian, but was not Dudley/Webster Nipmuck (see discussion under criterion 83.7(e)).

descendants of Elizabeth (Henries) Morse, together. Thus, it does not identify the antecedents of petitioner 69B as an American Indian entity. The notebook is merely a listing of persons claiming Indian descent who resided in central Worcester County, Massachusetts, in the mid-1970's.²⁵

Conclusion

The additional evidence submitted for the FD, like that previously reviewed in the PF, is not sufficient to establish continuous external identification of an American Indian entity antecedent to petitioner 69B for the period from 1900 to 1980. Specifically, there is no evidence of a continuing Dudley/Webster entity after 1890 or of a CB entity prior to 1980. The conclusion in the PF stands. Petitioner 69B does not meet the requirements of criterion 83.7(a).

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

Summary of the PF

In regard to criterion 83.7(b), the PF found that the Dudley/Webster Indians, the historical tribe antecedent to the current petitioner, as a whole met criterion 83.7(b) from first contact through 1870, largely because of the residence of more than 50 percent of the membership in a defined territory that was almost exclusively occupied by members of the group -- namely on a state-supervised reservation. For the period from 1870 through 1891, the evidence for community among the Dudley/Webster descendants as a whole was minimal, but the group was found to have met 83.7(b). The evidence from 1891 through the 1970's did not demonstrate community between the extended Morse family (a branch of the Sprague/Henries family) and other Nipmuc(k)s of Dudley/Webster descent. For most of the period, there was not even evidence of community between the extended Morse family and other descendants of the Sprague/Henries family line from which it stems. From 1981, when the petitioner's organization was formally established, through the mid-1990's, petitioner 69B, under variations of the name of the Chaubunagungamaug Band of Dudley/Webster Nipmuck Indians, appeared to have consisted, essentially, only of the extended Morse family. There was some evidence that the petitioner might meet criterion 83.7(b) from 1990 to 1998, but it was not sufficient to demonstrate that the

²⁵The 69B Comments assert that Edith (Morse) Hopewell's information on the supposed Dudley/Webster entity was not fully accurate, nor complete - for instance that the listing did not include Ron Henries (69B PF Comments 2002.09.27, 224). Since, however, Zara CiscoeBrough was compiling the report on behalf of the Boston Indian Council, Ms. Hopewell's assignment was not to include people who lived out of state, even if they were related to her. Henries, who later became active in both petitioner 69A and 69B, resided in Rhode Island. She was recording ethnic Indians resident in a specific locality, not making "tribal" lists.

petitioner did meet the criterion for this time period. The petitioner did not meet criterion 83.7(b) because it did not demonstrate the existence of a distinct community from first sustained contact until the present (see 69B PF 2001, Summ. Crit. 124).

New Evidence Submitted for the FD

69B Comments and Response to Third Party Comments

The petitioner addressed criterion 83.7(b) in two different submissions, the Comments (69B PF Comments 2002.09.27, 128-368) with accompanying exhibits²⁶ and the Response to third-party comments (69B Response to Third Parties 2002.12.02, 1, 23-83). The Response identifies as “New Data” the following categories: “Museum Collections, Oral Histories, Folklore collections” [sic] (69B Response to Third Parties 2002.12.02, 1, 23).

Third Party Comments

The State of Connecticut submitted argumentation in regard to the historical community of petitioner 69B, mainly in the form of citations to the PF, but little new evidence in regard to criterion 83.7(b) (CT/NCCOG Comments 2002.09.30, 39-44).

The Town of Sturbridge submitted comments identified as pertaining to both petitions (Malloy to Fleming 2002.10.01), but less than a page discussed petitioner 69B. It stated: “As with Petitioner 69A, petitioner 69B also must meet its burden of proof under the criteria. In particular, this group needs to address the deficiencies noted in the BIA proposed finding for criteria (a), (b), and (c). The Town has not identified additional evidence in its research that would allow the Dudley/Webster group to meet these standards” (Malloy to Fleming 2002.10.01, 9).

Analysis of 69A and 69B’s Presentation of Historical Marriages between Family Lines as Evidence for Community

Both petitioners present extensively detailed analyses of historical populations, emphasizing a substantial number of marriages scattered among the populations ancestral to their current membership. They are provided to demonstrate the existence of community in the past, as well as the period from the 1970’s to the present. A review of this evidence must consider whether this is evidence for past community, at the times the marriages occurred and were in existence, and, in addition, whether such past marriages provide evidence for community in recent decades.

²⁶The additional materials submitted by 69B (Heath to McCaleb 9/30/2002) did not address criterion 83.7(b).

Marriages can create kinship links between the intermarrying families. They also indicate that there is some degree of preexisting contact between the individuals marrying, often that those marrying are part of the same social group. However, marriages are not necessarily within a distinct community, even if they are within a category of population. Many of the marriages may have only been marriages between people of a similar origin.

Neither the evidence submitted for the PF nor the evidence submitted for the FD showed any intermarriages, through the end of the 19th century, between the historical Hassanamisco Indians and the historical Dudley/Webster Indians. In the 18th century, there were documented marriages between the Dudley/Webster Indians and Indian families in Windham County, Connecticut (see 69B PF 2001). These continued through the 19th century, as in marriages between Sprague/Henries and Sprague/Nichols individuals with members of the Nedson/Dorus and Dixon families, neither of which has documented Dudley/Webster ancestry.

There were some 19th century marriages between descendants of both Hassanamisco Indians and of Dudley/Webster Indians with the off-reservation Curliss/Vickers family and the non-Nipmuc Hazzard/Ransom family. These continued into the first quarter of the 20th century, as in the marriages of Maud Lillian Brown to Lester Henries (1913) and Edward Hazzard (1917). They probably reflect a somewhat distinct, localized population of people of color, and/or an existing social network of some individuals with Indian ancestry who maintained an Indian identity, particularly since the non-Dudley/Webster families such as Henries, Hazzard, Ransom, Dixon, and Nedsor also married among one another. One of the latest marriage of this type (Sprague/Henries to Hazzard) took place in 1949; the descendants are members of 69A.

The marriages described by the petitioners, in separate and somewhat differing analyses,²⁷ are past marriages either between individuals from two different family lines or from different branches of the same family line. There are too few of these marriages, and the defined lines too broad, to show that these marriages linked the lines into a community. That is, a marriage between a Curliss/Vickers and a Sprague/Henries descendant, while it can be assumed to have linked their extended families, cannot be assumed to have created links for all of those in the same “family line,” where that “line” is a category which is a genealogical construct but has not been shown to be an actual social group. Such is the case for both the Curliss/Vickers and Sprague/Henries family lines, both of which constitute large numbers of descendants, not all by any means members of either petitioner.

The Vickers line is defined as descended from the marriage in 1813 of Mary Curliss with Christopher Vickers. It is thus defined from a substantially earlier point than the

²⁷The 69B analysis focuses on focal ancestors from the Dudley/Webster 19th century community, extending well beyond the three “traditional families” that it defines as comprising its current membership, while 69A focuses on the marriages in the lines it defines as its claimed historical community (69A Comments Vol. 5, Part B; see Appendix A). The Sprague/Henries and Sprague/Nichols lines are addressed to some extent by both 69A and 69B’s analyses.

Sprague/Henries and Sprague/Nichols lines, which are reckoned from marriages in the 1850's. As an indication of the kinship distance of Vickers descendants who are or have been officers of 69A, Walter Vickers and Charles Hamilton are third cousins. Cheryl (Toney) Holley and Walter Vickers are fourth cousins; Cheryl (Toney) Holley and Charles Hamilton are fourth cousins. Reginald H. Walley, is third cousin of Walter Vickers. Thus the older adults among the current 69A members are only distantly related, albeit sometimes through several branches of the Vickers, because of cousin marriages in the Curliss/Vickers line.²⁸

Both petitioner's discussions assume that kinship connections derived from marriages in the past have social relevance in social relations in the community from 1975 to the present. Because most of the marriages in the relevant lines occurred between the 1870's and 1920's, they cannot be assumed to be reflected in continuing kinship ties. There was no interview evidence cited, and little evidence found in the interviews submitted, to provide direct evidence to demonstrate that such social ties have existed in the past 20 years.

Review of Petitioner 69B's Analysis of Patterns of Marriage

In support of its response concerning historical and present community, petitioner 69B included several sections analyzing marriage ties between individuals identified as Dudley Indians on the 1861 *Earle Report*, the 1889 and 1891 Dudley/Webster disbursement lists, other Nipmuc Indians living in the 18th, 19th, and 20th centuries, and others whom the petitioner identified as "non-Nipmuck Indians," meaning Indians, but not Nipmuc Indians (69B PF Comments 2002.09.27, 411-483). The petitioner uses this analysis to define what it called the "Core Lineages and the Chaubunagungamaug Band of Nipmuck Indians" (69B PF Comments 2002.09.27, 414-444). Table A-5 of the petitioner's response listed ten individuals whom petitioner 69B identified as its "focal ancestors." The tables presented in the response did not limit the analysis to the petitioner's own ancestors, but included large numbers of individuals who do not have descendants in the CB. The petitioner's response does not provide significant new information on the petitioner's ancestors that was not available for the PF.

A detailed analysis of this material is presented as Appendix I to this FD. There are several problems with the petitioner's presentation of the data in its various tables and its analysis of the data. These problems are substantial enough to undermine the petitioner's conclusions. Particularly serious is that the tables identify many individuals as "Nipmuck" or "non-Nipmuck Indian" without supporting documentation.

Petitioner 69B does not include citations to the evidence it used to determine that a spouse was Indian (*i.e.*, non-Nipmuc Indian). It also uses certain surnames, *e.g.* Hazzard, as the equivalent of a specific tribal descent/affiliation, even though that surname is shared by non-Indian families,

²⁸Edwin Morse, Sr., head of 69B, is a half fifth cousin and sixth cousin of Walter Vickers; Morse was not related to Reginald H. Walley, but Walley's brother married Morse's sister in 1944.

and there is no evidence to support the assumption for each individual so identified in the analysis. Because the petitioner misidentifies the ethnicity or tribal affiliation in the earlier generations, the characterization of the marriages of the descendants of these generations are inaccurate as well (for example, see the analysis of Table A-10, Appendix I). The petitioner also misstated the available information about the ethnicity of many of the known marriage partners by stating that no information was available, whereas there was information about ethnicity but which did not identify the individual as Indian.

Petitioner 69B's analysis also does not include all of the known marriages of the historical Dudley/Webster Indians, or all of the known marriages of the ancestors of its own family lines, in particular the marriages to non-Indians. The OFA created a report of all the known marriages recorded in the genealogical database that 69B submitted for the FD and found that there are approximately 660 total marriages. There are 362 marriages in the petitioner's database for which there are specific beginning dates between about 1767 and 2000. There were about 238 unions for which the beginning date was unknown. By contrast, the petitioner's analysis addressed approximately 210 marriages in the 1767 to 2000 time period. Thus, the petitioner's analysis relates to less than 60 percent (210 of 362) of the marriages it identified by date, and to less than 32 percent of the total marriages accounted for in its genealogical database (210 of 662).

Community 1900-1973

Third Party Comments, Argument and Analysis

The primary argument submitted by the State of Connecticut is that petitioner 69B is a "recently formed group" and as such fails to meet the criterion of having had a distinct community from historical times to the present (CT/NCCOG Comments 2002.09.30, 39-40).

While there is no question that petitioner 69B organized formally in the early 1980's (see additional discussion under criterion 83.7(c)), this date of incorporation and adoption of a constitution and bylaws is not prohibitive of acknowledgment under the regulations if a petitioner can demonstrate that it meets criteria 83.7(a)-(g), including criterion 83.7(b) and that in the early 1980's it had merely "recently incorporated or otherwise formalized its existing autonomous political processes" (25 CFR 83.3(c)).

69B Comments, Argument and Analysis

Section Two of the 69B Comments is "Evidence of Dudley/Webster Nipmuck Community" (69B PF Comments 2002.09.27, 128-368). The first portion of the narrative's approach to criterion 83.7(b) focuses on a genealogical study of the interrelationships among the

Dudley/Webster “lineages”²⁹ from 1861 to 1891 as establishing parameters for community during the later period (69B PF Comments 2002.09.27, 133-144). This section includes a discussion of several families of Dudley/Webster descent that have not been significantly, or in some cases at all, involved with petitioner 69B since its establishment in the early 1980’s: Jaha, Pegan/Wilson, Pegan/Humphrey,³⁰ and Belden.

The analysis in the 69B Comments accepts one “lineage,” Pegan/Pollock, as represented primarily by descendants of the ancestress Mary (Curliss) Vickers, as contributing, through its “marriage pattern,”³¹ to Dudley/Webster community (69B PF Comments 2002.09.27, 138), although persons descended through this woman do not meet the 69B membership qualifications as set forth in either the constitution in force at the time of the PF or the constitution in force at the time of the FD. The “marriage patterns” asserted for the Sampson/Hazzard family (69B PF Comments 2002.09.27, 142) also fall into this category -- descendants do not meet petitioner 69B’s membership qualifications.

The petitioner’s analysis of the marriages of Dudley/Webster descendants showed little endogamy. Of the 612 marriages in the 69B data base, the 69B Comments identified 40 (5 percent) as both spouses having Dudley/Webster ancestry; 90 (14 per cent) as one spouse being Dudley/Webster and the other from a different tribe or an Indian of unknown tribal background; and the remainder being marriages in which the ethnicity of the spouse was non-Indian or undetermined (69B PF Comments 2002.09.27, 135). In many cases, OFA could not confirm the “Indian” identity of spouses asserted by 69B (see discussion under 83.7(e)).

The second portion of the 69B Comments that addresses criterion 83.7(b) is “Population Distribution of the Dudley/Webster Nipmuck Community”(69B PF Comments 2002.09.27, 144-176). It covers the period 1861-2001. The petitioner asserts that many families of Dudley/Webster descent, throughout this period, were closely settled in extended families, while the group in general was not so widely scattered (a radius of 35 to 50 miles from Dudley/Webster) as to have precluded the possibility of actual social interaction. The evidence confirms this. The evidence submitted does not, however, demonstrate actual social interaction.

The petitioner notes that the 1950 chart, “shows the emergence of three distinct kin groups, those characterized by the descendants of Lydia and Lemuel Henries of lower Worcester County, those who descend from the Martha Dorus [*sic*] of Sturbridge, and the Brown/Heath family of northern

²⁹“Lineages” is the petitioner’s terminology.

³⁰The 69B Comments do not correct George Munyan’s statement (Munyan Interview 2001.0515, 6) that Lydia (Humphrey) Donaldson, whom he knew, had lived in the Dudley/Webster tenement house that was dismantled before 1890. Lydia (Humphrey) Donaldson, a great-great granddaughter of Lydia Sprague, was not born until 1903.

³¹“Marriage pattern” is the petitioner’s terminology. It is not equivalent to the term “patterned outmarriage” as it occurs in the 25 CFR Part 83 regulations.

Connecticut” (69B PF Comments 2002.09.27, 175).³² The petitioner asserts that: “This marriage pattern had indeed created three distinct extended families, all living a short distance from one another, forming a single known community in 1950” (69B PF Comments 2002.09.27, 176). These three extended family lines had been, however, distinct and identifiable long before 1950. It is not clear from the documentation that they formed a “single known community” in 1950 or, indeed, that their members even knew one another prior to 1980 (see the discussion of interview data, below).

The third section is “Life in the Dudley/Webster Nipmuck Community, 1890-1979”(69B PF Comments 2002.09.27, 177-196). The information presented pertains primarily to pan-Indian and inter-tribal activities of various types that took place in New England from the 1920’s through the 1970’s. The petitioner’s statement that: “the atmosphere of ethnocentrism and racism in the non-Indian communities of Massachusetts, Connecticut, and Rhode Island all but assured little coverage of Dudley/Webster Nipmuck events in local newspapers” (69B PF Comments 2002.09.27, 177) is not historically valid, since the activities of many other New England tribes received significant newspaper coverage during this period (*cf.* Narragansett, Mohegan, Historical Eastern Pequot, Schaghticoke), as did those at the Hassanamisco Nipmuck reservation at Grafton.

The fourth section of the 69B Comments’ 83.7(b) material, “Community from a Life History Perspective, 1900-1979” (69B PF Comments 2002.09.27, 196-262), consisting mainly of an analysis of interview data, contains an extensive discussion of an interview with Lillian Belle (Davis) Brooks King and Lillian Louise (Bates) Lane (69B PF Comments 2002.09.27, 198-203) and another with Lillian Louise (Bates) Lane and her sister Mary (Bates) Williams (69B PF Comments 2002.09.27, 203-215).³³

The value of the 69B Comments’ discussion of the Brooks King/Lane interview is undermined by its having confused the ancestry of the two women (69B PF Comments 2002.09.27, 198n503): Lillian Belle (Davis) Brooks King was not descended from Nipmucks on the 1861 *Earle Report* or the 1890 Dudley/Webster distribution list. Her family does not qualify for enrollment in 69B through either identified parent, George Peter Davis³⁴ or Isabelle Chin

³²The meaning of footnote 44 (“There are three individuals that are on the 1950 map that were alive in 1920”) (69B PF Comments 2002.09.27, 174) is unclear, since many more family members of current 69B members than three were alive at both dates -- for example, Kenneth White’s father, Paul Wesley White, and several of his siblings.

³³The 69B Comments stated that Lillian Belle (Davis) Brooks King is a cousin of the two Bates sisters and that they claim her as a cousin (69B PF Comments 2002.09.27, 212-213). No evidence available to OFA substantiated this assertion of an actual kin relationship.

³⁴The petitioner is definitely wrong in stating that the mother of George Peter Davis was Punkapoag. She cannot have been the Punkapoag Rebecca Davis mentioned in the *Earle Report*: George Peter Davis’s mother died in 1851 (Pasay 2002, 1:134); the Punkapoag Rebecca Davis was alive in 1859 when Earle conducted his research

Francis.³⁵ Lillian Louise (Bates) Lane was a cousin of the Bates family that lived in Worcester, some of whose members participated in the Mohawk Club founded by Sarah (Sisco) Sullivan and in the Worcester County chapter of NAIC (for further discussion see the FD for petitioner 69A).³⁶ Neither Lillian Brooks King nor Lillian Lane has been identified by valid genealogical documentation as a niece of Payne Henries, as stated in the report (69B PF Comments 2002.09.27, 200).³⁷

and was listed in the *Earle Report* in 1861.

George Peter Davis who married Isabelle China Francis was the son of George Peter Davis Sr. and Rebecca Congdon (Pasay 2002, 1:133; Brown and Rose 1980, 103). On the 1880 census, George Peter Davis's brother, James L. Davis, was recorded as Indian in Lisbon, Connecticut (1880 U.S. Census, FamilySearch Index, Lisbon, New London County, Connecticut, NARA T9-0108, 645A). James L. Davis's first wife was a Frost (her grandmother described in the Norwich records as a "Spanish Indian"); his second wife was Emma Julia Lewis, daughter of Silas Lewis and Ruth Eliza Anthony, of the Lewis family enrolled in 69A. Also in 1880, George Peter Davis's sister, Olive B. (Davis) Howard, registered herself and her children at the Narragansett detribalization (*Report of Commission on Narragansett Indians* 1881, 80). They weren't on the final payment list -- just on the initial registration. This family was not identified as Indian on the 1880 census (1880 U.S. Census, FamilySearch Index, Town of Killingly, Windham County, Connecticut, NARA T9-0110, 353B).

³⁵In 1997, Mrs. Lane was affiliated with petitioner 69A. Mrs. Brooks-King was part of the 1950 Worcester County NAIC organization, but was not affiliated with either petitioner after the mid-1970's.

³⁶Thus the 69B Comments describe Lillian Belle (Davis) Brooks King as Harry Ellsworth Bates's cousin. However, the cousinship existed between Harry Ellsworth Bates and the other interviewee, Lillian Louise (Bates) Lane, who was descended from the Dorus family; the Dorus references in the interview pertain to Lillian Lane's relatives, not those of Lillian (Davis) Brooks-King. It was Lillian Lane who was telling the story about Henry and "Oliver" (i.e. Oscar) Dorus. Elsewhere, the Comments add to the confusion by substituting the name "Oscar Bates" for "Oliver W. Dorus" and attribution of the story about cutting Henry Edmund Dorus's braids to a "Henry Bates" (69B PF Comments 2002.09.27, 212).

It should also be noted that the land on which the Bates family lived in Connecticut was not a "reservation" (69B PF Comments 2002.09.27, 208) by any interpretation of the meaning of the word.

³⁷As to how Payne Henries was her uncle, in the interview Lillian (Davis) Brooks King states that, "that's a tricky one" and indicates that "somebody married somebody else." The 1900 census shows the following household:

1900 Federal Census, Putnam, Windham Co., CT, NARA T623, R152, ED 523, SH 3B, June 2nd

H: 47 F: 69

67. Davis, George P. 56y, Head, B, Feb 1843, BP CT, f & m-BP CT,

Occ: Day laborer, married 20y

68. Isabella C. 42y, Wife, B, Feb 1851, BP CT, f & m-BP CT, married 20y, 1 child, 1 living

69. Bertha May 16y, Dtr, B, [Nov] 1883, BP CT, f & m-BP CT,

Occ: At school.

70. Francis, Eunice 84y, M/law, B, June 1815, BP CT, f & m-BP CT, Wd, 7 children, 4 living

71. Vincent, Sarah J. 59y, S/law, B, July 1841, BP CT, f & m-BP CT, Wd,

2 children 1 living

72. [Bradley], Lillian 4y, Boarder, B, July 1895, BP CT, f & m-BP CT (Nipmuc 69AFDsubmission; FTM; brackets for name of individual #72 in submission).

If Lillian Belle (Davis) Brooks King was actually born a Bradley and was possibly later adopted by the Davis family, there could exist a "somebody married somebody else" relationship between her and Payne Henries.

The 69B Comments discussed an interview with Helen (Wilson) Richardson and her son, Charles "Buster" Richardson, dated December 14, 1987, as providing data concerning 69B community (69B PF Comments 2002.09.27, 215). However, she herself stated that her father had moved to Worcester and, because of his marriage, had become alienated from other Indians at Webster, including his own family, before World War I (Richardson and Richardson 1987.12.14a, 8-10). Neither she nor her son is now, or has ever been according to the membership lists, a member of petitioner 69B. The interview with them does not mention any of the Dudley/Webster descent lines other than Pegan/Wilson nor did the interviewees mention the families currently affiliated with 69B (Richardson and Richardson 1987.12.14a).

The petitioner states that, "Angenette [Angenette (Arkless) Goins Henries Jackson, died in 1942 in Worcester, Massachusetts]"³⁸ and her children "remained close and, with only one exception, chose to live in the Dudley/Webster area and reestablish their family amongst kin and community" (69B PF Comments 2002.09.27, 221-222). There is no indication that any of Angenette's descendants lived in the Towns of Dudley or Webster between 1912 and the late 1970's or early 1980's. The discussion contains other errors in regard to this woman. Lewis Jackson was not Angenette's second husband (69B PF Comments 2002.09.27, 222), but rather her third. The first was Luke Goins, to whom she was married before she married Winifred Lemuel Henries. The "sister Edith" of Elizabeth (Henries) Morse mentioned in the Hopewell interview was Luella Edith (Goins) Morse Chagnon, a daughter of her first marriage.³⁹

The recollections of three siblings, Edith (Morse) Cason Hopewell (born 1919), Lucille (Morse) Walley (born 1926), and Edwin W. Morse, Sr., (born 1928) all grandchildren of Angenette and

Payne Henries's brother had married Helen Bradley and William E. Shelley, who was Payne Henries' half brother, had married Maggie Bradley.

The 69B Comments and FTW file submitted for the FD do not contain any genealogical information on Lillian (Davis) Brooks-King.

³⁸During the historian's site visit to Massachusetts prior to the PF, Edwin W. Morse, Sr., (born 1928) indicated that he did not know when or where his grandmother Angenette had died (Personal notes, Virginia DeMarce).

³⁹The interview with Lucille (Morse) Walley contains photograph descriptions (Walley Interview 1997, 241-242). During discussion of the people in one picture, they mentioned that Ron Henries said that it was not Angenette; Lucille and her daughter Liz [Elizabeth (Walley) Kiser] maintained that Lucille was around Angenette and she knew who it was (Walley Interview 1997, 243). Walley identified it as a photograph dated 1926, taken in Ayer, Massachusetts, when Angenette and her daughter Elizabeth were cooks in a restaurant at Fort Devens (Walley Interview 1997, 244).

children of Elizabeth Rogers (Henries) Morse,⁴⁰ indicate that a few years of difference in a child's age might cause a varying set of childhood recollections.

The petitioner's discussion of the interview with Edith Elizabeth (Morse) Cason Hopewell (69B PF Comments 2002.09.27, 220-225) includes discussion of the Rhode Island social service reports from 1913 and 1914 and a 1919 Massachusetts social service report, apparently directed to Rhode Island (69B PF Comments 2002.09.27, 222), regarding the children of Winifred and Angenette (Arkless) Henries.

Edith Hopewell discussed her childhood, when the family lived in Marlborough, Massachusetts. Although she referenced the existence of racism, attributing her decision to quit high school partially to that cause, she did not indicate that other children made the racist remarks because they knew that her family was Nipmuc, or Indian (Hopewell 2001.07.23, 3). She also indicated that there were no other Indian families in Marlborough during her childhood (Hopewell 2001.07.23, 4) and denied any close acquaintanceship with Walter Vickers, the current head of petitioner 69A, whose family lived in Marlborough at the time (Hopewell 2001.07.23, 14-15), although she said that her mother had always told her children that they were "French and Indian" (Hopewell 2001.07.23, 15). Her interview did not address the years that the family lived in Hudson, Massachusetts (approximately 1935-1940). She indicated that in the mid- to late 1930's, to find entertainment, the family would visit her grandmother in Worcester (Hopewell 2001.07.23, 5).

Hopewell identified the beginning of her involvement as "Nipmuc" as being in the 1970's (Hopewell 2001.07.23, 6-7; 12). This date is compatible with other documentation, which does not reflect any contact between Hopewell and Zara CiscoeBrough prior to 1976 (Hopewell to CiscoeBrough 1975.12.02). When questioned as to the difference between Hassanamisco and Chaubunagungamaug, Hopewell replied that they were all Nipmucs, "just Indians" (Hopewell 2001.07.23, 13). To the question as to whether there had always been two different groups, she answered, "[t]here was only one till my brother started up" (Hopewell 2001.07.23, 13).

Hopewell also did not indicate that the Morse siblings (Edwin W. Morse, Sr., his brother, and his sisters) maintained close contact with Ron Henries (born 1932),⁴¹ their first cousin. When asked if she had grown up knowing Henries, she answered that she knew who he was, knew that he

⁴⁰Lillian (Bates) Lane mentioned "Charlie" as Elizabeth (Rogers) Henries Morse's brother; the 69B Comments annotate "[Charles Morse or Wahwatasee]" (69B PF Comments 2002.09.27, 208). However, Wah-wah-tay-see was Charles Steven Henries, Sr. Lillian Lane was right that Charlie was Mrs. Morse's [half-] brother. At this point, the petitioner's analysis erred in identifying this man as Charles L. Morse, Mrs. Morse's son; elsewhere, petitioner identified him correctly (69B PF Comments 2002.09.27, 185).

⁴¹The 69B Comments also make an erroneous identification of Ronald G. Henries (Little Crow) as a son of Ethel Henries rather than as a son of Elsie Henries (69B PF Comments 2002.09.27, 318).

lived in Providence, and saw his mother, her aunt, “when someone died” (Hopewell 2001.07.23, 13-14).

Hopewell’s description of the family’s associations in the 1940’s was confirmed by her younger sister, Lucille Walley, who stated:

RAE GOULD: The place that I like to start with everyone is their childhood, kind of find out what factors gave them their sense of self as Native, as Nipmuck, if their parents or grandparents were around and influenced them?

LUCILLE WALLEY: That kind of stuff never went on in the family.

RAE GOULD: When you were small you mean?

LUCILLE WALLEY: When you were small. I mean they didn't talk Indian stuff, you know, at all.

RAE GOULD: Do you recall if you knew that you were Nipmuck when you were a little girl?

LUCILLE WALLEY: Oh, we knew we were Indians --

RAE GOULD: Okay.

LUCILLE WALLEY: -- but I didn't know -- well, I knew I was Nipmuck, too, you know, right around when you can remember things (Walley Interview 1997, 5).

She also recalled that she had met her husband at her grandmother Angenette’s house in Worcester; her grandmother and his mother were friends (Walley Interview 1997, 36-37), although, while explaining a name-change from Vickers to Walley for her husband’s father, she specified that her husband’s mother was non-Indian (Walley Interview 1997, Bates pages 40-42).

The recollections of Edwin Morse, Sr. (“Chief Wise Owl”) state that he lived in Marlborough for about seven years; then the family moved to Hudson for about five years; then moved to Worcester. His description of his background titled “Way of the Native American” includes as an element of his growing up: “Native American food. They made their own bread” (Morse Interview 1998.07.22, 1). The analysis in the 69B Comments skips over the years that the Morse family lived in Hudson; it states: “He did not recall living with other Indians at Marlborough, but ‘there was Native American people in Worcester.’” (69B PF Comments 2002.09.27, 225). Morse then discussed several Henries relatives (69B PF Comments 2002.09.27, 225-226; interview with Edwin W. Morse, Sr., by Steven L. Austin, BAR anthropologist).

The greatest difficulty in the “Life History Perspective” portion of the 69B Comments for criterion 83.7(b) is its uncritical use of information obtained from interviews with George Munyan. The Comments state that Munyan’s family, from the 1930’s through the 1950’s, “regularly attended ceremonies with other community members, usually traveling to the Shinnecock and Narragansett territory to honor seasonal ceremonial obligations. They visited Dudley/Webster Indians who had become part of the Indian communities centered at those places” (69B PF Comments 2002.09.27, 235). Based on George Munyan’s assertions, the

Comments state that, “Leon Wilcox and George Munyan's father, who was himself among the most elderly of the Nipmuck community named young George in 1954” (69B PF Comments 2002.09.27, 238, 376-377; Munyan Interview 2001.05.15, 11). No man named “Leon Wilcox” appears in the documents (there was a man named Leon Hazzard). The reference may be to Lawrence Williams Wilcox, who lived in Windham County in northeastern Connecticut. He was known as “Lone Wolf,” and was father of Ella C. (Wilcox) Sekatau [Seketer], also mentioned in this section of the interview. Wilcox was Narragansett. There is no independent evidence at all that Munyan's father was Nipmuc or that he was ever part of a “Nipmuck community.”⁴² OFA researchers were unable to identify Munyan’s background.

In the 69B Comments’ discussion of the founding of the Worcester Chapter of the NAIC in 1950, as elsewhere, the discussion confuses the ancestry of Lillian (Davis) Brooks King with the ancestry of Lillian (Bates) Lane. The lineage attributed to the other members of the chapter appears to be correct (69B PF Comments 2002.09.27, 191-192). The report then states: “All of these Dudley/Webster Nipmucks clearly knew each other and participated in a community life that allowed them to conceive the political organization they commenced in 1950” (69B PF Comments 2002.09.27, 192). The only founding member of this organization who was of Dudley/Webster ancestry was George Wilson, who has never been associated with petitioner 69B. For a more extensive discussion of NAIC, see the final determination on petitioner 69A. In one place, the 69B Comments themselves referred to the founders of this chapter as “Urban Indians of Worcester” (69B PF Comments 2002.09.27, 191).

A flyer for the annual Indian Fair or powwow at the Hassanamisco Reservation in 1950 ties in with the chartering of the above-mentioned Worcester County, or Nipmuc, chapter of the NAIC, which was a pan-Indian organization. It named members of the Bates and Sisco families; also Elizabeth (Henries) Morse; also Elaine F. Cogswell (Schaghticoke/Narragansett), Philip Peckham (Narragansett) and other participants (NAIC-Hassanamisco Flyer 1950.07.04). There is no documentation between 1950 and 1974 that the Morse family participated in events at the Hassanamisco Reservation or associated with activities organized by Sarah (Sisco) Sullivan and her daughter Zara CiscoeBrough.

Also for 1950, the 69B Comments cited the obituary of Chester White, who died in Sturbridge, Massachusetts, arguing that “the paper also provided evidence of family interaction by listing

⁴²The 69B submissions contain no genealogical data in regard to George Munyan’s ancestry. The following household appears to be the 1880 census record of the Rufus Porter Munyan whom he named as his grandfather. It contained a child of the appropriate age to have been his father, although Munyan himself gave his father’s name as “George Curliss Munyan” and asserted that George Curliss Munyan had been named for one of his maternal uncles (Munyan Interview 2001; the interview did not give his mother’s maiden name).

1880 United States Census, FamilySearch, Woonsocket, Providence Co., RI, NARA T9, Reel 1216, p. 296B:
Rufus P. Munyan, Self, M, Marr, W, 40, CT
Mary Munyan, Wife, F, M, W, 34, RI
Albert Munyan, Son, M, S, W, 3M, RI

surviving kin and including those family members beyond Charles Chester White's nuclear family" (69B PF Comments 2002.09.27, 191). The obituary made no mention of Nipmuck or Indian ancestry or affiliation on White's part. The family members mentioned were White's parents, who were named, his brothers, who were named, and nephews and niece, unnamed. The White/Hewitt marriage from which he descended took place in the late 19th century, not the mid-20th century.

69B Response to Third Parties, Argument and Analysis

A significant portion of the 69B Response analyses cultural traditions (folklore) (69B Response to Third Parties 2002.12.02, 1, 23-34, 62-64) with a listing of "Plant, Animal, Weather, Dream and Medical Lore of the Chaubunagungamaug Band" (69B Response to Third Parties 2002.12.02, 1, 35-36). The section on "Places" (69B Response to Third Parties 2002.12.02, 1, 65-77) references primarily historical locations or modern, post-1974, sites, such as the land currently owned by the petitioner. These materials do not address the question of social interaction. The interviews cited rarely mentioned any persons who were not immediate relatives of the speaker. The section headed "Gatherings" mentioned "powwows" (69B Response to Third Parties 2002.12.02, 1, 37) and provided some discussion of them, but provided little reference to names and dates. Some of the material was taken directly from the Comments (69B Response to Third Parties 2002.12.02, 1, 38). The references indicate that these were intertribal events held at Grafton (Hassanamisco), by the Narragansett, and on Long Island (69B Response to Third Parties 2002.12.02, 1, 38). The 1938 event on the Arthur Basto farm at Woodstock, Connecticut (69B Response to Third Parties 2002.12.02, 1, 74-75), was in the record and was evaluated for the PF. One interviewee mentioned having seen "pictures of naming ceremonies in the 1950's" (Lucyann (Morse) Swenson 5/14/2001, 25), but no such pictures were located in the submission.

Many of the activities referenced, such as hunting and fishing by the men (69B Response to Third Parties 2002.12.02, 1, 44-45) are not specific to American Indian groups. Some do not provide evidence for group activity among the antecedents of the petitioner, such as the one by Paul Swenson discussing alleged activities of his grandfather with Payne Henries (69B Response to Third Parties 2002.12.02, 1, 44). Swenson, the husband of Lucyann Morse, is not of Dudley/Webster descent. If pictures of his grandfather with Payne Henries did exist, they would only confirm that these activities were not limited to group members. The majority of the interview references, when not specifically tied to the speaker's grandmother or grandfather, appeared to reference events that have taken place from after the mid- to late 1970's (69B Response to Third Parties 2002.12.02, 1, 64-65).

A portion of the Response (69B Response to Third Parties 2002.12.02, 1, 45- 60) reiterated the Comments' kinship analysis, without adding new arguments. Some portions of the Response, such as the various statements about whether cousin marriages were acceptable or forbidden (69B Response to Third Parties 2002.12.02, 1, 46, 60), are not consistent with one another. As in the case of the 69B Comments, the analysis in the 69B Response accepts Mary (Curliss)

Vickers as one of the ancestors through whom Dudley/Webster kinship links existed (69B Response to Third Parties 2002.12.02, 1, 49-51), although descent through her line alone does not meet 69B's membership requirements (see criterion 83.7(e)). The same is true of Lovan Tiffany Dixon (1836-1932). Her brother Hosea W. Dixon married a Dudley/Webster Indian, but the Dixon family line (see Hartwell to Earle 1859.12.26) does not meet the 69B membership qualifications (69B Response to Third Parties 2002.12.02, 1, 80) nor does the evidence in the record indicate that she interacted with any of the ancestors of petitioner 69B other than her own immediate family.

Some people whose interview data was cited as providing evidence of Dudley/Webster community are not and never have been members of petitioner 69B; for instance, Helen (Wilson/Pegan) Richardson (69B Response to Third Parties 2002.12.02, 1, 60). Others, such as George Munyan and the late Lillian (Davis) Brooks King, did not have any ancestral line that met the 69B constitutional membership qualifications.

The discussions of the fostering-out of children in the various families of Dudley/Webster descent (69B Response to Third Parties 2002.12.02, 1, 61-62) does not provide any data on interaction among the various families ancestral to the members of 69B, but only, upon occasion, of developments within the individual family lines. Specific mentions of visiting (69B Response to Third Parties 2002.12.02, 1, 78-79) show visiting within the individual family lines; not among various families of Dudley/Webster descent and specifically not among the three "traditional families" now designated by the petitioner.

Generally, the statement of 69B council chairman Bert Heath in regard to his mother: "she was proud of her heritage. She instilled that in her children even though at times it was difficult" (69B Response to Third Parties 2002.12.02, 1, 83; citing Heath 2001.05.18, 5) appears to be a valid assessment of the material available in regard to the Dudley/Webster families ancestral to the present members of petitioner 69B in the first three quarters of the 20th century (see also the Hopewell and Walley interviews, above). They remembered their ancestry. They displayed pride in their heritage and occasionally took part in representational and patriotic events (*cf.* Basto powwow, Starbridge bicentennial celebration). To some extent, they were known to be Nipmuc(k) descendants in the wider Indian and non-Indian community. The data available, however, does not indicate that during this time period, the individual extended family lines antecedent to the membership of the current petitioner interacted with one another, or that there continued to be a distinct Dudley/Webster social group.

Community 1974-Present

Overview of Petitioners 69A and 69B

The two petitioners are organizations which draw and have drawn their membership from a pool of individuals who do not form a community or communities. Not all of them can demonstrate Hassanamisco, Dudley/Webster, or other Nipmuc ancestry. Since these were competing

organizations, they have had some membership overlap and some movement of members between the two. These aspects of the two petitioners' membership are described below. The petitioners are not competing factions within a single group nor are they separate "clans" within a single tribe. For the purposes of the final determinations, the evaluation considers the organizations as defined by their past and present, joint and separate, membership lists.

While some of the Morse extended family participated in the Hassanamisco organization for a few years in the second half of the 1970's, from the point of formation of the CB in 1981, the two petitioners were *de facto* separate organizations, irregardless of official petitioning status and various joint organizations and unifications. For reasons described below, the two organizations had a variety of motivations to stay together, working as a joint organization and petitioning as a single petitioner. Particularly important was the perception that there was a better chance of acknowledgment as a single group. Among the influences was advice from their legal and research consultants. The splitting of the two was a division within an organization or a separation of two linked organizations, not a split within a single community. The degree of overlap of membership, and movement of members between the organizations, is discussed below.

Summary of Organizational History

The CB antecedent to petitioner 69B originally was an organization that formed within the Hassanamisco Nipmuc group in 1981. Though it technically remained part of that petitioner until 1996, it functioned since its formation as a distinct organization. In 1985, its leader, Edwin Morse, Sr., and the Hassanamisco leader, Walter Vickers, agreed to the formation of a committee to pursue the work on the Federal recognition petition. This committee was called the Federal Recognition Committee (FRC). This committee's efforts led to the formation in 1989 of the Nipmuc Tribal Acknowledgment Project (NTAP) which took over the petitioning effort, establishing a much larger enrollment than either of the two organizations combined, and becoming in effect a third Nipmuc organization independent of the other two. There followed a series of conflicts between the two organizations and between them and NTAP. There were also a variety of efforts on the part of the two organizations to separate themselves, or, conversely combine to the exclusion of NTAP. To resolve the conflicts, a new council, the Nipmuc Nation Tribal Council (NNTC), was set up in 1994 incorporating five representatives each from Chaubunagungamaug, Hassanamisco, and NTAP itself. Conflicts continued within this council, however, and in 1996 the Chaubunagungamaug organization declared itself to be separate and to be petitioning as a distinct group. At about the same time, the Hassanamisco organization stopped maintaining a separate council, with the remaining portion of NNTC functioning as a single unit.

The evaluation report for petitioner 69A includes a detailed description and analysis of this organizational history, including the role of the Chaubunagungamaug Band petitioner in that history. The reader should consult that material as background for evaluation of the petitioner for the 1985 to 1996 period.

Review of Petitioner 69B's Comments on the Proposed Finding

The core view of the 69B Comments on the PF is that there were only three “extended families” of Dudley/Webster descendants who remained in the “homeland area,” Dudley/Webster, Sturbridge and northern Connecticut (69B PF Comments 2002.09.27). These are termed “Sprague/Nichols,” Sprague/Henries” and “Dorus/White.” This FD concludes, as did the PF (69B PF 2001, 178), that the descendants of Martha (Dorus) Hewitt, the primary component of the “Dorus/White” line, do not have documented Dudley/Webster ancestry, though they were probably of Indian ancestry.

The petitioner is claimed to be continuous with the community formed by these “three families.” The assertion behind the discussion of community since 1900, and the claimed “reorganization” of that community is that these were functioning kinship/social units, each with identifiable if informal leaders (69B PF Comments 2002.09.27, 12-157).

The response to the PF claimed community before 1980 to be demonstrated by past intermarriages and kinship links shown between households from the same families living in the different towns in the claimed homeland area. The response states further that they “maintained community by the residence of kin in each of the Connecticut, Massachusetts and Rhode Island communities they occupied” (69B PF Comments 2002.09.27, 263) and because they maintained residence within a 35 to 50 mile radius of Dudley/Webster. The community was also “bounded by racism” (69B PF Comments 2002.09.27, 11).

The claim is that before the CB “reorganized” in 1980, each of these “traditional families” had its own leaders, and that these were recognized within an existing community, thereby providing evidence for political processes for the entire group (69B PF Comments 2002.09.27, 12). There is no claim to there having been overall leaders.

The CB organization established in 1981 is referred to by the petitioner’s response as the “reorganized Chaubunagungamaug Band.”⁴³ The response states that, “[t]he 1981 Chaubunagungamaug Band bylaws did not alter the family based leadership of their community, but incorporated the traditional structure into a broader organization” (69B PF Comments 2002.09.27, 13).

The petitioner asserts:

The Morse family started the Chaubunagungamaug Band, but they acted fast to draw families of Dudley/Webster Nipmucks with clear descent from recognizable ancestors into the organization within less than two years after the council was formed. The Morse family dominated the organization numerically as well as

⁴³The petitioner uses the date of 1980 for the “reorganization.”

politically. The Chaubunagungamaug band did not have historic base rolls from which to prove descent of those persons who wished to join their tribe, they relied upon commonly accepted community recognition of the families (69B PF Comments 2002.09.27, 297).

For reasons described in this finding, there is not a good basis to indicate that this tripartite community structure existed in 1981. The primary portion of the membership since the mid 1980's which is not part of the extended Morse family, but which has been active in the organization, is mostly derived from the two other "traditional families" or "lines," as they are termed in the 69B Comments and Response, but they do not presently form distinct social and political units which, as claimed, have appointed family members to the council.

Character of Early Enrollments and Participation in CB

An early interview of Edwin Morse, Sr. and his daughter, Dolly Swenson, done at the time the CB was organized, sheds light on the character of the organization. The interview presents a different picture of the origins of the organization, and its original membership, than does the petitioner's response to the proposed finding and the ideas embodied in the revised constitution adopted in 2002. There is no mention in the interview of the later claimed "three traditional families" as the composition of the CB. The interview, on the radio, included the statements that:

Our tribal roll right now is at about 103. We're expecting another 100 as soon as come up with documented proof they're of Nipmuck descent. There are about another 100 already in mind.

That's when we decided, the hundred and some odd in our family, we're all Nipmucks. So we decided to gather . . . decided to . . . establish our little tribe (Round Table 1981.08.23).

Also stated in the 1981 interview was that: "There's been an incredible outpouring of people wanting to join, even people who are not Nipmucks" (Round Table 1981.08.23, 5). "We tell them, have to get the proof." These statements indicate that the group was envisioned as including more than the Morse family, but not that the organization had a specific community of known families in mind.

In 1981, Morse wrote to a Massachusetts representative, stating: "I would like to gather my 112 . . . clan members and form my own chapter in this area . . . We would like to hold our own election and establish ourselves as our own council" (Morse to Moore 1981.07.23). In 1981, an article in the Webster, Massachusetts, paper on their behalf entitled, "Calling all Nipmucks," said, "we invite all Nipmucks to join our reunited tribe" (Munyan 1981.00.00). An article the

Comments cite gave the goal as “all of the Indians in the Webster, Dudley and Oxford area” (69B PF Comments 2002.09.27, 289; citing *Webster News* 1981.08.03).

There is no indication from other interviews that in 1981 the organization included the other two “traditional families,” or even that the Morses knew members of them (see White 1998.07.05, Heath 1998.07.03, Demick and Hinckley 2001.07.24). Phrasing in terms of the three “traditional families” appears in interviews conducted in 2001 with George Munyan and Dolly Swenson, but the idea does not appear in earlier interviews (69B PF Comments 2002.09.27, 282). Dolly Swenson’s recent interview statement (Swenson 2001.05.14), which presents the same idea, is inaccurate in that regard. In an interview not previously in the record (Walley 1997.11.17), Lucille Walley (sister of Edwin Morse, Sr.) gave no indication of a connection among these three families that existed before the CB group was organized. She discussed social contacts during her lifetime extensively, but did not mention any members of the other two 69B “traditional families.”

The membership requirements in the 1981 organizational charter simply required that applicants be “persons who are direct descendants of Nipmuck Indians and recorded as such.” Documented proof, accepted by the council was required (CB By-Laws 1981.08.01).

In its comments on criterion 83.7(c), the petitioner presents detailed evidence to demonstrate that Edwin Morse, Sr., and his daughter Dolly Swenson were strongly opposed to the relatively broad definitions of “Nipmuc” that were used under the Nipmuc Tribal Acknowledgment Project (NTAP) and subsequently under the Nipmuc Nation Tribal Council (NNTC). There is also evidence that even before the founding of NTAP they had raised questions about the Nipmuc ancestry of some of those on the Hassanamisco council, especially Walter Bostic, concerning whom Dolly Swenson had a bitter exchange in the context of the Massachusetts Commission on Indian Affairs (MCIA). It does not follow that they therefore had in mind the idea of enrolling an already existing historical community of people they basically knew about. None of the statements made about membership made by Morse and others in the group, at the beginning of CB or later, suggest that they had other than Nipmuc ancestry (sometimes limited to Dudley/Webster) in mind. The openness of Morse’s call for people from Hassanamisco and/or NNTC to join him when 69B declared itself a separate petitioner in 1996 indicates otherwise (Morse 5/6/1996). Nothing in the pre-2002 69B interviews suggests a narrow, community-based, definition.

The 69B Comments are contradictory with regard to membership criteria, claiming rigorous requirements on the one hand, while elsewhere stating individuals were accepted on the basis of “community knowledge” (69B PF Comments 2002.09.27). Still elsewhere, the report referred to the group as having “uncertain membership criteria” (69B PF Comments 2002.09.27, 312). This discussion is relevant because so much of the controversy between CB and NTAP, later between CB and NNTC, revolved around the limiting of membership eligibility to descendants of the Indians listed on specific historical documents, namely those listed as Hassanamisco/Grafton or Dudley Indians on the 1861 *Earle Report* or as Dudley/Webster Indians on the 1890 distribution

list. That the leaders of 69B called for the narrower definition of membership eligibility and objected to the broader definitions used by Hassanamisco, NTAP, and NNTC is the most extensively documented claim presented by the petitioner for political process from 1980 to the present (see further discussion under criterion 83.7(c)).

Analysis of Membership Changes 1980 to 2002

The composition of the CB organization could not be precisely discerned at all points on the basis of membership lists, because there was no distinct CB list in the record until 1995. The description of composition is partly based on council membership or attendance, or other participation in distinct CB events. The existence of separate membership lists is mentioned at intermediate dates but these were not in the record (see 69A PF 2001 discussion of membership lists submitted, particularly for the early 1990's).

The PF concluded that for most of its existence petitioner 69B had been comprised of the extended Morse family:⁴⁴ “the evidence indicates that the other descent groups currently included in #69B were added to its membership after May 1996” (69B PF 2001, 100). The evidence reviewed for this FD indicates that this is not correct, and that some CB members were drawn from the Dorus/White and Sprague/Nichols lines beginning in the mid-1980's. The currently available data and analysis indicates that at least some individuals from these two lines had made contact with Edwin W. Morse, Sr., and were participating to some degree in CB activities from the early 1980's, especially Paul White and Don Hinckley (Dorus/White) and possibly the brothers Bert and Glen Heath (Sprague/Nichols). Absent specific CB rolls for the mid-1980's, a more precise determination of membership could not be made. These two lines plus the Sprague/Henries line which includes the extended Morse family, constitute the claimed “three traditional families” (see also discussion of Jaha family involvement in CB, and that of two non-Nipmuc individuals (George Munyan and Kenneth Brown), under criterion 83.7(c)).

Morse did not know Paul White or his family when White contacted Morse about joining (K. White). Bert Heath's and Donald Hinckley's interviews describe a similar process of making contact, and interest in the CB's activities, not that they had known the Morse family previously. Kenneth White, similarly to Bert Heath, says that he met and participated with Edwin Morse, Sr., on the “reservation”⁴⁵ in the early 1980's (White 1998.07.25).

⁴⁴That is, the children of Elizabeth (Henries) Morse, *i.e.* Edwin Morse, Sr., and his siblings,, and their children. The “Sprague/Henries” family line includes not only the descendants of Elizabeth Henries, but descendants of some of her siblings as well, and a few descendants of one of her uncles.

⁴⁵ This “reservation” is land at Thompson, Connecticut, that was donated to petitioner 69B in the early 1980's, not the Hassanamisco land at Grafton. Many of the petitioner's public events were held on their “reservation.”

Bert Heath's (Sprague/Nichols "traditional family") interview indicates clearly that he and his family were not familiar with Edwin Morse before 1979 or 1980, and made contact through a friend. He stated that he became enrolled by showing documentation (Heath 1998; also quoted 69B PF Comments 2002.09.27, 381). His statements appear to have reference to the early 1980's. He stated that he immediately became "medicine person" on joining -- something which does not indicate the existence of a community. There is no documentary record of Bert Heath's having functioned as "medicine man." In fact, there was no primary documentation submitted that showed either his own or his brother Glen's involvement in the CB organization in the early or mid-1980's. The earliest that Glen or Bert Heath are listed in the record as involved with the CB organization is Glen Heath's name on a 1995 membership list (Nipmuc Nation Tribal Roll 1995.04.09).

Glen Heath indicated that his family did not "identify much as Indian" when he was growing up, and that this only changed relatively recently. The Heath family's membership in 69B possibly indicates some sense of Indian identity, but does not demonstrate prior social participation with Indians or Indian descendants not closely related to them. Social relationships described in their interviews are confined to immediate family (Bert Heath 1998; Calvin and Glen Heath 2001.07.22).

The CB was very publicly visible from 1981 to 1984, holding many "ceremonies" and participating in many powwows and gatherings. Donald Hinckley, a cousin of Paul and Kenneth White, reported he had become involved in the mid-1980's, through a connection with Kenneth Brown, whom he describes as having "mentored him."

Individuals from the Dorus/White family line were added to the CB council in 1985 and 1986, at a point when three important figures left the council, and, apparently, the CB organization as well. At the September 16, 1985, meeting, Donald Hinckley was elected to fill the spot which Ron Henries, Sr., had vacated (CB Minutes 1985.09.19). Also added around this time was Hinckley's sister, Shirley, who is noted in 1987 as having resigned (CB Minutes 1987.07.11). The CB council's August 11, 1986, minutes state that Paul White and Regina Anne Leduc, Paul White's granddaughter, were added to the council, replacing Kenneth Brown (non-Nipmuc) and Carole Palavra (Dudley/Webster, Jaha descendant) who were removed for absenteeism (CB Minutes 1986.08.11).

The petitioner's response description for criterion 83.7(b) uses different, more limited, terminology for the claimed constituent families than that in the organization's minutes concerning the "three traditional families." The petitioner's text refers to the "Heath" family rather than "Sprague/Nichols" and the "White" family, rather than "Dorus/White." This terminology is more consistent with the actual enrollments. Various interviewees gave differing lists of component "families." These descriptions referred to the ancestry of those actually enrolled, but used differing categorizations and in some cases indicated four or five rather than three "families." These variable references indicate that the "three traditional families" division is a formalization and simplification of a more complex circumstance, in which individuals are

somewhat aware of family ancestry of other members. The categorizations do not, however, reflect socially recognized, distinct kinship units.

The present membership also includes eight individuals from other Dudley/Webster lines, four from the Belden line and four from the Humphrey line. The Humphrey and Belden lines were not mentioned by interviewees, however (*e.g.* Swenson 2001.05.14).

From the point of view of the current 69B enrollment, the “three traditional families” are different in character because the enrollees are not equally closely related in each of the lines.

The “Sprague/Henries” line (descendants of Lydia Sprague and Lemuel Henries) centers on the 150 enrollees who are from the extended Edwin W. Morse, Sr., family, the descendants of Elizabeth (Henries) Morse, a granddaughter of Lydia Sprague. Thirty-four others are descendants of Elsie Isabelle Henries, a sister of Elizabeth (the family of Ronald Henries, Sr.), and four individuals descend from another sibling of Elizabeth. However, eight are descendants of Walter Samuel Henries (b. ca. 1868), an uncle of Elizabeth (Henries) Morse. Hence, they are not close relatives of the Morses. The Sprague/Henries line is not demonstrated to be a single functioning social unit from 1980 to the present, and probably some time before that. Based on interview and documentary evidence, the Walter Henries descendants are not demonstrable as functioning together with the extended Morse family, nor is the family of Ron Henries, Sr. (Henries 1997.07.13).

The Sprague/Nichols line as defined genealogically traces to a Nipmuc/Nipmuc marriage ca. 1868 between Hannah Frances Nichols (Dudley/Webster) and Peleg Brown, Jr. (a Curliss/Vickers descendant). Among the descendants of this marriage, there were individuals who married other Dudley/Webster Nipmucs, including Henries and Belden, and one person who married into the Hazzard family (not documented as Nipmucs). There are some descendants of these latter marriages enrolled with 69A but not with 69B.

Of those currently enrolled in 69B, the “Sprague/Nichols” (also termed “Nichols/Heath”) “family” is considerably smaller than the name implies. It does not include individuals from most of the families descending from Lydia Sprague and John Nichols, but rather only the descendants of Ethel Brown (1903-1979), a great granddaughter of Lydia Sprague. Most of the 69B members descend from one of Ethel Brown’s daughters, Eva Viola (Brown) Heath.

Table: “Three Traditional Families” vs. the Ancestors in Criterion 83.7(e) Table

<u>Traditional Family</u>	<u>69B Surnames/Leaders</u>
<u>Sprague/Henries</u>	
descendants of Lydia Sprague and Lemuel Henries <i>by Winifred Henries (1869-1912)</i> <i>and Angenette Arkless (1873-1942)</i> Elizabeth R. (Henries) Morse	Edwin W. Morse, Sr. Edwin W. Morse, Jr. Lucyann (Morse) Swenson Ruth (Morse) Bessette Edith (Morse) Hopewell Lucille (Morse) Walley Ron “Little Crow” Henries Ethel (Henries) Black (d. 1987) William Edward Henries
Elsie Isabelle Henries Edwin W. Henries <i>by Walter Samuel Henries (1862-1938)</i>	
<u>Sprague/Nichols</u>	
descendants of Ethel Brown (1909-1979) Eva Viola (Brown) Heath and sisters of Eva	Bert and Glen Heath
<u>Dorus/White⁴⁶</u>	
descendants of Martha (Dorus) Hewitt (1856-1908)	Kenneth White Paul White (d. 1992) Donald Hinckley Alma (Hinckley) Demick

There is some interview evidence to suggest that in the past, before 1980, the Dorus/White descendants now in 69B, comprising now the White and Hinckley families, formed an extended kinship unit. These enrollees from the Dorus/Hewitt “family line” are a limited group, consisting entirely of the descendants of two children of Martha (Dorus) Hewitt, who died in 1908. Hence it is not surprising that interview information indicates that its members maintain some degree of contact with one another. The number of descendants enrolled in petitioner 69B has tripled in comparison with the 1997 list for the proposed finding. Approximately 62

⁴⁶The PF and this FD conclude that Dudley/Webster Nipmuck ancestry has not been established for this line (see discussion under criterion 83.7(e) in regard to identification of “Polly Dorus” on the 1890 Dudley/Webster distribution list).

individuals deriving from a sibling of Martha (Dorus) Hewitt are enrolled in 69A. They are very distant relatives of the White and Hinckley families.

The interviews with those who are active in the organization do not show any contact with a wider range of relatives, beyond first cousins (White 1998.07.25; Demick and Hinckley 2001.07.24).

Associate Members

The CB organization from its inception until 1987 gave a prominent place to “associate members,” defined as spouses of members but in fact including others who were apparently friends or “associates.” They played a significant role in terms of providing manpower and resources. Both Kenneth Brown and George Munyan were associates originally but came to be treated as members, and given roles on the council (see discussion in criterion c). The group’s “charter” from the State of Massachusetts in 1982 stated that the Nipmuck Indian Council (Chaubunagungamaug Clan) of Webster/Dudley was duly authorized to act “on behalf of the Nipmuck Nation and Associate Native Americans to promote social and economic growth for all Indian people” (69B Charter 1981.08.23). In 1985, the CB minutes indicated that the associates would set up their own council and officers, approved by the CB council (CB Minutes 1985.04.08). There is no clear indication that this actually took place, but the minutes record that subsequent meetings were attended by the associates’ designated “representative on the council,” someone named “Earth Woman” (not identified by any other name in the CB minutes) (69B Minutes 1986.05.05; CB Minutes 1986.08.04). Associate members played a major role in the organization of powwows and other events in that year. The CB council minutes in 1986 noted that 1000 associate member cards were to be ordered (CB Minutes 1986.08.11).

Changes in Membership between 1997 and 2002 Lists

The overall membership of the petitioner increased from 212 on the 1997 list to 354 on the 2002 membership list for the FD.⁴⁷ The largest part of the increase, approximately 82 individuals, is from the Sprague/Henries line. The membership of 69A shows correspondingly sharp decreases in number from the Sprague/Henries family line. The Sprague/Henries line in 69B now comprises 196 individuals, or more than half of the membership. The next largest line, grouped according to the claimed “traditional family lines,” are 87 “Sprague/Nichols,” compared with 74 in 1997. The “Dorus/White” line now comprises 62 persons compared with 21 in 1997. As noted, this “line” descends from Martha (Dorus) Hewitt, who does not have demonstrated Dudley/Webster Nipmuc descent.

That both the 2002 and 1997 memberships are largely drawn from three specific lines appears to be an effect of recruiting, since the evidence does not show that there any links among the three

⁴⁷ See criterion 83.7(e) for detailed discussion of current enrollment and enrollment changes.

lines between 1891 and 1980, nor do interviews with council members indicate any underlying community ties that caused these individuals to enroll with CB.

Only 16 of the names on the 1997 list were not on the 2002 list. Most of the additional individuals on the 2002 list had relatives on the 1997 list. Only 26 individuals on the current list are also on the 69A list, compared with 93 who were dually enrolled in 1997. Of those individuals on the current list, 127 persons were on the 1997 Nipmuc Nation (69A) list used for the PF and 90 of these were on *both* the 69A and 69B lists used for the proposed finding. Of the 127 on the current list who were on the 1997 69A list, 80 were from the extended Morse family, along with 15 from Dorus/Hewitt, and 20 from Sprague/Henries who were not Morses but also had Curliss/Vickers descent. The balance were scattered among minor lines or sublines.

These figures confirm that overall, the petitioner has consolidated its membership, keeping most of those previously listed and pulling in additional individuals from the same lines (some of who were only enrolled in 69A and shifted membership). In preparing the current roll, a very strong effort was made by the petitioner to forbid dual enrollment, with some evident success. The CB minutes of March 1, 2002, noted that "Affirmation letters must be in the files, must be signed to participate in the tribal action" (69B Minutes 2002.03.01) (see also, for example, Walley to Hazard 2002.03.05).

Although there is far less overlap in membership now between the two organizations than there was for the PF, there are still some of each of the three "traditional families" who are enrolled with 69A (most of whom are not dually enrolled with 69B). The petitioner alludes to this fact, stating that some significant number of individuals "expectable" as CB members (because of their "family line") were enrolled with 69A. The 69B Comments assert that this a temporary political situation caused by conflict over Morse's domination of the 69B organization. It provides no evidence in support of this reasoning. Of the three lines, the largest number enrolled in 69A is that of the Sprague/Nichols descendants, some of whom are active in 69A and have shown no affiliation with 69B. Some of the Sprague/Nichols descendants in 69A, such as the Goulds, have other Nipmuc and Indian ancestry from other lines, including Curliss/Vickers.

Community and Membership Requirements

The idea of the three kinship groups does not appear in any CB discussions of membership or membership criteria in governing documents until 2001. The October 26, 2001 "enrollment code," referencing "authority in the tribal constitution" (without identifying whether it meant the constitution which was subsequently ratified November 9, 2001) refers in section 7(c) to the three families "traditionally comprising the CB band they wish to be affiliated with: Sprague/Henries, Dorus/White or Pegan/Wilson" (69B Enrollment Code 2001.10.26) The March 8, 2002, CB minutes refer to "base families," identifying them as "Dorus/White, Nichols/Heath and Henries/Sprague" (69B Minutes 2002.03.08). The 2001 constitution itself refers to electing the tribal council, "in a manner which seeks to fairly represent the several families that comprise the enrolled membership" (69B Constitution 2001.11.03). It calls for no

more than “three members from any one of the three traditional families.” If individuals from these did not seek election, the seats were to be filled “with the highest vote getter from membership at large” (section 9). The constitution itself does not define the “traditional families.”

The nominal membership requirement remained as descent from the Dudley/Webster Indians, based on the *Earle Report* (and excluding the Miscellaneous Indians) and on the 1890 Dudley/Webster distribution list. In the enrollment efforts and plans for constitutional revision during 2001 and 2002, there was no discussion of community as a criterion for membership, which is based entirely on descent.

Despite the focus of the 69B Comments on the “traditional families,” the plans of the CB council during 1999 to 2002 indicated their view that membership remained fluid rather than narrowly defined. Council minutes indicated that the council anticipated that more, perhaps many more, would later enroll with them, some shifting from 69A (69B Minutes 2001.10.26). Reference was made to a group of 93, not otherwise identified, which was considering enrolling. Since these potential members were not identified, it could not be determined whether they were on the 2002 69B list submitted for the FD or not. Petitioner 69B made a strong effort to prevent dual enrollment with 69A, with enrollees being required to file an affirmation of membership which excluded dual enrollment. It was stated in a CB council meeting that dual enrollees eventually had to decide which “side” to enroll with (69B Minutes 2001.12.28).

Powwows and Other Petitioner Events

The CB organization has from 1981 more or less continuously to the present organized powwows and other public gatherings several times a year. The petitioner presents a very limited discussion of its gatherings, stating that no lists of participants were kept but that they would not have done these if it was not meant mostly for their membership (69B PF Comments 2002.09.27, 405). It asserts, completely incorrectly, that the powwows not widely attended by non-Indians (69B PF Comments 2002.09.27, 405). The available record indicates that these gatherings were largely attended by Indians from other groups, from 69A and others, and were not primarily gatherings of CB community members. Glen and Calvin Heath made a similar observation (Calvin and Glen Heath (Calvin and Glenn Heath 2001.07.22, 22, 25).

A typical example of these CB events is described in a detailed newspaper account of the fourth Annual CB powwow, in 1984. The article, which appears to have been written by the petitioner, lists attendees and workers, mostly by Indian name. Mentioned as attending was the “Hassanamisco council,” including Walter Vickers, his father, as “chief of their council,” as well as Charles Hamilton and Wilson. None of the listed attendees appeared to be from the White or Heath families and only a few from Morse/Henries. Most attendees listed were from elsewhere in New England, including the Rhode Island council, CAC, Strong Horse [Kenneth Smith, Shinnecock], and John Peters of MCIA. Bruce Curliss, then a 69B council member, was quoted as saying the “purpose is to get native and non-native peoples together.” Although Edwin

Morse, Sr. was quoted as saying "Some 200 local tribe members have been involved in the plans for this fourth powwow," there was no substantiation of this statement in the discussion of preparations for the powwow in CB minutes preceding the event (see 69B Minutes 1984.05.04).

The PF suggested that the Algonquian Indian School, which was sponsored by 69B in the 1980's, might be an area that, with additional information, could be used to demonstrate community (69B PF 2001, 112). The petitioner did not substantially address the school in its Comments. The additional evidence in the record clearly indicates that the school was largely run by George Munyan and Kenneth Brown, non-Nipmuc, that its enrollment was not large and that most of the enrollees were not members of the petitioner (or of 69A). Thus it did not attract the membership as a whole or demonstrate community ties.

The petitioner in its review of community does not make any substantial claims that the various events it sponsored and organized demonstrated traditional culture, although most were framed in "pan-Indian" terms such as "Strawberry festival," Nikkomo, and Harvest festival. However, the account of the 1984 annual powwow quotes Edwin Morse, Sr. as describing the event as traditional songs, ceremonies and food. There was no evidence from interviews or documents that the organization's members have practiced traditional Nipmuc culture. The activities are at best symbolic recreations of what is believed or claimed by the participants to be traditional Nipmuc culture.

Conclusion

This FD concludes that 69B, the CB petitioner, did not constitute a community either before or since 1980. The petitioner's view that the CB was simply a formalization of an existing community made up of three "traditional family lines," was not supported by the evidence. Although the present membership is largely drawn from three genealogically definable "lines," there is no evidence to demonstrate that they formed a single community before 1980 or at present. There was no contemporary, primary, evidence that the women designated by the petitioner as the "informal" leaders of each of the "three traditional families" interacted during the period from 1891 through 1980, or that they even knew one another. Interview evidence also indicates that the now-living members of the Sprague/Nichols and Dorus/White lines did not know the Morse family before they joined the CB in the 1980's.

In addition, there was little evidence that each of the lines themselves, either before or after 1980, functioned as or formed actual social units as opposed to genealogically defined categories. A substantial portion of one of the lines is enrolled in 69A rather than 69B. A substantial portion of the 69B membership, descendants of Martha (Dorus) Hewitt, is drawn from collateral relatives of one of the Dudley/Webster lines who do not themselves have documented Dudley/Webster or other Nipmuc descent.

The primary CB-sponsored events, "Indian-style" gatherings, were largely attended by non-CB individuals. Non-CB individuals, with the status of "associate members," played a substantial

role in the organization's activities before 1993, although less so since then. Two non-Nipmuc individuals, active in pan-Indian event circles, played important leadership roles, including the organization and conduct of "community events" before 1987. The importance of these two individuals, and the associate members, provides evidence against the existence of a community which limits itself to individuals of long-standing association or close social ties with each other.

The 69B membership requirements do not require any demonstration of social relationships in a community, but are formally open to anyone of Dudley/Webster descent. Thus the character of the enrollment process does not provide evidence of the existence of a community.

The evidence in the record demonstrates that the petitioner has not formed a community since its initial organization in 1981, nor did its members or their ancestors form such a community from 1891 to 1981. Therefore, petitioner 69B does not meet the requirements of criterion 83.7(b).

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

Summary of the PF

In regard to criterion 83.7(c), the PF found that:

From the late 17th century through 1870, in the context of the existence of a reservation upon which the majority (over 50%) of the Chaubunagungamaug, or Dudley/Webster, Indians resided, there is sufficient evidence to meet 83.7(c) based on the carryover provisions at 83.7(b)(2). From 1870 through 1891, the only evidence of political authority is provided by the group's hiring of a lawyer and pursuit of a suit against the State of Massachusetts. From 1891 through 1976, there is no documentary evidence of continuing formal or informal political influence or organization within the petitioner's antecedent group, whether that group be defined as the Dudley/Webster descendants as a whole, or limited to the direct ancestors of the current members of petitioner #69B. For 1977-1980, there is limited evidence that the leaders of the current group began to interact with the Nipmuc group headed by Zara CiscoeBrough, but no evidence that there was political influence or authority within any organization antecedent to petitioner #69B. During the 1980's, there is evidence that an organization with officers existed, but insufficient evidence that this formal organization exercised political influence or authority over its members who were, additionally, at that period, only a portion of the current petitioner. Though some evidence does exist that the petitioner may meet criterion 83.7(c) for the 1990's, without additional material and documentation, the evidence in the record is not sufficient to conclude that

the petitioner meets 83.7(c) for the 1990's. Therefore, the petitioner does not meet criterion 83.7(c) (69B PF 2001, Summ. Crit. 79-80; see also 165-166).

New Evidence Submitted for the FD

69B Comments and Response to Third Party Comments

The petitioner addressed criterion 83.7(c) in two different submissions, the Comments (69B PF Comments 2002.09.27, 369-410) with accompanying exhibits⁴⁸ and the Response to third-party comments (69B Response to Third Parties 2002.12.02). The Response contained a section titled "Chaubunagungamaug Band Leadership at the Local Level" (69B Response to Third Parties 2002.12.02, 1, 84-94) followed by a table of "Chaubunagungamaug Leaders" (69B Response to Third Parties 2002.12.02, 1, 95-[95b]),⁴⁹ and a chapter on "Chaubunagungamaug Band Governance in Regional Tribal Context (69B Response to Third Parties 2002.12.02, 1, 96-100). As "New Data" it defines "Oral histories" and "'Round Robin' data on social relationships and leadership" (69B Response to Third Parties 2002.12.02, 84, 96). As "Newly analyzed data" it defines "Oral histories," "Newspaper articles," and "Pan-Indian organization publications" (69B Response to Third Parties 2002.12.02, 84, 96).⁵⁰

Third Party Comments

The third parties submitted argumentation in regard to political influence and authority within petitioner 69B, mainly in the form of citations to the PF, but little new evidence in regard to criterion 83.7(c) (CT/NCCOG Comments 2002.09.30, 44-47).

The Town of Sturbridge submitted comments identified as pertaining to both petitions (Malloy to Fleming 2002.10.01), but less than a page discussed petitioner 69B. It stated: "As with Petitioner 69A, petitioner 69B also must meet its burden of proof under the criteria. In particular, this group needs to address the deficiencies noted in the BIA proposed finding for criteria (a), (b), and (c). The Town has not identified additional evidence in its research that

⁴⁸The additional materials submitted by 69B (Heath to McCaleb 9/30/2002) did not address criterion 83.7(b).

⁴⁹The premises upon which this chart was compiled are not clear. For example, it includes in the sequence of "Sprague" leadership Lovan Dixon, who did not have any Sprague ancestry. There is a double appearance of Esbon Dorus, who was married to a Dudley/Webster Indian; it lists Lucy Ann Hewitt as born in 1844 rather than 1884; it lists Angela (Sprague) Leach three times; and it includes the Pegan/Wilson family which has not, throughout the 20th century, been demonstrated to have associated with the families antecedent to the petitioner nor to have been affiliated with the petitioner. Because of these defects, the FD has not addressed the chart in detail.

⁵⁰The last two chapters of the 69B Response dealt with historical relations between the Dudley/Webster Nipmuck Indians and the States of Massachusetts and Connecticut. They did not pertain directly to the criteria.

would allow the Dudley/Webster group to meet these standards . . .” (Malloy to Fleming 2002.10.01, 9).

Political Influence or Authority 1890-1980

Third Party Comments

The State of Connecticut takes the position that there was “absolutely no evidence of formal or informal political activity or organization” within the antecedents of petitioner 69B from 1891 to the mid-1970’s (CT/NCCOG Comments 2002.09.30, 44). However, it submitted no additional evidence.

69B Comments and Response to Third Party Comments, with Analysis

The 69B Comments assert that, “[t]he Chaubunagungamaug Band, Petitioner #69B, has presented proof of its existence of a community at much more than a minimal level throughout the entire twentieth century. Having done so, they meet criterion C(3)(A)iv” [*sic*] (69B PF Comments 2002.09.27, 370). As indicated above under criterion 83.7(b), this FD does not find that 69B has existed as a community under the Federal acknowledgment regulations throughout the 20th century.⁵¹ Additionally, there is no passage in the regulations that matches the petitioner’s citation. Criterion 83.7(c)(1)(iv), apparently the section intended by the citation, only indicates that meeting 83.7(b) at a more than minimal level is one form of evidence that may be used to demonstrate “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.” It is not a form of evidence that is sufficient in itself.

The evidence submitted does not bear out petitioner 69B’s assertion that there was a recognized succession of leadership throughout the century, for which “the requirements were recognized

⁵¹By contrast, there is evidence indicating a lack of community, such as Bert Heath’s statement that when he first decided to join 69B and spoke with Edwin W. Morse, Sr., the latter did not know him and reacted with surprise that he could document his Dudley/Webster ancestry:

He said the first thing is, I got to have a birth certificate and whatever I can get to prove that you are who you say you are. I come back and get this stuff. I got my mother’s birth certificate and my daughter’s birth certificate and what have you and brought it to him. In fact, he was really surprised because for about every twenty people that went there, maybe about one out of twenty, were. The next day I was there with [inaudible]. He checked it out and [inaudible]. Which he did and then he said, “O.K., I want you to start registering your family.” Which I did. My children, my mother, grandmother. The whole background (Glen and Bert Heath Interview 7/23/1998, 6-7).

Similarly, Kenneth White stated that he knew the Morse family from when he was “very young” but then defined this as since the 1980’s (White Interview 1998.07.25, 3).

throughout the community and leaders focused on informal and ceremonial settings” (69B PF Comments 2002.09.27, 371).

The interpretation of petitioner 69B’s organization and structure presented in the Response is highly theoretical (69B Response to Third Parties 2002.12.02, 96-97):

Scholars have also observed this tendency towards egalitarian lineage-based leadership among Band members generally (e.g. Leacock 1959; 1982), and characterize the political entities of which bands are often composed as “local descent groups”. Eleanor Leacock discredited Speck’s assertion that “family hunting territories” was an aboriginal feature in the Northeast, but concluded that such territories had become common in the centuries following contact with Europeans (Leacock 1954). Thus, extended families or lineages separate largely for economic reasons, meeting only seasonally as combined groups. While the Chaubunagungamaug Band are clearly not exclusively dependent on hunting territories at present, the principles of a geographic and family segregation still operates among its members (69B Response to Third Parties 2002.12.02, 1, 93).

There is no reason to believe that a band structure based on a long vanished culture and economic system carried over into the 19th century. Since, during the period from the establishment of the Dudley/Webster reservation in the 18th century through 1870, at a minimum, the petitioner’s ancestral families have not been documented to have followed such a form of organization, the petitioner’s *a priori* assertion that it is the explanation for the absence of observable political activity from 1890 to 1980 should have been buttressed with primary evidence.

The interview evidence presented by petitioner 69B in regard to the current leadership’s parents and grandparents during the first two thirds of the 20th century does not show group leadership. Rather, the recollections show the older people within each family line visiting among, caring for, and to a limited extent transmitting heritage traditions to, their own immediate relatives (Swenson 5/14/2001; Kenneth White 2001.07.23, 2-3; LeDuc 2002, 1; Bert Heath 2001.05.18, 5, 12-13; Munyan 2001.07.20, 18-19). There is no indication that the persons asserted by the interviewees to have been informal leaders or heads of extended families ever acted together. That is, there is no contemporary evidence that, for example, Mary B. “May” (Hewitt) Olson (1894-1960) interacted or cooperated with Angenette (Arkless) Goins Henries Jackson (1873-1942) or her daughter Elizabeth (Henries) Morse (1902-1991), or with Ethel Brown (1903-1979) and her daughter Eva Viola (Brown (Heath) (1923-1993), or that any of the above organized group projects with Emma (Henries) Donovan Warren (1890-1963) for any purpose. In fact, there is no primary evidence that these women visited one another, or even knew one another.

Some of the argumentation in the CB Response misinterprets the data, as in the statement, “Don Hinckley identified the Pegan family of Webster, his line, as the ‘ones who made decisions’ (Demick and Hinckley 2001.07.24, 34)” (69B Response to Third Parties 2002.12.02, 1, 88).

Hinckley descended from the Dorus/Hewitt family of Woodstock, Connecticut, rather than the Pegan family of Webster (the Pegan family of Webster is that ancestral to the Wilson family of petitioner 69A; the latest “Pegan” in Hinckley’s lineage was born about 1766 and resided in Connecticut).

The Frank Nichols who purportedly “mentored” Ron Henries (b. 1932) (R. Henries 2001.05.16), was born 1869 in Sturbridge, Massachusetts. This Frank Nichols was the son of Elizabeth Brown, who descended from the Pegan/Pollock lineage (69B PF Comments 2002.09.27, 371-373), as did his wife.⁵² These families lived in Providence, Rhode Island. Many of the events and incidents mentioned by Ron Henries in his interview are more descriptive of contacts maintained among a wider group of New England Indian descendants rather than of band or tribal organization.

Both the 69B Comments (69B PF Comments 2002.09.27, 376) and the 69B Response (69B Response to Third Parties 2002.12.02, 1, 89) cite to “ceremonial/spiritual” leadership activities by non-Dudley/Webster Indians (specifically Ella (Wilcox) Sakatau [Seketer] and her father, both Narragansett) functioning in pan-Indian contexts as providing group leadership for the petitioner. Such activities do not fall within the definition of political leadership under criterion 83.7(c). Such activities may provide leadership (see Mohegan) but to qualify must have occurred within a tribal context. Some of the persons cited as political leaders, such as the Richardson and Bates families, were never associated with petitioner 69B.

Both the 69B Comments (69B PF Comments 2002.09.27, 374-377) and the 69B Response (69B Response to Third Parties 2002.12.02, 1, 84-85, 90-92, 97-99) are marked by uncritical acceptance of statements made by interviewee George Munyan,⁵³ who was active in 69B as a “medicine man” throughout the 1980’s. For example, there is no evidence in the record that Emma (Henries) Donovan Warren was Munyan’s aunt, or even related to him, which makes it unlikely that she would have functioned as a “sociocultural leader of his family line” (69B Response to Third Parties 2002.12.02, 1, 84).

⁵²Frank Nichols was still alive as of the 1930 census; petitioner 69B did not provide information as to his date of death. His wife, Ida M. Brown (c. 1874-after 1930) was his first cousin, both being grandchildren of Peleg Brown (1815-1893) and Sarah Vickers (1819-1860), who was a daughter of Mary (Curliss) Vickers.

This ancestral line is not accepted by 69B as qualifying individuals for membership; at the time of the PF, the leadership of 69B actively repudiated the Nipmuck ancestry of the descendants of Mary (Curliss) Vickers. The argumentation in the 69B Comments presents her descendants as one of the seven Dudley/Webster “core families.”

⁵³Petitioner 69B presented no data on the genealogical background of Munyan. The interview with him did not name either of his parents, although it named a grandfather. He has no documented Dudley/Webster ancestry from the 1861 *Earle Report* or from the 1891 distribution list; OFA researchers have not succeeded in identifying any documented Nipmuck or Indian ancestry for this man.

Political Authority and Influence 1980-Present

Third Party Comments

The State of Connecticut asserts that, "Petitioner 69B did not become an independent political entity until the Morse subgroup separated from Petitioner 69 in 1996" (CT/NCCOG Comments 2002.09.30, 44), maintaining that: "Petitioner 69B cannot possibly be said to have exercised political influence 'as an autonomous entity; -- that is, independent of any other Indian governing entity's control -- as required by mandatory criterion 83.7(c). On this ground alone its petition is fatally defective" (CT/NCCOG Comments 2002.09.30, 45).

This FD, as described, concludes that from its formation, the CB was essentially separate from the Hassanamisco petitioner, even though nominally part of a single petitioner until 1996. However, that combined petitioner was not a body within which significant processes occurred within the meaning of the regulations, nor was the petitioner itself. Hence, there is no political process to evaluate in terms of its "autonomy."

The State of Connecticut also argues that petitioner 69B has not demonstrated the existence of a bilateral relationship between its leaders and the membership from approximately 1980 to the present (CT/NCCOG Comments 2002.09.30, 45-47). This issue is addressed below, on the basis of the evidence.

Overview of Petitioner 69B

The petitioner is an organization centered on the Edwin Morse, Sr., extended family. The governmental structure, as evidenced by the by-laws and constitutions, has organizationally guaranteed Morse and his immediate family the central position, even in the most recent 2001 constitution, by making them officers for life. The 1981 "charter" established the principle of life offices for Morse, Sr., as chief, his son Edwin Morse, Jr., as medicine man and automatic successor to his father, and his daughter Dolly Swenson as "clan mother," also for life. Similar provisions appear in subsequent governing documents.

At no point after its organization in 1981 does the petitioner appear to have considered itself more than nominally part of a larger Nipmuc entity, even though it was initially a "clan" within the then petitioner 69. It essentially functioned separately, despite official statements made and agreements and organizational documents signed at various time which defined a single or joint organization, such as that formed under the NNTC (see the extended discussion of the history of the joint efforts, councils and organizations in the FD for 69A). The picture from interviews and minutes is of a separate organization which in part sought to enroll more members from the Hassanamisco group and the subsequent, successor, 69A petitioner.

Analysis of Evidence in Regard to Political Processes, 1981-1987

Composition of CB Council from Its Creation in 1981 through 1987

The initial council membership of 69B was drawn entirely from the extended family of Edwin Morse, Sr. Added to the CB council within the first year were George “Little Turtle” Munyan, and Kenneth Brown (Spotted Eagle) (Anonymous 1982.00.00 ca.). These two individuals, neither of whom were Nipmuc, let alone of the claimed traditional families, played important roles in the 69B organization in its early years.

Munyan, who claimed Pocumtuck and Nipmuc ancestry which OFA researchers have been unable to verify, was initially brought in as an associate member, even though on the council. Munyan also did not have a history of other connection with the Morse family or other members of either petitioner. The CB minutes indicate that the participation of Munyan as an associate came only after some discussion, and that he was sponsored by Ruth Morse, Edwin Morse Sr.’s daughter. He and Ron Henries quickly came to be important in running the Algonquian Indian School. Munyan’s influence in the organization led at one point to Dolly Swenson’s temporary resignation, blaming Munyan for having too much influence.

It is likely that the petitioner’s argument that Munyan brought traditional knowledge (69B PF Comments 2002.09.27, 289-290) provides an explanation for his prominence in the group’s activities. The group has strongly stressed “cultural” activities, such as ceremonies and language learning. One such activity was an “Algonquin School,” to teach “traditional ways.” Both Munyan and Kenneth Brown played prominent roles in this school. Despite the petitioner’s statement that George Munyan was removed from the CB membership list in 1986 because he could not document Nipmuc ancestry (69B PF Comments 2002.09.27, 314), he again became a member of the council when it restarted, in 1993.

Kenneth Brown, also not a Nipmuc descendant and also very active on the intertribal powwow circuit, participated in Hassanamisco meetings in the late 1970’s, but in 1982 became part of the CB council. A non-Nipmuc relative of Carole Palavra (Jaha family line), he also played an important role as a “cultural leader” in various claimed traditional Nipmuc Indian traditions and ceremonies. The 69B Comments say less about Kenneth Brown’s role than Munyan’s, even though Brown appears to have been quite influential early on, perhaps because he came to play a strong role outside the CB. Unlike Munyan, however, he moved on to play an important role in the Federal Recognition Committee (FRC) and Nipmuc Tribal Acknowledgment Project (NTAP), joint organizational bodies with Hassanamisco in the late 1980’s and early 1990’s (see detailed discussion of these organizations in the 69A FD). Like Munyan, Brown played a role in supporting and validating the organization’s claim to be carrying out, and supporting, traditional “cultural activities.” In an obituary of Brown, who died in 1992, Dolly Swenson lauded at length the “cultural activities and knowledge” he is claimed to have brought to the CB (Brown 1992.12.31).

Brown and Munyan did not bring any of their relatives into membership with them, contradicting the idea that they were part of a community. Donald Hinckley indicated that he came into the group originally through friendship with Brown, whom he saw as a mentor.

Overlaps of Office Holders and Active Participants between the CB and the Hassanamisco and NNTC Organizations

Some individuals who were members of 69B, or identified themselves as such, and held positions in its organization, also played important roles in 69A and/or the joint organizations.

A prominent active figure in the early CB council was Ron "Little Crow" Henries, a first cousin of Edwin Morse, Sr., who was not well known to him beforehand. Neither, according to his own interview, did Henries have much pre-1980 connection with other Nipmuc descendants who are now members of either 69A or 69B (Henries 1998.07.13). Henries joined the CB council in 1982 (CB Minutes 1982.03.05).

Henries is important because he first played a prominent role in 69B, in the early 1980's and then, later in the 1980's and the early 1990's, was one of the three or four individuals who formed the FRC and then pushed NTAP. After the formation of the "joint" NNTC in 1994, Henries was rather constantly an active figure. Although he was nominally holding a CB seat on the NNTC, he did not act as such. Throughout all of the period from his first appearance in the documents of CB and Hassanamisco until the present, there is no information or indication as to who his political constituency might be. That is, he provided a number of ideas and took many actions, but has not by any account been representing a particular group of 69A or 69B members or been influenced by them.

Henries broke with the NNTC around 1999, resigning as council chairman, although continuing to attend meetings for some time. The reasons for the split, and hence the nature of any political processes, are unknown. Henries only commented that he was "taking a different path" than the 69A council, which during the conflict made him an "inactive member," a new category invented on the spot (Newsletter 2000.10.00). He reportedly declared in 2001 that he was a CB member and met with that council. There was no indication that he had a group of followers that he proposed to bring with him to the CB organization. He is presently a member of petitioner 69B.

Two members of the Jaha line, a family with a long history of contacts with Zara Ciscoe Brough and the Hassanamisco fairs, played a role in CB in the mid-1980's. Carole Palavra and her son Bruce Curliss were on the council. Palavra later said that they left because they "weren't accepted over there" (Brown 1988.08.28, 488). Bruce Curliss, who was Nipmuc representative to the MCIA in the mid 1980's, made a substantial effort to try to get the Hassanamisco and CB organizations to work together (Curliss 1997.11.24; Curliss 1998.07.02). He organized a membership meeting in 1991 reportedly using his own funds in an unsuccessful attempt to promote unity. Nothing is said at all by the petitioner in its discussion of the composition of the

group about the affiliation and council positions held by these two members of the Jaha family in the 1980's.

James Cossingham, first cousin of Carole Palavra (Jaha line), played a prominent role in Nipmuc events and organizations from about 1985 to 1993. Cossingham, a businessman, pushed very hard to unify the two organizations, at one point threatening to sue to enforce unity. Cossingham was one of the four who lead the Federal recognition committee. Although he was identified as a member of the CB at this time, he does not appear to have played any role in its organization or to be representing its interests. Cossingham was on the 1977 Hassanamisco list compiled by Zara Ciscoebrough (Cossingham 1998.01.20).

Lois (Jackson) Boyd, an individual closely involved with Zara CiscoeBrough, but not able to demonstrate Nipmuc ancestry, was also involved with the CB for a time in 1981 and 1982 (CB Minutes 1982.01.21). She was apparently signatory to their 1982 "charter" from the State of Massachusetts. Boyd was a member of the 69A council in the 1990's.

Even the extended Morse family has not been limited to the CB petitioner, in terms of participation (as opposed to mere dual enrollment). Liz (Walley) Kiser and Cheryl Lynn (Toney) Holley, members of the Morse extended family, have been very active in the NNTC since the separation from 69B and also in the Nipmuc Women's Health Coalition, an organization supported by the 69A council. Kiser also conducted interviews for 69A.

Analysis of Evidence Concerning Political Issues and Political Communication 1985-Present

The primary purpose of the petitioner's narrative concerning 1985 to 1996 was to demonstrate political influence by supporting the position that the CB organization has held strongly to a narrow definition of membership, based on the claimed historical community, in contrast to the "looser" criteria of the Hassanamisco council before 1985, and the "expansionist" approach of NTAP and NNTC after that.

The 69B Comments especially focus on strong opposition from the CB organization to the expansion of membership under NTAP (69B PF Comments 2002.09.27, 264-265). This is the most detailed and documented exposition of a claimed community political issue for 69B that the petitioner presents. There is good evidence that Edwin Morse, Sr., and his daughter Dolly Swenson in a number of contexts objected to the membership criteria proposed or adopted by NTAP, NNTC or Hassanamisco as too broad, and stated that individuals were being accepted with inadequate documentation (Morse to Members 1996.05.07). Swenson was the most frequent and consistent objector on this question. There is substantial evidence that Morse and his council were more resistant to the NTAP, expanded membership than Hassanamisco.

The most extensive evidence about these objections is in the first half of 1996, a point at which the then unified petitioner 69 was being told by its researchers that there were a lot of individuals on the then current roll that could not document Nipmuc ancestry (see organizational history in

the FD for 69A). A number of interviewees remarked on how frequently Edwin Morse had attacked the ancestry of others. Although there is record of strong objections by Morse and Swenson to the inclusion of descendants from the “Miscellaneous Indians” category on the 1861 *Earle Report*, there was no substantial evidence from interviews and documents that the CB organization at that point saw itself as enrolling a distinct, preexisting community within which there were recognized, specific family lines nor that there was general concern among its membership with this issue.

The petitioner asserts, concerning the CB’s objection to the expanded NTAP membership eligibility criteria, that the intensity of the conflict demonstrates the vitality of community by showing how seriously the organization considered the issue (69B PF Comments 2002.09.27, 264). There was not substantial evidence that the membership in general was concerned with this issue. The extent of dual enrollment with 69A in the past suggests that those members were not concerned with 69A’s enrollment practices. The only potentially useful data suggested is an examination of the attendance list at one NTAP “community” meeting on April 18, 1990, which the petitioner asserts, unlike a previous meeting in March, was not attended by anyone from CB, because of opposition to the expansion of membership (69B PF Comments 2002.09.27, 329).

The comments of Swenson and Morse concerning documenting descent, and limiting membership to those who could trace to Hassanamisco or Dudley/Webster on the *Earle Report* and/or to the Dudley/Webster 1890 disbursement list, to the exclusion of Earle’s “Miscellaneous Indians” and other documentary sources, were largely directed against 69A in the context of the joint organizations (Swenson to *Nipmucspohke* 1996.05.06). One possible reason is that this would exclude the large number of Curliss/Vickers descendants who remain members of 69A, but their objections also focused on the Thomas family.

However, by contrast to these cited objections concerning membership criteria, and the petitioner’s response arguments, the CB at several points clearly invited everybody in 69A to move over to their organization, without any indicated limitations (see discussion of membership under criterion 83.7(b)).

The 69B Comments contain other scattered references and analysis concerning political issues, but nothing detailed to demonstrate the involvement of the membership at large in the issues and political processes. These references did not identify useful evidence.

Ken White, a member of the 69B council, when questioned about political issues, did not provide substantial information. His only response was a vague reference to genealogical concerns, though he did note that the group did not accept the “Miscellaneous Indians” list (White 1998). He did not include conflicts with 69A as a political issue of concern to the membership. Bert and Glen Heath did not indicate the membership definition question as an issue in response to questioning concerning political issues (B. and G. Heath 1998.07.23).

Some evidence is presented from interviews with Bert and Glen Heath that information and opinion is passed along through the family from the persons in their family on the council (B. and G. Heath 1998.07.23). This description was not adequate to show that more than the immediate extended families of the office holders were involved. Questions to White concerning political communication resulted in general statements about political communication at group gatherings (White 1998.07.25). The petitioner did not provide a description or analysis of communication at group gatherings.

Political Conflicts

Internal conflicts often provide evidence of significant political processes within a petitioner (see, for example, the STN PF). There are indications of conflicts within the CB membership. However, most of the available evidence indicates these were conflicts between individuals, with limited evidence that these individuals had a body of supporters who were aware of and involved in the conflicts.

A conflict involving Dolly Swenson surfaced in 1986, when Swenson told Donald Hinckley, a council member, that she had resigned from the CB council. She said: "My integrity won't allow me to even consider coming back to the CB council. The conflicts are too numerous to list. I resigned in December. But my communications to the council are gone over by George Munyan and I guess you all chose him [for this]" (Swenson to Hinckley 1986.02.22). She went on to say: "Trust me as your clan mother, the conflict cannot be rectified" (Swenson to Hinckley 1986.02.22). She alluded to her role as MCIA commissioner as a possible reason, indicating that she was accused of mishandling funds received by the CB from the Commission to carry out reburial of Indian remains. Swenson here blamed George Munyan and claimed that the chief (her father) was a figurehead, with Munyan having "taken over a lot of decisions that were not up to him" (Swenson to Hinckley 1986.02.22). Swenson was also in conflict with her father, Edwin Morse, Sr., at other points. In none of these conflicts, however, is there a hint that she was raising issues of concern to other members or that she had a body of followers.

The 69B Comments note that "to this day, factions dispute the lifetime appointment" of the Morses, but do not attempt to utilize these disputes as a means to demonstrate internal political processes by providing descriptions and supporting data (69B PF Comments 2002.09.27, 287, 309-10). It only mentions these conflicts, stating that "during the 1990's, charges and countercharges created dissensions that still haunt the CB" (69B PF Comments 2002.09.27, 265).

There is some evidence for political conflict mobilizing membership in the later, post-1996, period, specifically conflict with Morse over his control of the council. The most substantial evidence, however, involves other members of the Morse family as well as other Sprague/Henries descendants. There is not, overall, enough evidence, over a long period of time, for these conflicts to provide substantial evidence of internal political processes, especially

given the lack of contacts between the “three traditional” families and the substantial variation in composition of the organization between 1980 and 2002.

The petitioner did not submit one possible example of a protest, drawn entirely from the extended Morse family, including some of the siblings of Edwin Morse and some of their children and grandchildren. The lead signer is Morse’s nephew. No role was indicated for the other two “traditional family lines.” Approximately 40 individuals wrote to BAR in 1998 protesting the perceived domination of the CB council by the immediate family of Edwin Morse, Sr. (B. Walley *et al.* 1998). The petitioners requested that the “present counsel [*sic*] and leadership be replaced through a democratic election. The present leadership consists mainly of Wise Owl's [Edwin Morse, Sr.] immediate family, son, daughters, grandchildren” (B. Walley *et al.* 1998).

A copy of a protest was received by the BIA in September 2002 from the son of Ron Henries, Sr. (D. Henries to Acting Nipmuck Indian Council, 2002.09.25). Henries, Sr., had shifted back to CB, after resigning from the NNTC in 1999. His son, Derek Henries, was very active politically in the CB organization. His letter to the “Acting Nipmuck Indian Council of Chaubunagungamaug” references an attempt to “avoid a first time full scale election for a Chaubunagungamaug Tribal Council.” Derek Henries objected to not being able to review the petitioner’s comments on the PF. Henries also, directing his comments at Dolly Swenson, raised the issue of the continued provisions in the latest constitution to guarantee Morse and his immediate family the position of “Chief for life” and other positions.

The 69B Comments also cite “external conflicts” as evidence, referring to conflicts with the Hassanamisco council, NNTC (69A) and within joint organizations such as NTAP. Morse, in announcing his break with NNTC in 1996, wrote to BAR stating among other things that, “[t]here have been excessive irreconcilable differences between us and the Hassanamisco Band and others” (Morse to Reckord 5/22/1996). These included “improper and incomplete genealogies to the extent that many members of the Hassanamisco band and others cannot be proven to be Nipmuc and have subsequently delayed, denied or withheld information, overt attempts to keep incriminating evidence from surfacing” (Morse to Reckord 5/22/1996). He also alluded to, “[m]ovements to control the CB through manipulation of committee members and application of financial leverage” and “collusions between some so-called Nipmucks and outside financial partners that excludes Chaubunagungamaug members and keeps information from us” (Morse to Reckord 5/22/1996). This latter assertion indicates the issues over control and financial backing were also active concerns to members of the various councils in this time period. At one meeting of the NNTC membership in 1996, Morse said he had his own backing, that he could go it alone, and that the others, if they wanted to, could join his group under his control.

The history of the CB organization at almost all points indicates such “external conflicts,” beginning with its insistence soon after its formation within petitioner 69 that Morse was chief of his band and that Walter Vickers was only chief of the Hassanamisco band (D. Swenson). An

extended discussion of these conflicts is outlined in the organizational history from 1985 to 1996 in the FD for petitioner 69A.

As with the petitioner's internal conflicts, there is little evidence that these conflicts were of importance to the membership as a whole and not only of concern to the officers and council members. The comparison made by the 69B Comments of the two Nipmuck organizations, Hassanamisco and CB, to the two the two groups in the historical Eastern Pequot Tribe is thus not accurate. In that case, opinion and concern with the division, and the conflict between the two parts, was widespread and of very long historical standing (EP, PEP FDs 2002).

CB Activities from 1987 to 1994

This period is primarily discussed in the general review of the two petitioners' organizations. Most of the available information for these years concerns the Federal Recognition Committee, NENAI, the Nipmuck Tribal Acknowledgment Project and the formation of the joint Nipmuck Nation Tribal Council in 1994, which had representatives from the CB and Hassanamisco councils as well as NTAP. There were no minutes in the record for the CB council for the years 1988 to September 1993 and no evidence whether it functioned continuously throughout this time span. It does appear that at least one of the organization's powwows and other public events went on each year, indicating some kind of organizational process continued. In 1993, the CB held a meeting to "restart" its council, and announced that it had established financial backing from investors (see also joint organizational history).

CB Council Activities from 1995 to 1998

Edwin Morse, on May 22, 1996, informed BAR that on May 8 he had informed the NNTC that the CB had decided to seek recognition on its own (Morse to Reckord 1996.05.22). He cited "irreconcilable differences" and made reference to "incomplete genealogies to the extent that many members of the Hassanamisco band and others cannot be proven to be Nipmuck." He also made indirect reference to being excluded from information about outside financial backers.

It is clear that Morse had been maintaining a separate membership list for some time. Morse sent out a mailing immediately afterwards to "to Prospective Band members," stating that the criteria for the tribal roll of CB was to "trace blood lineage back to at least the 1890 Disbursement list or preferably Earle Report of Dudley Indians." The letter went on to say "I look forward to welcoming you to our band" (Morse to Prospective Band Member 1996.06.00). There was no information about whom the mailing had been sent to.

Morse's daughters Dolly (Lucyann Morse) Swenson and Ruth (Morse) Bessette both continued to serve as representatives on the 69A/NNTC council until the late fall of 1996, while also serving on the CB council. Both evidently signed a letter sent out under the name of Ron Henries explaining the situation, stating that three CB members were still on the NNTC council

and that it represented all Nipmuc, and urging CB members to stay with NNTC (NNTC 5/30/96; see also NNTC council “memo” 1996.10.03). See also the review of this period in the 69B PF.

One individual, Tom Garr (Pegan/Humphrey descent) and his family at this point joined the CB. Garr became a 69B council member, only to withdraw quickly and seek to join the NNTC council, saying he had the “full support of my extended family” (Garr to Tribal Council 1996.10.16; Garr to Tribal Council 1996.10.26). Garr had been part of the Interim Tribal Council (ITC) formed under NTAP earlier in the decade.

In May 1996, a new CB constitution was adopted. It apparently defined a particular set of families, including Dorus, Belden, Henries, and White. The available copy of the document was missing a page, hence the list was incomplete, but appears to have listed additional family names besides these four. The names more or less track the apparent composition of the council at that time, which for some time had included White and Hinckley and had just added Heath.⁵⁴ This constitution also clearly designated Edwin W. Morse, Sr., and two of his children as chief, subchief, and clan mother. There was no indication of electoral or other political processes involving the membership in the adoption of this document.

At a CB council meeting in June 1996, it was stated that the “council would like to get members from every family on the tribal roll to pick someone to represent them on the council” (69B Minutes 1996.06.20). This is the first indication of the idea of “family” based representation being considered by the petitioner. It was also indicated at this meeting that the organization’s financial backer would no longer fund them. The CB council worked during the fall to seek Administration for Native Americans (ANA) funding for 69B’s petition and to appoint a researcher (Morse to Weber 1996.09.04; Weber to Reardon 1996.09.16; 69B Minutes 1996.09.19).

CB minutes during the fall made it clear that no elections were being held, although changes were made in council membership by action of the council itself (CB Minutes 1996.08.08). One indication of possible conflict was that at a September 19, 1996 meeting, councilman Kenneth White raised some general questions about governance (69B Minutes 1996.09.19). There was no further information concerning this.

The CB organization continued to hold at least a few of its “ceremonial” gatherings each year from 1995 to 1998 (Newsletter 1996.09.00; Newsletter 1996.04.00; Powwow 1996.09.04; Nipmuck Powwow 1997.09.10). There was little available information about the organization of most of them. The announcements indicated that they were open to and sought to attract non-Nipmuc Indians as well as the general public (Nipmuck Powwow 1998.09.16).

⁵⁴ Only a few Beldens have been enrolled in petitioner 69B, either in 1997 or 2002.

Membership and Governing Documents, 1999 to 2002⁵⁵

The CB adopted a revised constitution November 9, 2001 (69B Constitution 2001.11.09). There was little information in the record concerning how the revised constitution was developed. The development process was begun before the negative proposed finding came out. There was no evidence to demonstrate significant membership involvement. There was no information in the record concerning who or how many individuals voted for the document. The revision may have come about in part as a result of the complaints voiced by a group of members that the CB council was dominated by the immediate family of Edwin Morse, Sr., and that there needed to be representative government (B. Walley, *et al.* 1998) (see discussion above).

Discussion of the proposed revised constitution in the CB minutes indicated that representativeness was an issue considered, and that the constitution therefore called for ensuring that each of the “three traditional families” had representatives. Even in these revisions, the elections as initially planned were only for “open seats,” seemingly leaving the long held seats dominated by the Edwin Morse, Sr., family intact (69B Minutes 2001.10.26).

The 2001 CB constitution preserved the position of the Edwin Morse, Sr., family, by creating a Sachem/Elders council which is led by and includes Morse, Sr., as chief, Morse, Jr., as subchief, and Dolly Swenson (Lucyann Morse) as clan mother, positions held for life. In addition, this council was to have “no more than six additional elders representing traditions of the various families of the Chaubunagungamaug Band.” The constitution, under “governing body,” lists both the tribal sachem/elders council and the tribal council. It provided that the Sachem/Elders council was to “provide continuity on the heritage, language and spiritual roots of the Chaubunagungamaug Band of Nipmuck” while the tribal council was to “administer the business affairs and property of the Tribe.” The Sachem/Elders council was to “sit with the tribal council and provide advice and guidance but hold no vote” (69B Constitution 2001.11.09).

A set of enrollment rules was presented to the council several weeks before the date the constitution was stated to have been adopted (69B Enrollment Code 2001.10.26). These rules stated that they were based on the authority in the constitution, but did not say whether this referred to the one existing at that time or the one then about to be voted upon. Much of the language, however, appears in the subsequently adopted 2001 constitution.

Earlier in the year 2001, CB had considered recombining with 69A (69B Minutes 2001.02.21), and its minutes imply that the latter group was also willing to enter into discussions. The NNTC minutes make no mention of this. It was not clear whether any real negotiations took place.

⁵⁵For additional data, see the discussions under criteria 83.7(d) and 83.7(e).

The materials in the record concerning the CB council and organization from 1999 to 2002 give no substantial evidence that the issues the council dealt with were of significance to the membership as a whole.

Elections

There is no evidence that the CB organization has ever held elections of officers by the membership. From all evidence, the CB council from the beginning has been self-perpetuating, with council members appointed by the existing council. When the first council was formed in 1981, the council members were elected from the few people at that meeting, which was limited to the extended family of Edwin Morse, Sr. (see discussion above). The petitioner claims that there was a public announcement of this meeting (69B PF Comments 2002.09.27, 287), but presents no documentation of this.

The “restarted” CB council of 1993 was similarly elected by those at the meeting (69B minutes 1993.00.00). All of those attending this meeting, with one exception, were from the extended Morse family, and all but one of those put in office were from this family. The exception was George Munyan, who was very active and influential in the CB organization from the beginning.

A letter enclosed with Derek Henries’ protest (D. Henries to Acting Nipmuck Indian Council, 2002.09.25) indicated a CB election was to be held October 18, 2002, which was after the petitioner’s Comments on the PF were submitted. There was no information in the 69B Response to Third Party Comments as to whether such an election was actually held. However, the council list with the certification of the November 2002 Response, apparently conforming to the constitutional revisions, did not list the chief, subchief and clan mother, and did not include Edwin Morse, Sr., Edwin Morse, Jr., and Dolly Swenson as council members by other titles (69B Certification 2002.11.22). It listed three individuals from each of the three lines, including Bert Heath as council chair. The Morse family was represented by two children of Dolly Swenson, plus a descendant of Edith (Morse) Hopewell, a sister of Edwin Morse, Sr. This suggests that an election, or at least a revision of the governing bodies, occurred between the time of the petitioner’s Comments on the PF in September 2002 and its Response to Third Party Comments in November 2002.

The described process by which the “traditional families” would provide slates to run in an election which is envisioned by the most recent constitution might suggest the outlines of a political process involving the membership. No specific evidence was provided to demonstrate that the process described in the latest governing document has actually been used. The petitioner’s statement that there was a continued practice, that “each family chose a respected elder to represent, 1981 to 1996,” has little evidentiary support (69B PF Comments 2002.09.27, 394). None of the CB minutes make reference to family nominations until the revision process begun in 2001. Councilman Ken White did state he was chosen by his “family” but the description does not indicate more than his immediate family were involved (White 1998). Edwin Morse, Sr., in a 1998 interview, indicated that by 2000 there would be a process of

election by family, indicating that such political processes had not occurred up to that point (Morse 1998.07.22, 8).

Bert Heath, in describing how he came to be on the 69B council in about 1996, said that there were some council members that Edwin Morse, Sr., had appointed “who just didn’t prove that they were native” (Heath 1998.07.23). Heath reported that Morse said that he would rather have a “native” on the council, and Heath was brought in as a replacement. This description does not indicate any role for the Heath family in placing Bert Heath on the council.

The constitutional provisions, which are not well described, suggest an effort to make the council membership more representative. This part of the revisions to the constitution and bylaws in 2001 appear to be the result of political pressure to loosen the control by the family of Edwin Morse, Sr., and to the statements in the 69B PF in regard to his issue.

Conclusion

The evidence for the FD does not show any political influence or authority for a group antecedent to the petitioner from 1890 through 1980. There is no evidence that the petitioner’s ancestors at any level beyond that of the individual extended families were “able to mobilize significant numbers of members and significant resources from its members for group purposes” (83.7(c)(1)(i)). There is no indication in the data that throughout that period, “most of the membership consider[ed] issues acted upon or actions taken by group leaders or governing bodies to be of importance” (83.7(c)(1)(ii)). There is no evidence that there was “widespread knowledge, communication and involvement in political processes by most of the group’s members” (83.7(c)(1)(iii)). There were no “conflicts showing controversy over valued goals, properties, policies, and/or decisions” (83.7(c)(1)(v)). No evidence was presented to show that the petitioner might meet any of the provisions of criterion 83.7(c)(2). The only references in the interview data of “strong influence on the behavior of individual members” (83.7(c)(2)(iii)) applied only to influence from members of the individual’s own family -- not to influence from a group or its leadership.⁵⁶ The data presented for the period from 1890 through 1980 pertained either to intra-family activities or to pan-Indian activities.

For the entire period from 1890 through 1980, there is no contemporary, primary evidence in the record that shows political authority or influence among the ancestors of petitioner 69B’s members. Such evidence as the petitioner submitted has been taken entirely from oral histories (interviews) which were gathered at dates much later than the activities are alleged to have occurred and some of which (*e.g.* George Munyan) cannot be accepted as credible, since they contain numerous statements which are demonstrably inaccurate and there is no evidence that

⁵⁶The sixth “form of evidence” listed by the 69B Comments at this point, “a continuous line of leaders with a description of the means of selection and evidence of their acceptance” (69B PF Comments 2002.09.27, 370) is not in the regulations under 83.7(c). However, the regulations allow a petitioner to use forms of evidence other than those specified.

the speaker was, at the time the events would have been occurring, either a member of the community or a direct observer of the group. Corroboration and supplementation of oral histories by primary evidence has always been required in previous cases. By contrast to the claims asserted by the petitioner, several of the oral history statements by persons who are now political leaders of 69B and whose direct ancestors would have constituted its antecedents state forthrightly that there was not, prior to 1980, any group antecedent to petitioner 69B within which political influence or authority, leadership, or a bilateral relationship between leaders and followers existed.

The primary focus of the CB's response's argument for political influence from 1981 to the present is their conflicts with 69A over membership requirements and definitions. At a substantial number of points, officers of the CB, primarily the "chief" Edwin Morse, Sr. and his daughter, Dolly Swenson, have attacked Hassanamisco, NTAP and NNTC, variously, as having too broad a membership definition and including as members individuals without demonstrable Nipmuc ancestry of any kind. There was little evidence, however, that this was other than the opinion of these two leaders, as opposed to an issue of political importance to the membership in general.

There was little evidence to demonstrate, even in the past several years, that the petitioner's claimed process of political "appointment" by the claimed three "traditional families" occurs or has occurred, nor that these "families" are vehicles of substantial political communication. There is little evidence that the members who are in each of the three genealogically defined family lines exist as social or political units. No elections by the membership have ever been held to fill political offices or for the adoption of governing documents. The councils have been essentially self-appointed.

There is some limited evidence of internal conflicts within the organization which were more than simply conflicts between individuals. These conflicts tended to focus on the domination of the group by Edwin Morse, Sr. and his immediate family. Some of the opposition has come from others in the extended Morse family, i.e., from his siblings and their families. There was not enough evidence from these conflicts to demonstrate substantial membership interest in the conflicts or the associated issues to provide substantial evidence of knowledge and involvement of the group as a whole in political processes.

The petitioner has not demonstrated that it has exercised political influence or authority over its membership since it was formed in 1981, nor that, after 1890, there was an antecedent community to the petitioner within which political influence or authority was exercised. The conclusion in the PF stands. Petitioner 69B does not meet the requirements of criterion 83.7(c).

83.7(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.

Summary of the PF

The PF Summary Under the Criteria (69B PF 2001) in regard to criterion 83.7(d) described the several governing documents associated with petitioner 69B and its predecessor groups, including the 1996 "Constitution of the Chaubunagungamaug Band of Nipmuck Indians" which the PF found to be the current governing document of the group (69B PF Simm. Crit. 2001, 168). The PF also found that there was no council certification of the constitution and that the 1996 newsletter "made no reference to a preceding or proposed adoption of a new constitution by the organization (*Chaubunagungamaug News* July 1996)." The PF also found:

Although the constitution contained no provisions for amendments, on January 13, 1997, a letter from Edwin Morse, Sr. and Edwin Morse, Jr. sent an amendment to the Chaubunagungamaug constitution which re-defined the family lines to hold council seats (Morse and Morse to Reckord 1/13/1997). It did not indicate the procedure by which the amendment was adopted, or the date, or have additional council signatures (PF 69B Simm. Crit. 2001, 168).

The petitioner was notified that:

It has been impossible to determine whether or not this constitution represents a legally validly adopted current governing document for petitioner #69B. Before issuance of the final determination, the petitioner should submit a copy of the complete current governing document so designated and formally certified by the full governing body.

However, the August 8, 1996, constitution and the January 1997, amendment have been submitted by petitioner #69B as its current governing document. Therefore, the petitioner meets the requirements of criterion 83.7(d) (69B PF Simm. Crit. 2001, 168-169).

New Evidence Submitted for the FD

Petitioner 69B's response to the PF included a new constitution dated November 9, 2001, which was certified by "Chief Wise Owl" [aka, Edwin W. Morse, Sr.], who stated: "This will certify that this is the duly enacted constitution of the Chaubunagungamaug Band of Nipmuck Indians that was ratified by the Membership of the Tribe at Webster, Massachusetts, on November 9,

2001” (69B Constitution, 11/9/2001, 9). A heading on each page of the nine-page document says “Ratified November 9, 2001;” however, there is no list of attendees at a meeting on that date, there are no minutes of a November 9, 2001, meeting, and there is no summary or tally of a vote taken on adopting a new constitution in the record submitted for the FD. Edwin W. Morse, Sr., was the only officer to sign the actual document.

The petitioner submitted a one-page agenda of the November 9, 2001, meeting which read: “(1) Opening Prayer - Chief Wise Owl, (2) Introduction of Council Members - Ken White, (3) Introduction of Committee Members, (4) Dr. Jim McClurken - Petition Review, **(5) Question and Answer Period - Constitution, (6) Ratify Constitution - Voting**, (7) Adjourn for Refreshments” (69B Agenda 2001.11.09). [emphasis in original] The first five items on the agenda were checked off, but not the last two.

There were a few comments in the months preceding the November meeting concerning membership issues and a new constitution. The May 25, 2001, meeting minutes recorded six members of the council and two guests were present. Two of the topics for discussion were “We need to tidy up documented criteria for tribal membership,” and “We need to think about opening some seats on the council for better representation” (69B Minutes 5/25/2001). The minutes do not include any of the actual discussions on these topics or make reference to the membership or constitution committees’ work on either topic.

The minutes of the July 18, 2001, meeting stated that it was “solely based on reviewing the Constitution and preparing for the meeting” and called for creating a constitution committee, an enrollment committee, and an election committee from the membership to work with the council to “clarify membership standards, help amend the constitution, and aid in the election process” (69B Minutes 2001.07.18). These minutes were not on the typical letter-head paper and the officers, members, or guests attending the meeting were not listed. If anyone was named to any of these three committees, it was not recorded in the minutes.

In the month preceding the vote on the constitution, the council minutes show that six council members and four guests were present. One of the topics of concern was the number of Chaubunagungamaug (69B) Indians who were on the Hassanamisco [Nipmuc Nation] (69A) roll:

BAR will not accept the ‘nation’ concept. They are 69a Hassanamisco and we are 69b Chaubunagungamaug [sic]. That is how they see us. The Chaubunagungamaugs [sic] who want to stay on the fence or stay in Sutton are free to do so, but there is no way that they can prove they are descended from Hassanamesit. So be it. It will be their choice when it comes down to the decision time. But our attorneys and Jim (anthropological team) feel we can go without them and add them after the determination is in. We do not want to be accused of recruiting new Nipmucks.

The Nipmuck people who want to join our rolls must meet the criteria of our membership criteria.

They must ask in writing that they want to be on our rolls.

We are not going to wait any longer and hope 93 people will come on board, if they do not want to they will have to accept the consequences later (69B Minutes 2001.10.26).

To ensure that only members of the Chaubunagungamaug Band attended or voted on the constitution, the council agreed to have a membership list at the door to check off those who attended and to correct information if need be. The minutes also stated that the council unanimously approved the constitution as it was written and urged, "It is imperative to attend the meeting of Nov. 9th to show support of our constitution" (69B Minutes 2001.10.26).

Petitioner 69B included a copy of a letter dated October 22, 2001, that notified "Citizens of the Chaubunagungamaug Band of Nipmuck Indians" of the November meeting to vote on a new constitution. This letter stated that any "citizen of our Tribal Base Roll in good standing" who was 18 years old was eligible to vote, and that approval of the constitution will be subject to a majority vote" (69B Minutes 2001.10.22).

Petitioner 69B also included a copy of an "Enrollment Code" dated October 26, 2001, which states that it was "enacted by the Tribal Council" under the authority found in Article I, Section 2(a) of the constitution; however, this article is found in the [draft] constitution that was not yet ratified by the general membership (69B Enrollment Code, 2001.10.26). The council approved the constitution on October 26, 2002 (69B Minutes 2001.10.26); however, the general membership did not ratify the constitution until November 9, 2001.⁵⁷ The "Enrollment Code" described the application deadlines, the composition, duties, and confidentiality of the enrollment committee and its records, as well as describing the application form and the processing of the applications. The "Enrollment Code" also stated that members could relinquish membership upon written notice and listed the grounds for loss of membership as enrolling in another federally recognized tribe, or having been enrolled "in error or by fraud" (69B Enrollment Code, 2001.10.26).

The petitioner submitted a council resolution dated September 20, 2002, which certified the November 9, 2001, constitution. This resolution was signed by "Chief Wise Owl" and eight council members (69B Resolution 2002-010). The "whereases" of the resolution lay out the history of the constitution that was ratified on November 9, 2001. In brief, the council stated that it established a "Constitution Committee" [no date of when this occurred] with

⁵⁷As stated earlier, there are no minutes, attendees lists, or voting results for the November 9, 2001, vote on the constitution.

representatives of the “traditional families to develop a draft constitution to be considered for adoption by the membership.” The resolution stated that the committee held several meetings during 2001 and came up with a draft constitution “to equitably govern the Chaubunagungamaug Band.” The resolution did not define the “traditional families,” but stated that the council accepted the recommendations of the committee and approved the draft, which was then adopted by the membership at the November 9, 2001, meeting. The council resolved to submit this constitution as a part of the petition for Federal acknowledgment, and

Whereas: The Summary Under the Criteria and Evidence for the Proposed Finding, signed by the Assistant Secretary for Indian Affairs on September 25, 2001, specifically requests the submission of a copy of the “complete current governing document so designated and formally certified by the full governing body,”

Now Therefore Be it Resolved, That the Tribal Council hereby certifies that the attached document is a true and correct copy of the Constitution of the Chaubunagungamaug Band of Nipmuck Indians that the tribal membership adopted on November 9, 2001 (69B Resolution 2002-010).

This resolution was passed nearly a year [November 2001 to September 2002] after the date the constitution was ratified, but appears to be the only official comment regarding its creation, ratification, and use. There is one reference in the minutes from the December 28, 2001, council meeting that relates to a membership issue:

As far as the Chaubunagungamaug that are on Sutton’s roll – They can stay on both rolls, but when all is final they will have to choose. It is agreed that no true Nipmuck will be left out that is eligible under our guidelines of membership. We will have to wait until the final determination and the rolls will reopen to the Nipmucks who qualify under our membership criteria (69B Council Meeting, 12/28/2001).⁵⁸

The minutes do not state if the “Sutton roll” is a new membership list of the Hassanamisco group, or the membership list at the time of the PF, but the implication is that being on the Sutton roll [the Nipmuck Nation, petitioner 69A] might affect a member’s status in the Chaubunagungamaug Band. The 1996 constitution forbade dual membership in another band, federally recognized or not (69B Constitution 1996, Sec. I, E). However, the 2001 constitution states that “No person whose name appears on the Base Roll of the Chaubunagungamaug Band of Nipmuck Indians shall be a member of any other federally recognized Indian tribe” (69B

⁵⁸These minutes are in FAIR, Doc. # NB V006 D0347, page 2 of 3, with the short citation of: Agenda, 2001.11.09. They reflect a general misunderstanding of the regulatory principle that, aside from technical corrections, the membership at the time of Federal acknowledgment becomes the base roll when a tribe is acknowledged.

Constitution 2001, Art. I., Sec. 4). Since the Nipmuc Nation (petitioner 69A) was not federally acknowledged at the time the 2001 constitution was ratified, dual membership would not be an impediment to those individuals who appear on each group's list.

Provisions of the 2001 Constitution

Article I, Section 1 of Petitioner 69B's 2001 constitution states:

Membership shall be comprised exclusively of persons who provide adequate documentary evidence of direct lineal descent from a person or persons identified as Chaubunagungamaug Nipmuck Indian on either the 1861 Earle Report, excluding any amendments or supplements thereto, or the 1890 Disbursement List, excluding any amendments or supplements thereto, persons who are on the Base Roll described in Section 3 of this Article, and persons adopted pursuant to a Tribal code enacted under the authority provided in this Article (69B Constitution 2001, Art. I, Sec.1, 1).

It should be noted that the *Earle Report* and the 1890 Disbursement List referred to Dudley Indians or Dudley/Webster Indians, not to "Chaubunagungamaug Nipmuck" Indians.

Section 2 describes the creation of an enrollment committee comprising of from three to five members who are "duly qualified members of the Chaubunagungamaug Band" and who will "reasonably represent the several families" (69B Constitution 2001, Art. I, Sec.2, 1). Under this provision, the enrollment committee will review the applications and "have the power and responsibility to take all actions necessary to evaluate and make findings" within 90 days of receiving a completed application (69B Constitution 2001, Art. I, Sec.2, 1). If the majority of the enrollment committee approves the application, it will then recommend that the council approve the application. The committee will recommend that the council deny approval if the "application does not receive the approval of at least a majority of the members of the Enrollment Committee" (69B Constitution 2001, Art. I, Sec.2, 2). This section also allows for an appeal if the council denies an application.

See the following section on descent from the historical tribe for analysis on how the provision that members shall consist "exclusively of persons who provide adequate documentary evidence of direct lineal descent" from qualifying documents used by petitioner 69B, and the phrase "any amendments or supplements thereto," could affect the membership status of the individuals who descend from the "Miscellaneous Indians" listed or the Hassanamisco tribe listed on the 1861 *Earle Report*. If by the term "1890 Disbursement list" the petitioner means the list of 58 persons who were alive on December 2, 1890, who "swearing under oath belong by blood to the Dudley or Pegan Indians as compiled by Charles T. Stevens & Thomas Harrington, Commissioners of the Commonwealth of Massachusetts for the Pegan Indians" (Forbes to Stevens, 12/2/1890), it excludes several individuals who were also identified a year later as distributees or heirs of the Dudley sale. If "any amendment" to that list refers to the September 1, 1891, list of 80

individuals who were paid as the heirs of the Dudley sale (Forbes to Stevens, 9/1/1891), then this would omit 22 individuals whose names did not appear on the 1890 list. Likewise there were at least two lists prior to the December 2, 1890, list – the November 28, 1888, list of “persons entitled to said [Dudley] property (Morrison to Worcester Probate Register, 11/28/1888), and the December 1888 Distribution list (Forbes to Stevens 12/24/1888) – that identify Dudley heirs. It is unclear whether these documents are what the constitution refers to as “amendments or supplements” to the 1890 distribution list.

The article on membership does not describe in what form the application must be made or include any standards or guidelines for documenting or verifying an application. It does not state whether the applicant must submit all the necessary documentation or whether the committee has the responsibility of obtaining additional information. The petitioner has not submitted any membership ordinances or other documents to explain how this provision is executed.

Section 3 of Article I describes two kinds of membership rolls: A “base roll” of all persons who meet the standards of Article I, Section 1, as of the date the constitution is adopted [November 9, 2001], and a “tribal roll” of all “living members on the Base Roll, children and descendants of members listed on the Base Roll who have been approved for membership, and members adopted pursuant to Article I, Section 3, Subsection d” (69B Constitution 2001, Art. I, Sec. 3, a., 2). This section also limits the base roll to individuals who are certified by the committee and the council “no later than 180 days following the date on which federal recognition of the Chaubunagungamaug Band of Nipmuck Indians becomes effective,” and the individuals who apply within 180 days following recognition and whose applications are subsequently approved (69B Constitution 2001, Art. I, Sec. 3, c., 3).

The 2001 constitution’s provision for dual enrollment states that individuals on the CB (69B) “base roll” shall not be a member of any federally recognized Indian tribe. It makes no mention of whether members of petitioner 69B may be enrolled in other groups that are not federally recognized. This is a change from the 1996 constitution, which forbade dual enrollment with both federally recognized tribes and non-recognized groups, presumably meaning the Nipmuc Nation, although this was not specifically stated.

This section also states that children of individuals on the base roll or tribal roll may become members if the parent or legal guardian applies for them while they are under age 18, but if the “application is not made before the child reaches the age of eighteen, such person seeking membership may then apply to the Enrollment Committee for membership” (69B Constitution 2001, Art. 1, Sec. 3, b., 2).

Article II of the 2001 constitution deals with governance. It describes two governing bodies: a “Tribal Sachem/Elders Council” to “provide continuity of the heritage, language and spiritual roots” and a “tribal council” to administer the business affairs and property of the group (69B Constitution 2001, Art. II, Sec. I, 3). The sachem/elders council consists of the “Chief for Life,

Subchief, and Clan Mother for Life,” and no more than six other elders who will sit with the “tribal council” for prayer, advice, and guidance, but hold no vote in the business of the “tribal council” (69B Constitution 2001, Art. II, Sec. 2,3). Section 3 states that the governing body shall be the “tribal council,” composed of nine members who will annually elect from within the council a chair, vice-chair, secretary, treasurer, and moderator.

Section 4 states that the council will enact a code regarding elections and Section 5 prescribes that the council be elected “in a manner which seeks to fairly represent the several families that comprise the enrolled members of the Tribe” (69B Constitution 2001, Art. II, Sec. 5, 4). This section also describes the lengths of the terms of office and states that “Membership on the Council shall include no more than three (3) members from any one of the three families which traditionally comprise the Chaubunagungamaug Band of Nipmuck Indians. If any family does not have three (3) members that seek election, those seats shall be filled by the highest vote getter from the membership at large (69B Constitution 2001, Art. II, Sec. 5, 4).

The constitution does not name or define the “several families that comprise the enrolled members” or the “three families which traditionally comprise the Chaubunagungamaug Band;” however, the January 13, 1997, letter that cited an amendment to the 1996 constitution which stated that the group would elect

one council member by and from each of the following six families: Dorus, Henries, Pagan, Nichols, Humphrey, and Stebbins/Wheeler. . . The reason for this change is because the Weber name is not a descending family on either of our base rolls. The name only appears in 1994. They are claiming to be a descendant of the Dorus line which is already included in our constitution. The Stebbins/Wheeler family is a descending line and we do have active members on both the council and our tribal roll (Morse and Morse to Reckord, 1/13/1997).⁵⁹

The March 8, 2002, 69B’s minutes refer to creating identification cards “color coded to family affiliation” and identified the families as Sprague/Henries, Nichols/Heath, and Dorus/White (69B Minutes 2002.03.08), apparently following the guidance in the October 26, 2001, “Enrollment Code” that stated under the section on identification cards that “the family with whom the Member wishes to be affiliated for purposes of voting, such families traditionally comprising the Chaubunagungamaug Band of Nipmuck Indians: Dorus/White, Sprague/Henries and Nichols/Heath” (69B Enrollment Code 2001.10.26, Sec. 7(b)(3)).⁶⁰

⁵⁹This statement was, objectively, in error. The individuals claiming descent from the Stebbins/Wheeler (Hassanamisco, not Dudley/Webster) family in 1997 did not have documented lineage.

⁶⁰The three extended family lines that dominate 69B’s current membership are Henries/Morse (Sprague/Henries and Nedson/Dorus descent), Hewitt/White (Nedson/Dorus descent), and Brown/Heath (Sprague/Nichols descent). None of these have Humphrey ancestry; there are only four individuals in the petitioner’s membership that descend from the Humphrey line. The Henries/Morse and Brown/Heath families have

Section 6 states that any enrolled member who is at least 18 years old and not previously convicted of a felony is eligible to serve on the council. Section 7 describes how a council member may be removed from office because of unexcused absence from any three consecutive meetings, or failure to perform duties, conviction of a felony, or by a recall petition signed by 50 percent or more of the registered, eligible voters (69B Constitution 2001, Art. II, Sec. 6, Sec. 7, 5). The constitution allows for vacancies to be filled by appointments made by the council (69B Constitution 2001, Art. II, Sec. 8, 5).

Article VIII states that the constitution may be amended by “the affirmative vote of at least seven (7) members of the Tribal Council and a majority of the enrolled members voting in an election convened for that purpose” (69B Constitution 2001, Art. VIII, 8). The other articles deal with outlining the duties of the council, establishing a “tribal court” and police force, researching land claims, guarding the rights of minors or incompetents, and determining the form for adopting council statutes, codes, and resolutions (69B Constitution 2001, Art. III -Art. VII).

Conclusion

The petitioner has provided a copy of its most recent governing document, a constitution ratified on November 9, 2001, which was certified by a council resolution on September 20, 2002, that describes the group’s membership criteria and governing procedures, as required under the criterion.

The petitioner meets criterion 83.7(d).

83.7(e)(1) 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.

83.7(e)(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

at least one ancestor who was identified as a Dudley Indian in either 1861 or 1888-1891, as does the Humphrey family; the Hewitt/White family does not.

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.

Summary of the PF

The PF outlined petitioner 69B's membership lists and their definition of descent from the historical tribe, which was defined as the Dudley/Webster Indians that had been in Worcester County, Massachusetts, from the late 17th through the late 19th centuries. Individuals belonging to the historical tribe were named in official records compiled and maintained by the State of Massachusetts: the 1849 *Briggs Report*, the 1861 *Earle Report*, and the 1891 final distribution list of the assets resulting from the sale of the reservation property (69B PF, Simm Crit., 169).

The PF found that 87 percent of the membership (185 of 212) descended from the historical Dudley/Webster Band of Nipmuck Indians as defined by the 1861 *Earle Report* and the 1891 final distribution list, and met the petitioner's own membership requirements. All 185 of those eligible members descended from Lydia (Sprague) Nichols Shelley Henries through two sons and one daughter. One of her sons, Winifred Lemuel Henries, married Angenette Arkless, a great-granddaughter of Betsey (Pegan) White who was also a Dudley Indian on the 1861 *Earle Report*.⁶¹ Therefore, 110 members on the 1997 list had descent from at least two Dudley Indian ancestors who were on the 1861 *Earle Report*.

The PF summarized petitioner 69B's membership descent from Lydia (Sprague) Nichols Shelley Henries, who was one of the Dudley Indians listed on the 1861 *Earle Report*:

110 members in petitioner 69B descended through Lydia's son Winifred Henries, all through his daughter Elizabeth Rogers (Henries) Morse (79 were also members of petitioner 69A). Edwin Morse Sr. is one of Elizabeth (Henries) Morse's sons.

71 members in petitioner 69B descended through Lydia's daughter Hannah (Nichols) Brown

⁶¹Betsey Pegan (Caesar) White (ca. 1801-1869), her daughter Angenette Briggs (White) Dorus (abt. 1829-1897), and her granddaughter, Betsey Dorus (abt. 1849- aft. 1890) were all listed as Dudley Indians on the *Earle Report* in 1861. The Dudley Indian ancestry in this Dorus family comes from Angenette B. White, the wife of Esbon/Solomon Dorus, not from the Dorus family. Descendants on this branch of the Dorus family tree clearly have Dudley Indian ancestry from Betsey Pegan (Caesar) White and her daughter Angenette B. White, as well as from Lydia Sprague.

4 members in petitioner 69B descended through Lydia's son Walter Henries (3 were also members of petitioner 69A)

Another 12 percent of 69B's 1997 membership (25 of 212) descended from a Martha (Dorus) Hewitt (1854-1908), the granddaughter of Polly (Nedson) Dorus (1774-1872), a woman whom the petitioner claimed was the Polly Dorus who was identified as a Dudley Indian on the 1890 Dudley/Webster distribution list. However, the PF found:

The name "Polly Dorus" did appear on the 1890 distribution list, but it is not clear from the documentation that it pertained to the same woman named Polly Dorus who was the ancestress of these members (the death record and the Worcester County, Massachusetts, probate record associated with the 1886-1891 disbursement process are in conflict) (69B PF Simm Crit. 2001, 178).

Thus, the PF did not accept Martha (Dorus) Hewitt as a Dudley Indian descendant, or her 25 descendants in the 1997 membership as having established descent from the historical tribe.

The PF also found that about 1 percent of the 69B membership did not have documented Indian ancestry (69B PF Simm. Crit. 2001, 178). Ultimately, the PF found that the 87 percent of the members who showed descent from the historical tribe was within the precedents for meeting criterion 83.7(e) (69B PF Simm. Crit. 2001, 179).

New Evidence Submitted for the FD

Petitioner 69B's Comments and Response to Third Party Comments

Petitioner 69B did not submit comments directly addressing criterion 83.7(e),⁶² descent from the historical tribe, but as part of its response to the PF's finding on criterion 83.7(b), community,

⁶²The petitioner submitted a new genealogical database that identified "Dudley/Webster Nipmuck Indians and Their Kin" and stated:

Researchers used a number of additional parameters for inclusion of Dudley/Webster Nipmucks and their relatives in the genealogical database. These are lineal descent from an individual previously entered into the database, marriage to an individual in the database, biological parenthood of an individual in the database, and in-law status to an individual in the database. . . . All individuals included in the genealogical database are assigned an ethnicity code: ER (1861 Earle Report). DL (disbursement payment lists), TM (Tribal members fo the Chaubunagungamaug Band of Nipmuck Indians, IN (non-Nipmuck Indian ancestry), NI (no information) and C-Band (lineal ancestors or descendants of ER and DL persons) (69B PF Comments, Appendix A, 413).

The petitioner included separate genealogical files for individuals on the membership list and for many of the individuals identified in the 1861 Earle Report. The files contained photocopies of some historical documents showing the descent of the individual.

the petitioner's response included lengthy analysis of both their own ancestors and the broader population that included descendants of other Indian tribes who lived in the general area of Worcester County, Massachusetts, northern Connecticut, and Rhode Island. The petitioner stated:

The text of Section One argues that due to the unique history and social position that the Chaubunagungamaug Band occupied in south central Massachusetts, northern Connecticut and in Rhode Island, that persons who represented governments, either Indian or non-Indian, failed to recognize the nature of the Chaubunagungamaug Band 'entity.' Scholars had little or no interest in any Nipmucks throughout the nineteenth or twentieth century. Hence documentation describing the Chaubunagungamaug Band "entity" is scarce, but it exists (69B PF Comments 9/27/2002, 7).

The petitioner then states that "[t]his report, from Section One forward, describes the Chaubunagungamaug Band "entity" in its own terms – terms of kinship, extended families, and historic lineages" (69B PF Comments 9/27/2002, 7).⁶³

Third Party Comments

The Town of Sturbridge did not specifically address criterion 83.7(e) in its comments on petitioner 69B, but stated: "The Dudley/Webster Band has essentially the same issues to address as the Hassanamisco group. As with Petitioner 69A, Petitioner 69B must also meet its burden of proof under the criteria" (Malloy to Fleming 2002.10.01).

Analysis

Petitioner 69B's Comments redefine non-Indian spouses as "non-Nipmuck Indians" or "generic Indians" and attributes Nipmuck tribal descent or affiliation to individuals who were not identified as Nipmuck in the historical records, or who had a surname that was at times associated with a tribe or with known Indians, (Pegan = Dudley Indian, Curliss = Indian, Hazard/Hazzard = Narragansett, Dixon = Connecticut Indian, for example). In addition to its direct ancestors, petitioner 69B's analysis also includes large numbers of individuals (some with Nipmuck ancestry) from the 19th and early 20th centuries who do not have descendants in the current petitioner's membership (69B PF Comments 2002.09.27, Appendix A, 411-483, esp. Table 11, 453-454; see also notes in FAIR).⁶⁴ These misidentifications and inclusions skew the evidence

⁶³The petitioner appears to be using the term "lineage" in its genealogical sense, i.e., the direct line of descent from parent to child. This FD also uses "lineage" as a term of genealogical descent.

⁶⁴69B PF Comments, "Appendix A: Kinship Analysis of the Historic Dudley/Webster Nipmuck Indians," by Peggy Uland Anderson

concerning the petitioner's ancestors, and thus skew the petitioner's analysis of composition of the historical tribe.

By redefining the historical tribe in the mid-1800's to include these other non-Nipmuc individuals, petitioner 69B's response to criterion 83.7(b) is then at odds with the group's own constitution which requires that members descend from the "Chaubunagungamaug Nipmuck Indian on either the 1861 Earle Report . . . or the 1890 Disbursement List . . ." The petitioner's misidentification of the ethnicity or tribal affiliation in an earlier generation is then passed on to the child's affiliation or identification when he or she married, thus multiplying the effect of the original mistake many times. Therefore, this FD addresses some of petitioner 69B's response to criterion 83.7(b) for community in the terms of defining descent from the historical tribe in the attached Appendix I: OFA's Description and Analysis of 69B's "Kinship Analysis."

Analysis: Membership of Petitioner 69B

Petitioner 69B submitted a membership list dated September 2002 for the FD showing that there are 357 individuals in its current membership (69B Tribal Roll 9/2002).⁶⁵ The membership list included the full name (including the maiden name), full birth date, and address of each member, as well as the petitioner's determination of the family line (i.e., Nicholls/Heath, Belden/Braxton, Henries/Sprague, Dorus/White, or other). The petitioner's determinations are somewhat arbitrary since many of the members descend from more than one of the family lines listed. There are four names on the petitioner's membership list whose origins are not documented ("other" for family), and who do not have documented descent from the historical tribe.

Comparison of the 2002 List with the 1997 Membership List Used for the PF

In order to better understand the recent changes in the composition of the current membership, a brief review of the 1997 list is needed. There were 212 individuals in the petitioner's membership at the time of the PF. The PF identified the four main ancestors of petitioner 69B's members as Martha (Dorus) Hewitt, 21 members; Eva Viola (Brown) Heath, 74 members; William Edward Henries, 5 members; and Elizabeth R. (Henries) Morse, 115 members. Sue Kessler, who did not have documented Nipmuc ancestry, had five family members on 69B's February 1997 membership list.

The totals of 69B's members on the 2002 list who descend from those same four ancestors identified in the PF are: Martha (Dorus) Hewitt, 62 members; Eva Viola (Brown) Heath, 72 members; William Edward Henries, 5 members, and Elizabeth R. Henries Morse, 150 members. None of the five Kessler individuals are on the 2002 membership list, however, there are 4 other individuals of unknown ancestry on the 2002 membership list.

⁶⁵Petitioner 69B also called the membership list for the FD the "Oct. 2002 BIA Roll;" however, to avoid any confusion about who compiled the membership list, OFA will refer to the group's current membership list as petitioner 69B's 9/2002 list.

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There are 205 individuals on petitioner 69B's 2002 membership list who were on the 1997 list. Another 97 names on the 2002 list had a parent (51), sibling (4), uncle (2), grandparent (15), great grandparent (3), great uncle/aunt (3), or cousin (19) on the 69B's 1997 membership list. There are 112 individuals on petitioner 69B's 2002 membership list who were born before January 1997, but were not on the 1997 membership list. Sixteen individuals on the 1997 list are not now on the 69B's 2002 list.

There were 374 names on the petitioner's 1996 membership list: 224 of those names are also on the 69B's 2002 membership list. There are 210 names on the 69B's 2002 list that were on the 1995 Combined Membership List, and 81 names that were on the 1981 Combined List (Hassanamisco and Dudley/Webster groups).

Petitioner 69B's Membership as it Relates to Petitioner 69A's 1997 Membership

Ninety-five people on 69B's 2002 membership list were on both petitioner 69B's and petitioner 69A's 1997 membership lists. There are 127 people on petitioner 69B's 2002 list that were on the 69A's 1997 list, 15 of whom are Dorus/White descendants, one is a Belden descendant, and 111 are Henries/Sprague descendants. There are another 37 individuals on petitioner 69B's 9/2002 membership list who had a close relative on the 69A's 1997 membership: 28 had a parent, two had a sibling, three had an aunt or uncle, three had a grandparent, and one had a son on the 1997 Nipmuc Nation's list.

Dual Membership: Individuals on both 69B's and 69A's 2002 Membership Lists

There are 26 individuals on petitioner 69B's 2002 membership list who are also on petitioner 69A's 2002 membership list; that is, there are 26 individuals who have dual membership in both Nipmuc(k) petitioners. There does not seem to be a pattern of who is a member of both 69A and 69B, although 22 of the 26 dual members descend from various branches of the Henries/Sprague family tree. The largest single family is that of Angenette Irene (Morse) Bostic Stewart. She, her three adult children, two grandchildren, and three great-grandchildren, are listed on both 69B's and 69A's membership lists. However, one other grandchild is only on 69B's list, but not in 69A, and two other grandchildren are on 69A's list, but not in 69B's. In another case, a woman and two of her six children are dual members, but her other four children are only on 69B's list. This same woman has one brother who holds dual membership, but three other siblings and several nieces and nephews are only on 69B's membership list. The four remaining individuals with dual membership belong to one family that descends from Mary Etta (White) Belden Slocum (1869-1938).

Descent by Family Lines

Petitioner 69B's 2002 membership list has 357 people on it, 289 of whom descend from the four ancestors identified in the PF. The 82 new members who descend from these lines are the children and grandchildren of the individuals listed in 1997. On the other hand, 52 new

members descend from different branches of the same family trees: Mary Susan, Ethel Marie, and Nellie Gladys Brown who are three of Eva Viola Brown's sisters, (15 descendants); Elsie Isabelle Henriens, who is a sister of Elizabeth R. (Henriens) Morse (34 descendants); Ethel Irene Henriens, the niece [brother's daughter] of Elizabeth R. (Henriens) Morse (4 descendants); Christine Esther Henriens, a sister of William Edward Henriens (3 descendants). Elizabeth R. Henriens Morse is the mother of Edwin Winfred ("Chief Wise Owl") Morse Sr. Thus 41 of the new members are his first cousins or the children and grandchildren of his first cousins. See the following table for percentages of 69B's current members who descend from each of these ancestors.

There are two other ancestors represented in the petitioner's 2002 membership list who did not have any descendants in 69B at the time of the PF, but each now has four. They are: Carrie Etta (Belden) Braxton and Mary Etta (White) Belden Slocum. The following table incorporates the information in the PF (see the table 69B Simm Crit. 2001, 122) with the totals for each of the lines identified on the 2002 membership list. The number of descendants in 1997 is taken from a table on page 122 of the 69B PF; however, the number of descendants for these same ancestors listed on page 178 of the PF, vary slightly: Martha (Dorus) Hewitt had 25 descendants, Eva Viola (Brown) Heath had 71 descendants, William Edward Henriens had 4 descendants, and Elizabeth R. (Henriens) Morse had 110 descendants in the 1997 membership. Neither of these lists of descendants actually adds up to 212, which was the total number of members on the 1997 membership list. It is not possible to resolve the discrepancies at this time; however, the differences are not great and do not seriously affect the results of the PF's analysis or conclusions.

The information summarized in the following table shows that 17 percent (62 of 357) of petitioner 69B's members do not descend from someone identified as a part of the historical Dudley/Webster Indians. Martha (Dorus) Hewitt (1856-1908) was not on either the 1861 *Earle Report* or the 1890 Dudley/Webster distribution list, and does not have any direct ancestors on either one. Her 62 descendants on the 2002 membership list have no other known Nipmuc ancestry.⁶⁶ (See the discussion above and in Appendix I for analysis of the data concerning this Dorus family).

About 79 percent of the total membership (283 of 357) descends from one woman, Lydia (Sprague) Nicholls Shelley Henriens, while about 42 percent of the membership descends from just one of her granddaughters: Elizabeth Rogers (Henriens) Morse. One percent (4 of 357) of the total membership descends from James E. Belden and 1 percent (4 of 357) descends from Mary Etta (White) Belden Slocum.

⁶⁶The PF said: "Another 25 of 212 (12 %) descend from Indians traditionally resident in northeastern Connecticut and south-central Massachusetts, but have not shown to be of Dudley/Webster Nipmuc descent, or of other Nipmuc descent" (PF Summ Critt, 178, ft. 202). As quoted in the summary of the PF at the beginning of this section, there was a Polly Dorus on the 1890 distribution list, but the petitioner has not shown that she was the ancestress of Martha (Dorus) Hewitt.

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Petitioner 69B's Descent by Family Lines

Ancestor's Name	Number (and %) of Descendants in 69B on 1997 list for PF	Number (and %) of Descendants in 69B on 9/2002 list for FD	Remarks
Martha (Dorus) Hewitt (1856-1908)	21 (10%)	62 (17%)	Non-Nipmuc: No direct ancestor on Briggs or Earle Reports
*Eva Viola (Brown) Heath (1923-1993)	74 (34%)	72 (20%)	Gr-gr-granddaughter of Lydia Sprague on Earle
*William Edward Henries (1951-)	5 (2%)	5 (1%)	Gr-grandson of Lydia Sprague on Earle
*Elizabeth R. (Henries) Morse (1902-1991)	115 (52%)	150 (42%)	Granddaughter of Lydia Sprague on Earle
Sue Kessler	5 (2%)	0	Unknown, not in petitioner's genealogy ⁶⁷
*Mary Susan (Brown) Rippee (1929-1998)	0	11 (3%)	Sister of Eva Viola Brown, above
*Ethel Marie (Brown) (1930-)	0	3 (1%)	Sister of Eva Viola Brown, above
*Nellie Gladys Brown (1928-)	0	1 (less than 1%)	Sister of Eva Viola Brown, above
*Christine Esther (Henries) Coleman (1959-)	0	3 (1%)	Sister of William E. Henries, above
*Ethel Irene (Henries) Black (1931-1987)	0	4 (1%)	Niece of Elizabeth R. Henries, above
*Elsie Isabelle (Henries) Hicks Russell (1909-1991)	0	34 (10%)	Sister of Elizabeth R. Henries, above
Carrie Etta (Belden) Braxton (1869-p.1893)	0	4 (1%)	Daughter of James E. Belden on <i>Earle Report</i>
Mary Etta (White) Belden Slocum (1869-1938)	0	4 (1%)	Daughter of Mary Humphrey on <i>Earle Report</i>
Unknown	0	4 (1%)	Unknown
TOTAL MEMBERSHIP:	212 [sic] (100%)	357 (100%)	

Names marked with an asterisk [*] descend from Lydia Sprague who was on 1861 Earle Report.

⁶⁷Claimed Stebbins/Wheeler descent from Hassanamisco; could not be traced to the Hassanamisco Wheeler family.

Petitioner 69B's ancestress Lydia Sprague was identified as a Dudley Indian on the 1861 *Earle Report*. Mary Etta (White) Belden Slocum was the daughter of Mary Humphrey who was on the 1861 *Earle Report*, and Carrie Etta (Belden) Braxton was the daughter of James E. Belden who was on the 1861 *Earle Report*.

Conclusion

There were 212 people on petitioner 69B's membership list at the time of the PF, 87 percent of whom had documented descent from the Dudley/Webster Indians, the historical tribe. The evidence in the record for the FD shows that about 82 percent (291 of 357) of the current 69B members descend from these three ancestors who were a part of the historical Dudley tribe that was identified by the State of Massachusetts in the 1861 *Earle Report* and the 1891 Distribution List of funds available from the sale of the Dudley/Webster property.

About 17 percent of the membership (62 of 357) descends from Martha (Dorus) Hewitt, the daughter of Charles Dorus and Mary Ann Dixon, who were Indian descendants, but the evidence does not show that they were Nipmuc Indians. As in the PF, about 1 percent of the membership (4 of 357) have unknown ancestry; however, they are not the same 4 individuals with unknown ancestry who were on 69B's 1997 membership list.

The percentage of the petitioner's membership that descends from the historical tribe is less for the FD than it was for the PF (82 percent for the FD versus 87 percent for the PF) because there are more descendants of the non-Nipmuc Martha (Dorus) Hewitt family on the membership list now, in proportion to the documented Dudley/Webster Nipmuck lines. However, 82 percent of the members have documented descent from the historical tribe which is within precedents for meeting criterion 83.7(e). Therefore, petitioner 69B meets criterion 83.7(e).

- 83.7(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.**

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Summary of the PF

Criterion 83.7(f). No members of petitioner #69B are known to be dually enrolled with any federally acknowledged American Indian tribe. The petitioner meets this criterion (69B PF 2001, Simm. Crit. 179).

New Evidence Submitted for the FD

Neither petitioner 69B nor any of the interested parties addressed this criterion.

Conclusion

Therefore the conclusion in the PF stands: petitioner 69B meets criterion 83.7(f).

83.7(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

Summary of the PF

Criterion 83.7(g). There has been no Federal termination legislation in regard to petitioner 69B. Legal detribalization by a State is not determinative for Federal acknowledgment (see Narragansett and Mohegan for precedents). Therefore, the petitioner meets this criterion (69B PF 2001, Simm. Crit. 179).

New Evidence Submitted for the FD

Neither petitioner 69B nor any interested parties addressed this criterion.

Conclusion

Therefore the conclusion in the PF stands: petitioner 69B meets criterion 83.7(g).

Appendix I

OFA's Description and Analysis of 69B's "Kinship Analysis"

Petitioner 69B's Analysis of the Kinship Ties of the Historical Dudley/Webster Tribe

Petitioner 69B's Comments included several sections analyzing kinship ties between individuals identified as Dudley Indians on the 1861 *Earle Report* and 1889 and 1891 Dudley/Webster disbursement lists, other Nipmuc Indians living in the 18th, 19th, and 20th centuries, and others whom the petitioner identified as "non-Nipmuck Indians," meaning Indians, but not Nipmuc Indians (69B PF Comments 2002.09.27, 411-483). The petitioner uses this analysis to define what it called the "Core Lineages and the Chaubunagungamaug Band of Nipmuck Indians" (69B PF Comments 2002.09.27, 414-444). Included in this section are several tables in which petitioner 69B lists the individuals grouped by appearance on the 1861 *Earle Report* and 1889-1891 Disbursement Lists, and by 69B's determination of the individual's lineage and ethnic identification (Nipmuck Indian, "non-Nipmuck Indian," "generic Indian," and "no information," etc.).

Tables A-1 to A-4 organize the Dudley Indians who were on the 1861 *Earle Report* and 1888-1891 Dudley/Webster disbursement lists by "lineage groups" (Pegan/Pollock, Jaha, Belden, Sprague, for example.) Petitioner 69B uses this information to support its claim that the current membership traces to "the Dudley Indian enclave identified in the appendix of John Milton Earle's 1861 Report to the Governor and Council of Massachusetts" (69B PF Comments 2002.09.27, 418), and is therefore evidence of "group identity and community" in the 19th century (69B PF Comments 2002.09.27, 418). Table A-5 lists ten individuals whom petitioner 69B identified as its "focal ancestors," Table A-6, is a "Recapitulation of the Dudley/Webster Nipmuck Indian Lineages from 1861 to 2002," and Table A-7 lists eight "Progenitors for assigning Dudley/Webster Nipmuck Indian Ethnicity" (69B PF Comments 2002.09.27, 439, 446, and 448). Tables A-8 to A-14 reflect the petitioner's "Analysis of Marriages by Spousal Ethnicity," based on the 692 marriages in its FTM genealogical database that it organized by categories of "Nipmuck to Nipmuck," "Nipmuck to non-Nipmuck Indian," "Nipmuck to no information," "non-Nipmuck Indian to non-Nipmuck Indian," and "no information to no information" (69B PF Comments 2002.09.27, 450). Petitioner 69B omitted the category of "Nipmuck to non-Indian" and did not limit the analysis to their own ancestors, no matter whom they married.

Petitioner 69B stated that it used the following sources for creating its genealogical database: the two drafts of the BIA's "Getting to Know You" (GTKY) file and three versions of the petitioner's Family Tree Maker (FTM) genealogical programs, and Federal censuses, state censuses, vital records, selectmen's records, "BAR documents," internet sites, private collections, military pension files, and other primary and secondary sources. However, these sources are not individually cited in the FTM program or footnoted in the text, making it difficult to evaluate the credibility of the sources and accuracy of the analyses. The petitioner's response included file folders with a summary sheet that referenced the GTKY files or genealogical databases, and in some cases, photocopies of some of the documentation, such as a town vital

record, Federal census, or published book that it used to identify the ancestor. OFA compared the information in the petitioner's genealogical file folders with the other evidence in the record to verify the new information.

OFA Analysis: Kinship Ties with the Historical Tribe

There are several problems with the petitioner's presentation of the data in these various tables and its analysis of the data. These tables do not reflect an accurate accounting of the ancestry of petitioner 69B because they include large numbers of individuals who do not have descendants in the group. The tables identify individuals as "Nipmuck" or "non-Nipmuck Indian" without supporting documentation. The petitioner's response does not provide significant new information on the petitioner's ancestors: it does not provide evidence that individuals who were not identified as Dudley Indians at the time of the PF, or as Dudley or Dudley/Webster Indians on the 1861 *Earle Report* or the 1890 distribution list, were a part of the historical Dudley tribe.

OFA compared the information in Table A-12 (Dudley/Webster Marriages: Nipmuck to Non-Nipmuck Indian" in chronological order by date of marriage) and Table A-15 (the same names but arranged by lineages in "Dudley/Webster Marriages: Nipmuck to Non-Nipmuck Indian, Grouped by Lineages") with the genealogical information available in the OFA files, such as the "NipmucNipmuckExtendedVersion.GED" in the Family Tree Maker program that OFA created in order to incorporate information found in the historian's "Nipmuc GTKY" file, the documents 69B submitted for the FD, and additional sources, to see whether the information agreed with the evidence available at the time of the PF. These electronic databases were compiled by OFA for the PF because at the time petition 69 was placed on active consideration, petitioner 69B had not submitted the genealogy in an electronic format. Subsequently, petitioner 69B submitted its genealogies in electronic format [Family Tree Maker (FTM) genealogy program], apparently using the "BARNipmucNipmuckExtended" database as a starting point for adding individuals, families, and notes.⁶⁸

The following is a list of the problems OFA found with the information in petitioner 69B's Comments (69B PF Comments Appendix A, Tables A-1 to A-15):

1. Petitioner 69B does not include all of the known marriages of the Dudley/Webster ancestor, in particular the marriages to other non-Indians (Table A-10 has "Marriages between Non-Nipmuck Indians and Spouses of Unknown Ethnicity," Table A-11 has "Dudley/Webster Marriages Nipmuck to Nipmuck," and Table A-12 has "Nipmuck to Non-Nipmuck Indian" in chronological order by date of marriage). For example, James E. Belden (1818-1897) married four times, the first three times to non-Indians and fourth time to Rebecca White Bixby, whom petitioner 69B now identifies as a "generic" Indian

⁶⁸Petitioner 69A also submitted its genealogies in an FTM database. Petitioner 69A's submission included notes and citations, some of which were in the "BARNipmucNipmuckExtended" FTM, as well as additional notes and citations to documents compiled by 69A's researchers. Some of the notes and citations in 69A's records helped to verify information and generational links in the 69B's ancestry.

in Table A-15. Petitioner 69B did not list James E. Belden's other marriages to non-Indians.

The OFA created a report of all the known marriages recorded in petitioner 69B's genealogical database that was submitted for the FD,⁶⁹ and found that there are approximately 660 total marriages, including about 238 unions without a known or estimated beginning date.⁷⁰ There are 362 marriages with dates that occurred between about 1767 and 2000 in the petitioner's database. The petitioner's analysis in Appendix A (Tables A-1 to A-15) includes approximately 210 marriages in the same time period. Thus, the petitioner's analysis relates to fewer than 60 percent (210 of 362) of the marriages it identified by date, and to fewer than 32 percent of the total marriages accounted for in its genealogical database (210 of 662).

2. Petitioner 69B does not include citations to the evidence it used to determine that a spouse was Indian (non-Nipmuck Indian). Rebecca White Bixby, whom the petitioner identified as the "non-Nipmuck Indian" wife of James E. Belden above, was not identified as an Indian in her own life-time, but as a "mixed foreigner" in the 1861 *Earle Report*. The Worcester, Massachusetts, birth record identified her as "Bixby, Rebecca-White, d. of Hiram and Jane, May 3, 1830. (Colored)." Petitioner 69B did not include information about Rebecca White Bixby's parents and grandparents, although the vital records in Worcester identify both of her parents and all four of her grandparents, none of whom were identified as Indian (see abstracts of vital records in FAIR and OFA's FTM). Petitioner 69B offers no new evidence for identifying Rebecca as an Indian.
3. Petitioner 69B uses the term "generic Indian" and surnames Warmasley, Bates, Curliss, Hazard, Hopewell, Dixon, and Jackson as the equivalent of a tribal descent/affiliation, although there is no evidence to support the assumption for each individual. In the case of Almira Warmasley, petitioner 69B stated that because she was a member of the "well-known Narragansett family" [Warmasley/Onsley], the research team assigned Indian identity to her and her daughter Emma Buck." There is no evidence in the record that Almira Warmasley was Narragansett.

⁶⁹Petitioner 69B stated that the database was the one used at the PF, but that its, "[r]esearchers used a number of additional parameters for inclusion of Dudley/Webster Nipmucks and their relatives in the genealogical database. These are lineal descendants an individual previous entered into the database, marriage to an individual in the database, biological parenthood of an individual in the database, and in-law status to an individual in the database" (69B PF Comments, Appendix A, 412-413).

The Dudley Indians on the 1861 *Earle Report* and their kin are in the database, whether or not they have descendants in the petitioner's membership.

⁷⁰The term "marriage" applies to both formal and informal unions. When an exact marriage date is missing, OFA has used the birthdate of the eldest known child, or a "before" date based on a census entry, deed, *Briggs Report* or *Earle Report* entry, or some other reliable source to estimate the beginning date of the marriage. The petitioner appears to have followed this pattern in some cases; however, the petitioner did not enter estimated marriage dates into its FTM for approximately 230 of the couples. Some of the individuals, such as James E. Belden and Rebecca White Bixby, have an approximate marriage date (abt. 1852) listed in the petitioner's analysis that was not included in the FTM database.

4. Petitioner 69B does not have citations to documents in its report or in its genealogical database that verify the newly-claimed Indian identifications for many of the individuals who were identified as non-Indian at the time of the PF. Petitioner 69B frequently cited only to the OFA's GTKY file which asked questions about the possible origins of the individual in question.
5. Information in petitioner 69B's genealogical database conflicts with information in 69B's tables. For example, petitioner 69B identified Hannah Vickers (1819-1900) as the "Non-Nipmuck Indian spouse" of Edward Pegan on Table A-15, but identified her in its genealogical database for the FD as "IN" [Indian]. However, this same genealogical database listed only one of her parents, Christopher Vickers (1793-1844), and described him as "NI" ["no information"]. This identification of Hannah as Indian also conflicts with information in the OFA's genealogical database which identified her as the child of two non-Indian parents: Christopher Vickers and Aliph Proctor, the grandchild of Christopher Vickers (1758-1803) and Rhoba Coffee (1768-1845), and Mingo Proctor (1769-?) and unknown spouse, none of whom were found to be identified as Indians in the records available at the time of the PF (see NipmucNipmuck-ExtendedVersion). The petitioner did not provide evidence that the OFA database was incorrect.
6. Petitioner 69B's misidentification of the ethnicity or tribal affiliation in an earlier generation then passes on this misidentification to the child's affiliation or lineage when he or she married, thereby multiplying the effect of the original mistake many times. Thus, making claimed Nipmuck and "non-Nipmuck Indian" marriages of these children, invalid. For example, see the OFA analysis of Table A-10.
7. Petitioner 69B misrepresents the available information about the ethnicity of many of the known marriage partners by stating that no information is available. Petitioner 69B stated:

Persons for whom no ethnicity has been verified were categorized as 'no information.' Ethnicities gleaned from vital records for these individuals include: mixed, mulatto, black, white and unknown. Additional research on the heritage of people in this category could result in reassigning their ethnicity to Dudley/Webster Nipmuck or Indian (69B PF Comments 2002.09.27, 449).

However, the OFA researchers found that in the majority of the cases, instead of "no information," there is information, but it does not identify the individual as an Indian.

The OFA was able to verify some information in 69B's Comments. However, in some instances petitioner 69B cited only to a page in the GTKY or previous FTM database and did not include primary or reliable secondary sources that identified the parentage, tribe, or ethnicity of the individual. The GTKY file was created by the OFA historian for the PF to keep track of all of

the individuals and connections among families, not just people identified as Indians. The GTKY was based on the evidence available at the time (updated in 2000), but was not meant to be the definitive document for verifying parentage or Nipmuck descent, and in fact includes several statements that additional research needed to be done on some of the individuals or families to verify Nipmuck or other tribal origins. Therefore, reference to GTKY or previous FTM genealogical databases alone is insufficient evidence of tribal affiliation, parentage, and so forth. Because the ethnicities and tribal affiliations claimed in Tables A-8 to A-15 affect the analysis shown in Tables A-1 to A-5, the problems and discrepancies in Tables A-8 to A-15 will be addressed first.

Table A-15

The 69B response includes a list of 90 “Dudley/Webster Marriages: Nipmuck to Non-Nipmuck Indian, Grouped by Lineages” (69B PF Comments 2002.09.27, 464). Petitioner 69B stated the “neighbors of the historical Dudley/Webster Nipmucks” (Narragansett, Wabaquasset, Pequot and Mohegan) provided marriage partners for the historic tribe, and that:

These marriages further cement existing social relationships in the community and reinforce a sense of Indian identity. The ninety marriages between Dudley/Webster Nipmucks and non-Nipmuck Indians can be divided into three types based on the quality of ancestral information for the non-Nipmuck spouse. The ninety marriages between Dudley/Webster Nipmucks and non-Nipmuck Indians can be divided into three types based on the quality of ancestral information for the Non-Nipmuck spouse. Some spouses can be placed in non-Nipmuck Indian lineages which have traditionally occupied the same geographical sphere as their Dudley/Webster contemporaries, other spouses cannot be placed within a lineage, but can only be identified by tribal affiliation – many described as Narragansett, Pequot or Mohegan – and the third group can be assigned only generic Indian ancestry.[ftn 1038] (69B PF Comments 2002.09.27, Appendix A, 464).

The footnote explained further:

Indian lineages occupying the Nipmuck homeland, with known tribal affiliations, include the Dixons and Hazards. Some spouses have only tribal affiliation, such as Alexander Johnson, whose Indian lineage is unknown. Some spouses carry only the generic identifier of Indian, such as Eva Marie Dailey (69B PF Comments 2002.09.27, Appendix A, ftn 1038, 464).

OFA looked at the evidence in the record to determine whether the petitioner’s new analysis of “native families” and “generic Indians” correctly identified the ancestry of the individuals and provided new information about the composition of the historical tribe from which 69B descends.

Surnames the Petitioner Identified as Representing “Native Lineages” in Table A-15

Petitioner 69B introduced the concept of “native lineages” for certain surnames in its discussion of the “focal ancestors” in Table A-5. It stated that the marriage of Lydia Sprague to Lemuel Henries “introduced the native Henries lineage into this line” (69B PF Comments 2002.09.27, Appendix A, 441), and went on to identify the Hazard, Brown, Dixon, “Henries and Hazard” names as “native lineages” (69B PF Comments 2002.09.27, Appendix A, 441-444). In Table A-15, petitioner 69B lists the five surnames above plus Curliss, Hopewell, Bates, Warmesley, Jackson, and Hemenway, which it also appears to have determined represented “non-Nipmuck Indian lineages” which traditionally “occupied the same geographic sphere as their Dudley/Webster contemporaries” (69B PF Comments 2002.09.27, Appendix A, 464). The petitioner uses “native lineages” in much the same way it listed “generic” for individuals who cannot be documented as belonging to, or descending from, any named tribe. The petitioner included 40 spouses of Nipmuck Indians by a surname in the category of “Lineage or Affiliation or Generic,” rather than by a tribal designation or as a “generic Indian” in its analysis of “Nipmuck to Non-Nipmuck Indian” marriages in Table A-15.

OFA’s Analysis of the Petitioner’s “Native Lineages”

Henries

Lemuel Henries (1836-1883) was born in Connecticut and was identified as Indian on the 1860 Federal census.⁷¹ He was identified as “mulatto” on the 1850 and 1880 Federal censuses and on the 1865 State census, and as “white” on the 1870 Federal census. The 1857 Thompson, Connecticut, marriage record between Lemuel Henries and Lydia Sprague gives his birthplace as Woodstock, Connecticut, but does not give a racial or ethnic identification (69B PF Comments 2002.09.27, Genealogical File: Henries, Lemuel). In 1861, he was identified as a “colored foreigner” living in Stockbridge with his wife Lydia, a Dudley Indian (*Earle Report* 1861, lvii). There are no Henries descendants on the 1889-1891 distribution lists, except for the children of Lydia Sprague and Lemuel Henries.

In compiling his report on the Massachusetts Indians from 1859 to 1861, the Commissioner of Indian Affairs John Milton Earle stated that “the term ‘foreigner’ is used, throughout, simply to designate one not of Indian descent” (*Earle Report* 1861, Appendix ii).⁷² Earle apparently followed the guidelines previously used by Briggs, who wrote: “under the head of foreigners, we include all, one or both of whose parents are not of Indian blood” (*Briggs Report* 1849, 6). Therefore, without additional supportive evidence, use of the term “foreigner” or “colored foreigner” in the 1861 *Earle Report* is not sufficient evidence to assume that the spouse of the Dudley Indian was also Indian, i.e. “generic Indian.”

⁷¹See FAIR notes for Lemuel Henries and Lydia Sprague for citations to Federal and state censuses.

⁷²At one point, Earle described some of the off-reservation Dudley families as consisting of “three families, consisting of nineteen persons, including, in two of them, foreign husbands of Indian women” (*Earle Report* 1861, 104).

In addition to the 1861 *Earle Report*, the other contemporary record that identified Lemuel Henries as an Indian was the 1883 death certificate from the town of Webster, Massachusetts. It named his parents as Lorenzo Henries and Maria [maiden name not known], and listed their places of birth as “unknown” (69B PF Comments 2002.09.27, Genealogical File: Henries, Lemuel). Lorenzo Henries was born in Connecticut and appears to have lived there most of his life; although he was listed on the Massachusetts State census in 1855 in Holland, Hampden County (69B PF Comments 2002.09.27, Genealogical File, Henries, Lorenzo). The abstract of the Thompson, Connecticut, marriage record for Lorenzo Henry and Maria White in the GTKY file reads “Lorenzo Henry, of Woodstock (colored) m. 13 Apr 1834, Thompson, CT, Maria White of Dudley.” There is some evidence that Lemuel, Lorenzo, Nelson, and others were the children of Jonas and Wealthy Henries, who were identified as free people of color on the Federal censuses (FAIR notes on Jonas and Wealthy Henries).⁷³ None of the records currently available for either of these individuals identified them as Indians in their own lifetimes (from approximately 1770 to 1850’s). Jonas, Wealthy, and their known children were not listed on the 1835 list of Dudley Indians, the 1849 *Briggs Report* on tribes in Massachusetts, or the 1861 *Earle Report* (List of Dudley Tribe, 2/16/1835, *Briggs Report*, 1849, *Earle Report* 1861). However, the family appears to have been from Connecticut (Wealthy’s death record lists Woodstock, Connecticut, as her birthplace, as do the birth or death records of some of Jonas and Wealthy’s children). If they were descended from one of the Connecticut tribes, the family would not have been enumerated by Earle as part of a Massachusetts tribe.

Lorenzo Henries married Hannah Greene in about 1862. The photocopy of their son Albert Henry’s birth record in Putnam, Connecticut, in 1863 stated that the child Albert was Indian (implying that at least one parent was also an Indian) (69B PF Comments 2002.09.27, Genealogical File: Henries, Lorenzo, and Henries, Albert and OFA’s New England Indians FTM database). Hannah (Greene) Henries, the daughter of Holden and Nancy Greene,⁷⁴ was born in Rhode Island and was not identified as an Indian in any of the records submitted by petitioner 69B or located by OFA. Her Providence, Rhode Island, death record noted her parentage as “A.” There is no explanation for “A.” it may have been for “American” or “African” or some other designation peculiar to the clerk in that town and in that time period. Others on this same page of death records who were identified as “white,” also had “A,” “A&E,” or “A&I” in the column for parentage, probably for “American and English [or European?]” or “American and Indian.” In any case, the evidence that Hannah Greene had Indian ancestry is as ambiguous as the evidence that Lorenzo Henries had Indian ancestry. At this time, there are only two contemporary documents in the record to support the claim that Lemuel Henries had Indian

⁷³This family was found on the censuses from 1800 through 1850. For example, see: NARS M-704, Roll 32, 1840 U.S. Census, Windham Co., CT, Town of Woodstock, p. 4371: Jonas Henry; 2 fcm under 10, 2 fcm 10-24, 1 fcm 24-36, 1 fcm 55-100; 2 fcf 10-24, 1 fcf 24-36, 1 fcf 55-100.[BARNipmucNipmuck2.FTW].

⁷⁴Abstract of town records in the NipmuckNipmuckExtended FTM file names parents and birthplace:

Woodstock, CT, p. 316, July 4, 1872, Jacob Glasko m. Hanna Henry, he 57/she 47, he of Killingly, she of Smithfield, RI, colored.

[Nipmuc 69AFDsubmission.FTW]

KA: Providence, RI Copy of Ledger Page ?, 1879, d. ?? 8, 1879 Hannah Glasgo 52y, Col'd, Married, wife of Jacob, f-Holden Greene; m-Nancy

ancestry: his own death record and his half-brother's 1863 birth record (Genealogical File: Henries, Lorenzo, and Henries, Albert and OFA's New England Indians FTM database). Therefore, these references show there may have been Indian ancestry in the Henries family, although the documents describing the petitioner's Henries family's origins is ambiguous, and there is no evidence that the petitioner's Henries ancestors (other than the Sprague/Henries) were living in tribal relations [with any tribe] when the 1861 *Earle Report* on Massachusetts Indians was compiled.

The petitioner's Henries "non-Nipmuck Indian" spouses Marcus C. and Ida L. Lewis do not descend from this same Henries line discussed above, but from Susan A. Burrell, a.k.a. Susan A. Dailey, whose death record identified her as an 81-year-old "red" woman, whose parents were ___ Benjamin and ___ Henries (69B PF Comments 2002.09.27, Genealogical File: Dailey, Susan A.).⁷⁵ Marcus C. Lewis and Ida L. Lewis do not have descendants in the petitioner's membership.⁷⁶

Brown

In another example, the "native Brown lineage" apparently refers to the ancestry of Peleg Brown (1815-1892), the husband of Sarah Ann Vickers.⁷⁷ No birth record has been found for this man, but according to his 1892 death record, he was born about 1820 in Rhode Island. However, he was identified as a 55 year old Indian born in Massachusetts on the 1880 Federal census, a 59-year-old white male citizen born in Rhode Island on the 1870 Federal census, an over 30-year-old (no race indicated in transcript) man born in Rhode Island on the 1855 Massachusetts State census, and a 35 year old white man [the field for color/race was blank, but, per instructions, the census enumerator could leave the field blank when the family was white], who was born in Rhode Island on the 1850 Federal census for Dudley, Worcester County, Massachusetts (see notes in FAIR). Peleg Brown was not on the 1849 *Briggs Report*, 1861 *Earle Report* of Massachusetts Indians, or on the 1889-1891 Distribution list for Dudley Indians.⁷⁸ Neither

⁷⁵Ida L. Lewis's mother was Susannah Annette Burrill; Susannah's parents were Aaron Burrill and Sarah Ann Benjamin (who subsequently remarried to Gustavus Dailey). Sarah Ann Benjamin was the daughter of Marvin Benjamin and Lucy Henry (not Henries) (Brown and Rose 1980, 26).

According to Pasay (Pasay 2002, 1:65-66) this Aaron Burrill was possibly the son of an older Aaron Burrell whose wife, Eunice Apes, was "of Groton, Connecticut" at the time of their marriage, December 25, 1825, at Windham, Connecticut (Pasay 2002, 1:16). Apes was a prominent surname in the Western Pequot tribe.

⁷⁶Ida's husband Winifred Lemuel Henries's second wife was Angenette Arkless: there are about 150 members in the petitioner's group that descend from Winifred and Angenette.

⁷⁷Sarah Ann Vickers (1819-1860) was the daughter of Mary (Curliss) Vickers, a "Miscellaneous Indian" on the 1861 *Earle Report*. Peleg and Sarah (Vickers) Brown's descendants in 69B also descend from Lydia Sprague, a Dudley Indian.

⁷⁸See abstract from the Narragansett Detribalization records, Report 1881, p. 84 (from Narragansett/Eastern Niantic as Background, GTKY p. 31.) for the testimony of Emily Hull: "Her testimony says connected with the tribe from her mother and father's side: mother was Sally Brown; father was John Lewis. Lived on reservation about two years; m. Daniel Hull. Mother died when she was quite small; has one half aunt on her father's side. Doesn't know if her mother lived on the reservation before her marriage--has always been told that

petitioner 69B nor OFA has been able to identify his parents or the tribe of Indians from which he may have been descended. There is no evidence that he was living in tribal relations.

Hazard

Petitioner 69B appears to use “native Hazard lineage” to refer to the ancestry of Eliza Hazard, (1808-1865) the wife of Samuel Vickers⁷⁹ and the daughter of Sampson Hazard and Hannah Coffee. The abstract of the birth record of Hannah Coffee reads, “Coffee, Hannah, [twin] d. Ishmael and Hannah, Feb 28, 1777” (New England Historic Genealogical Society, *Vital Records of Medway, Massachusetts, to the Year 1850*. Boston, MA: NHGS, (1905), Births, 41, see abstract in the notes for Hannah Coffee in FAIR). Thus, the birth record confirms that Hannah Coffee was the sister of Roba [or Rhoba] (Coffee) Vickers whose origins were summarized in detail in the following Massachusetts Supreme Court:

ASSUMPSIT for monies expended by the plaintiffs in the support and maintenance of one Roba Vickers, a pauper, alleged by the plaintiffs to have had her legal settlement in Natick, and a child of the said Roba.

The parties agreed that judgment should be rendered on the following facts. The pauper is the daughter of Ishmael Coffee, of Medway.--The said Ishmael is half black and half white.--His wife, who is the mother of Roba, the pauper, is a white woman:--the said Roba was married to one Christopher Vickers of Natick, a white person, August 6, 1789, by the Rev. Rev. Stephen Badger of said Natick.--the said Christopher is dead, and at the time of his death had his legal settlement in the said town of Natick. The said Roba, and her child by the said Christopher, are residing in Medway, are poor and indigent, and have been relieved by the said town of Medway, &c. . . . The pauper's father in this case was a mulatto, and her mother was a white woman. The pauper is then not a mulatto. According to the agreement of the parties, there must be judgment for the plaintiffs. (The Inhabitants of Medway versus The Inhabitants of Natick,

they lived in Massachusetts.” She stated: “My uncle on my mother's side always told me that my mother belonged to the Charlestown Narragansett Tribe, and I think, that they did live here. They went to Webster, and from Webster to Sturbridge, Mass. His name is Layton Brown. He is the only one that is living. I can't tell how long ago it was that they lived here. My uncle was mother's brother.”

If Mrs. Hull's recollections are correct, and Layton Brown was her mother's brother and the only one living in 1880, then Peleg Brown who was living in Sturbridge, Massachusetts, in 1880 and who died in Sturbridge in 1893 is not likely to have been a brother of Layton Brown and Sally/Sarah Brown.

⁷⁹The notes in OFA's FTM state that there is no evidence of the supposed 1806 birthdate for this man besides the Kansas Claims entry, that he could have been much older, and that there may have been two men named Samuel Vickers who appeared in the Windham County, Connecticut, records.

Mass. Reports 7 1810, 88-89).⁸⁰ [spelling and punctuation *sic* from the transcript in FAIR notes]

This court record states the family origins of the parents of Roba Coffee, who was the sister Hannah (Coffee) Hazard and the aunt of Eliza (Hazard) Vickers; therefore, any actual Indian ancestry for the family of Sampson and Hannah (Coffee) Hazard would have come from the Hazard side. Although the Hazard surname is frequently associated with the Narraganset Indians, the origins of this particular Hazard family (Sampson, his sons, Rufus and Samuel, and daughters Eliza and Diantha) are not clearly linked to the Narraganset families, as indicated by the evidence created during the their lifetimes.

The possible tribal origins of Rufus Hazard and Samuel Hazard, Eliza's brothers, were questioned in the *Earle Report* in 1861. Rufus Hazard, age 37, "Narraganset (?)" [*sic*] was living in Uxbridge, Massachusetts, separately from his wife, Alithea Johns, a Hassanamisco woman living in Oxford (*Earle Report* 1861, Massachusetts Senate Report No. 9, lii). Likewise, Earle identified Samuel Hazard as a 43-year-old widower "Narraganset (?)" living in Oxford with his son, William Wallace Hazard, a 16-year-old Hassanamisco boy (*Earle Report* 1861, Massachusetts Senate Report No. 9, lii). Diantha (Hazard) Smith, Eliza's sister, was identified as a "Miscellaneous Indian" living in Oxford, Massachusetts, in 1861 (*Earle Report* 1861, Massachusetts Senate Report No. 9, lxxv).⁸¹

⁸⁰The notes in OFA's FTM database also state:

This was assumpsit for expenses incurred in the support and maintenance of Ishmael Coffee and his wife, paupers, alleged by the plaintiffs to have their legal settlement in Needham.

*The only question made on the trial, which was had here at the sittings after the last October term, before Wilde, J., and which came under the consideration of the whole Court, respected the validity of the said Coffee's marriage, which was contested by the defendants. On this point it was proved that he was a mulatto, and his supposed wife a white woman; and they were inhabitants and residents of the province of Massachusetts Bay at the time of the supposed marriage, which was previous to the year 1770. As the laws of the province at that time prohibited all such marriages, they went into the neighboring province of Rhode Island and were there married according to the laws of that province, such a marriage not being then prohibited by the laws thereof. . . . The law now in force in this state not only prohibits the marriage of negroes and mulattoes with white persons, but expressly declares such marriages to be void [Stat. 1786, c. 3, Section 7]. But they are only void if contracted within this state, in violation of its laws. If the marriage takes place in a state whose laws allow it, the marriage is certainly good there; and it would produce greater inconveniences than those attempted to be guarded against, if a contract of this solemn nature, valid in a neighboring state, could be dissolved at the will of either of the parties, by stepping over the line of a state, which might prohibit such marriages. . . . Judgment on the verdict. (The Inhabitants of Medway versus the Inhabitants of Needham, *Mass. Reports* 16 1819, 157-161).

1768. "Ishmael and Hannah Coffee, negroes, have sixteen children born to them between this date and 1793" (Mason 1913, 20).

⁸¹Abstracts of death records for Rufus, Samuel, Eliza, and Diana name their parents as Sampson and Hannah Hazard. See abstracts in the notes in FTM or in FAIR.

A letter to John M. Earle in 1859 cited Mary (Curliss) Vickers concerning this Hazard family: "She also gave it as her opinion that the Hazards originally came from Norwich, Ct. [sic] or thereabouts, if so I presume you will not require any further information about them" (Capron to Earle 10/28/1859). Mary (Curliss) Vickers's husband, Christopher, and Eliza's husband appear to have been half-brothers; if so, it is reasonable to assume that Mary knew something of her sister-in-law, Eliza (Hazard) Vickers's background. However, Capron's letter referencing this Hazard family does not provide any additional evidence of Narragansett or Indian ancestry.

The petitioner's and OFA's genealogical notes include abstracts of censuses and other records that refer to Sampson Hazard as a free person of color and as an Indian, not necessarily mutually exclusive terms. One modern compilation that petitioner 69B cited links three different records to this Sampson Hazard:

Sampson res. in Preston, 1784-1796, (Punderson, Account Book). An infant child of Sampson, an Indian res. in Hampton, d. 2 Sept 1803. (Pomfret, Abington Church). Sampson in 1830 census for Pomfret; ae. 36-55, 6 in hsehd [sic] (Brown & Rose, *Black Roots in Southeastern Connecticut, 1650-1900* (1980), 178, cited in 69B PF Comments 2002.09.27, Genealogical File: Hazard, Sampson).

The sources referenced in this quotation are not very explicit and may not apply to the same man since they refer to two events almost 30 years apart in time that occurred in two different towns. However, taken with the evidence that Earle identified three of his children as Indian in the *Earle Report*, although not as Narragansett, it is reasonable to assume that this family had Indian ancestry.

The descendants of Sampson Hazard who were listed as "Hazard Indians" on the petitioner's Table A-15 were: Mary Vickers, Samuel Vickers Jr., Charles K. Vickers, Henry Samuel Vickers, Fidelia Vickers, Hazel May Phillips, Henry Arkless, Susan Idelle Morris, Alice Mary Arkless, Harriet Vickers, Diantha (Hazard) Thomas Vickers, Fanny Thomas, Waneta Bennett, Samuel Hazzard, and Isaac Arkless [Jr.]. Of these individuals, only three have descendants in the petitioner's membership: Alice Arkless (three descendants), Fanny Thomas (nine descendants), and Wanetta Bennett (four descendants).

Based on the evidence cited above, the Henries, Brown, and Hazard individuals whom petitioner 69B designated as "native families" had some Indian ancestry, although the individuals cited as the "non-Nipmuck Indian" spouses were not living in tribal relations in the mid-1800's. They do not appear on the 1849 *Briggs Report* or 1861 *Earle Report* in Massachusetts, nor were they mentioned in the various series of records pertaining to Indian tribes in mid-19th century Connecticut, or Rhode Island. The petitioner has not shown that these individuals were a part of the historical Nipmuc tribe at Dudley.

The petitioner also included the following surnames in Table A-15, thus implying that they also represent "Native lineages." Not all of the marriages cited in this table have descendants in the current 69B petitioner's membership, but are included here because of the petitioner's argument

concerning the “geographic sphere” and social community that provided marriage partners for the Dudley/Webster Nipmucks.

Henries and Hazard

Petitioner 69B also identified three siblings, the children of Edward W. Hazzard (ca. 1855-1920) and Nancy Ransom (1864-1928) who married Nipmuck descendants, as “Henries and Hazard” Indians. One of the sons, George William Hazzard, married two different Dudley/Webster women, so there were actually four marriages identified.

The OFA concurs that the three children of Edward W. Hazzard and Nancy Ransom, whom the petitioner identified as “Henries and Hazard” under the category “Lineage or Affiliation or Generic” in Table A-15, appear to have Indian ancestry, although the tribe cannot be determined at this time. None of the four marriages involving a “Henries and Hazard” as the “non-Nipmuck Indian” spouse have descendants in petitioner 69B’s membership.

The Indian ancestry for this family appears to come through Nancy Ransom, the daughter of Willard Ransom (1836-1914) who was identified as Indian on his Civil War records, on the 1910 Federal census, and on at least one of his marriage records. In his 1889 pension application Willard Ransom stated that his mother, [Nancy Henries (1805/1810-1851)] was Indian and that his father [Manly Ransom (1800-p. 1853)] was black (BARNipmuckNipmuckExtendedVersion.GED). There is evidence that Willard was the son of Manly Ransom and Nancy Henries, and that Nancy Henries was at least part Indian. Although there is a reasonable likelihood that she was the child of Jonas and Wealthy Henry, there is no evidence identifying the possible tribal ancestry.⁸² See also the discussion above on the “native Henries family.”

⁸²See the notes in OFA’s FTM on Willard Ransom. The 69A and 69B PFs had raised a question as to the Indian ancestry of Willard Ransom of the Henry/Ransom/Hazzard line. There is some evidence that would support the Henry/Ransom line as Wabaquasset or other Indian from Connecticut. Willard Ransom declared that, “his mother [Nancy Henry] was a full blooded Indian, and father was a Negro [Manley Ransom]” (Civil War Service: Ransom, Willard June 8, 1864 Oct. 31, 1865, 5th Mass. F). This piece of evidence fits other information found in Clarence Bowen’s *The History of Woodstock, Connecticut* where a photograph was included of, “Willard Ransom (Indian) 1837-1914, of Co. F. 5th Mass. with Charles Henry Moore 1841-1915, Co. H.”

The notes in OFA’s FTM state, concerning Willard Ransom:

It is highly likely that Nancy Henry, Willard’s mother was a sibling to the Henry brothers, Horatio, Lemuel, Alonzo, Lorenzo and Nelson and hence, the daughter of Jonas Henry. The brothers’ “color” designation ranged from Red-Indian-colored-mulatto-black. Jonas Henry’s 1820 and 1840 censuses show several females younger than 14y and 26y in his household. If Nancy Henry is their sibling, Willard’s marriage to Lucretia Henry was a first cousin marriage/union in 1860, from which 8 known children were born. Willard’s daughter Nancy Jane Ransom (who married Edward W. Hazzard) was enumerated as “IN” in the 1920 Dudley, MA, whereas Edward, their three children and two grandchildren were noted as “Mu.” . . . A June 22, 1890 letter saved in the Hassanamisco Reservation Museum written by Nancy Jane (Ransom) Hazzard in West Dudley was inviting “My Dear Uncle and aunt and cousins” to come to a 4th of July gathering (FTM Notes, Willard Ransom, BARNipmuckNipmuckExtended.GED).

This designation of relationship implies a possible relationship between Edward W. Hazzard and Lorenzo

Curliss

Petitioner 69B identified two individuals on the list of “non-Nipmuck Indian Spouses” as “Curliss” under “Lineage, Affiliation or Generic.” Lester and Alice Curliss were a brother and sister who were born in Rhode Island in the early 1900’s and whose parents were both born in Rhode Island. The family was identified as “black” on the 1910 Federal census, as were the grandparents in preceding censuses (See notes in FAIR). The petitioner’s file on Lester and Alice cited to OFA’s GTKY file; however the GTKY file did not say that this family was Indian and petitioner 69B did not provide any other reliable evidence to confirm Indian descent. The few documents that were located by OFA indicated the possibility of descent from the 18th century Narragansett Anthony family of Rhode Island. There are no descendants from either of these marriages in the petitioner’s membership.

Hopewell

The petitioner’s response included a 2001 interview with Edith E. (Morse) Hopewell in which she identified her last husband as [James] Henry Hopewell, a Micmac from Canada. However, there was no documentary evidence in the file to support that claim (69B PF Comments 2002.09.27, Genealogical File: Hopewell, Mildred, et. al.). Oral history without corroborating documentation has not provided sufficient evidence of Indian ancestry in past decisions. James Hopewell’s obituary stated he was born in Canada, but did not give any tribal affiliation and there were no other records on this family in the OFA’s genealogical database. One Hopewell woman married into the Bates family. None of the Hopewell lines identified in Table A-15 have descendants in the petitioners’ membership.

Bates

The petitioner’s claim for Indian descent for the Bates surname comes through the marriage of William Bates and Maria Croud in about 1844. The Croud family was identified by Earle as Punkapod [*sic*, Punkapoag] Indians and it appears that Maria Croud was the niece of Daniel Croud (age 65) who was at Punkapoag in 1861.⁸³ There is no evidence in the record at this time

Trask Hazzard, the third husband of Delia Brown (Sisco) Green Holley Hazzard.

Petitioner 69E also listed Alonzo Henries, who was born sometime between 1796 and 1822 (the ages vary widely on the several census enumerations of this man and his family and on his death record), as the son of Jonas and Wealthy Henry, apparently based on the OFA’s note at the time of the PF that “this placement is very tentative” (FTM Notes, Alonzo Henries, BAR-NipmucNipmuckExtended). Alonzo Henry was identified as Indian on his death record (parents were not named on the death record) and as Indian on the 1880 Federal census, “Mulatto” on the 1860 census, and “black” on the 1850 census. Petitioner 69B has not submitted any new evidence for the FD to support the tentative connection between Alonzo, and Jonas and Wealthy Henries.

⁸³The notes in the petitioner 69A’s genealogical database read:

KA: GTKYDec2000,p240: "Maria Crowd being daughter of Sam Crowd, Indian, East Woodstock, CT." ["KA" are the initials of the genealogical researcher, Kate April]

OFA’s genealogical database added:

that William Bates was Indian. Neither of the two individuals that petitioner 69B identified as "Bates" in the "Lineage or Affiliation or Generic" field have descendants in the petitioner's membership.

Warmesley

Petitioner 69B stated "Because Almira Warmesley [Onsley] is a member of a well known Narragansett family, the research team assigned her daughter, Emma A. Buck, Indian ethnicity" (69B PF Comments 2002.09.27, Genealogical File: Buck, Emma A). However, there is no reliable evidence in the genealogical files to identify Almira Warmesley as a member of a Narragansett family; her family had resided in Connecticut for at least two generations (Brown and Rose 1980, 422). This family does not have descendants in the petitioner's membership.

Jackson

The data in the petitioner's response shows that Henry C. Jackson was the son of David Jackson, a former slave from New Jersey, and his wife Jane, also from New Jersey (Pasay 2002, 1:271, 275). There is no evidence that Henry C. Jackson, his parents, or his siblings were Indian. Petitioner 69B stated that Henry C. Jackson's family was identified as Oneida Indian on the *Earle Report*. This is not quite accurate. Henry's brother, Abram Jackson, was listed as a 29-year-old shoemaker from West Brookfield, no tribe or race listed, who was the husband of Martha, an Oneida Indian on Earle's 1861 list of "Miscellaneous" Indians in Massachusetts. This record did not identify Abram Jackson as an Oneida Indian (*Earle Report* 1861, lxxvii). There may be other Jacksons in the area who have Indian ancestry, but Abram Jackson and his nephews, Gilbert and Edwin Jackson, who are all on the petitioner's list of "non-Nipmuck Indian" spouses, do not. None of these three men who married into the Dorus family have descendants in the petitioner's membership.

Dixon

The Dixons on the petitioner's list of "non-Nipmuck Indians" who married Nipmuck are three children of Hosea Dixon and Hopey Reynolds. At this time, the most reliable source of information regarding this Dixon family is a letter to Earle in 1859 that stated: "the blood of the Dixons is not well known, I think they are mixed with White, Indian & Negro" (Earle Papers,

NOTE BY VED: Investigate connection to the Croud/Crowd family (Baron, Hood, and Izard 1996, 572-573, 583-585). "By linking sources, we discovered that all these folk descended from William and Sarah Wills Croud. A nineteenth-century historian noted that "William Croud married Sarah, daughter of Nuff Wills, August 15, 1783. He remained in Canton until 1784, when he removed to Smithfield, R.I., and in 1819 was living at Woodstock." Baptism of William Croud jr., 1783, Canton. 1796, family in Douglas, MA, baptism of sons Daniel and Samuel; 1798 births of Polly and Sally. 1800 census, Douglas, MA. Later moved to Smithfield, RI, and Woodstock, CT. Sons William and Daniel returned to Canton. The third brother, Samuel, remained in Woodstock, CT; m. Eleanor Johnson; son Robert, 4 other children b. between 1823 and 1827. Robert Croud moved to Sturbridge; m. (1) 1842, Diantha, dau. of Guy and Hannah (Simmonds) Scott; m. (2) Judith Brown, widow. Earle listed Daniel Croud and extended family as Ponkapoag; his daughter Emeline married a Ponkapoag.

Hartwell to Earle 12/26/1859). The evidence that the Dixon family was connected to the Hatchet Pond Indians was very limited, and based on abstracts or interpretations of original records which were not photocopied and submitted with the petition and have not been substantiated.⁸⁴ Petitioner 69B has not submitted the original deeds. Only one of these Dixon couples has descendants in the petitioner's membership. Mary Ann Dixon and Charles Dorus have 62 descendants in 69B's membership through their daughter Martha (Dorus) Hewitt (1856-1908). Therefore, 17 percent of the petitioner's membership (62 of 357) descends from two individuals who are not identified in the historical record as Dudley Indians.⁸⁵

Individuals the Petitioner Identified as "Generic Indians" in Table A-15

Petitioner 69B identified 23 individuals on Table A-15 as "generic Indians." Of these 23 "generic Indian" marriages, only seven have descendants in the petitioner's membership. One of these seven marriages took place in the 1700's: Thomas Humphrey to Esther Pegan in 1794. Four of the marriages took place in the 1800's: Joseph Dorus to Polly Nedson before 1812, Rebecca White Bixby to James E. Belden in 1851, John A. Nichols to Lydia Sprague in 1846, and Augustus Toney to Esther Vickers in 1865. Two of the seven marriages took place in the late 1900's and include spouses who are still living.

The evidence available for the FD shows that William Daly, "Clarissa XXX," Benjamin Gould, and Walter A. Bostic Jr., were listed as non-Indian in the BAR GTKY file or on OFA's FTM file. Petitioner 69B has not submitted any reliable new evidence to support their claim that these individuals were Indian. Therefore, OFA considers them non-Indian. Petitioner 69B submitted some additional information on Ethel Davis, Ethel Webster, Gladys Webster, William Noyes,

⁸⁴See the notes in BARNipmucNipmuckExtended for Eunice Sampson:

James Nedson, d.c. 1824. m. Eunice Sampson b. after 1785 (1820 census)/b. by 1795 (age of apparent oldest child)/b.c. 1784 (1850 census)--d. after 1850/d.c. 1856?, dau. of David Sampson. She m. (2) Hosea Dixon.

"Woodstocks real estate records confirm comparable occupation of Nedson family of a portion of the Hatchet Pond reservation site. In 1787, approximately fifty acres were deeded to David Sampson, a subsequent 1849 division of the parcel by a dirt road assigning some thirty acres to Eunice Sampson Nedson, the daughter of David Sampson, and the remaining twenty acres to Esbon Dorus. However, in 1856, both Eunice Nedson and Esbon Dorus sold their holdings" (Doughton 1996, 19-20; 20n27 citing: Real Estate Register, Town of Woodstock; Elisha Gay & Joseph Cutler to David Sampson, July 3, 1787, vol. 7, 186; Eunice Sampson to Ephraim Nedson, June 13, 1849, vol. 26, 405; Eunice Nedson, Ephraim Nedson, Mary Nedson et al, to McKinstrey & Clemance, Nov. 25, 1856, vol. 27, 163) (BARNipmucNipmuckExtended).

If this abstract of the deed is correct, and if the land was assigned to heirs of the reservation, it would seem that the Indian inheritance came from Eunice Sampson, not from Hosea Dixon who was her second husband.

⁸⁵The obituary of Charles Dorus stated that he claimed descent from the Narragansett tribe. See the following discussion under Ebson Dorus.

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John A. Nichols, Robert Jackson, Beatrice Pierce,⁸⁶ and Olive G. Barry, such as a cover page in the genealogical file that stated “personal communication of Derek Henries,” “White Family Tree,” or “Heath Family Tree,” without submitting documentary evidence such as copies of vital records. In some instances, the new documents that were submitted do not substantiate the petitioner’s assertion that the named individuals were Indians. Instead, these individuals (only two of whom have descendants in 69B: John A. Nichols and Walter A. Bostic, Jr.) were identified as either white, colored, mixed, or black on a census or marriage record. While “colored,” “mulatto,” or “mixed” do not rule out the possibility of some Indian in the individual’s ancestry, it is not reasonable to assume that those terms identify individuals as Indian descendants, or “generic Indians” as 69B terms them, without some reliable, primary, contemporary evidence.⁸⁷

The petitioner included Jeremiah J. Shepard and Emeline Fennimore, who do not have descendants in 69B but are collateral relatives some of the petitioner’s ancestors, as “generic Indians.” Jeremiah J. Shepard (1846-1938) was identified as Indian on the 1900 Federal census, but as “black” in 1880 and as “mulatto” in 1870 and 1910 (FTM notes and 69B PF Comments 2002.09.27, Genealogical File: Shepard, Jeremiah). Petitioner 69B sent an abstract of the 1899 marriage record that identified Emeline Fennimore (1875-aft. 1909) as an Indian; however, the abstract of her 1903 marriage record and the 1880 Federal census entry abstracted in OFA’s GTKY file, identified her as “black” (FTM notes and 69B PF Comments 2002.09.27, Genealogical File: Fennimore, Emeline). One document that identifies each of these individuals as Indian among the several others documents that identify that same individuals as non-Indians is not enough evidence to find a reasonable likelihood that they were “generic Indians” as petitioner 69B defines them. There is no evidence in the record that these individuals were members of a historical Nipmuc tribe from which the petitioner descends (criterion 83.7(e)).

Table A-15 lists Joseph Welcome Brown as a “Pegan/Pollock” descendant and his wife Eva Marie Dailey as a “generic Indian.” The information available at the PF identified Eva Marie Daily as most likely the daughter of Amos Daily and Mary Elizabeth Henry (not Henries), neither of whom was identified as an Indian.⁸⁸ Mary Elizabeth Henry (or Mowry), daughter of

⁸⁶Petitioner 69B cites to the GTKY file as proof that Beatrice Peirce was Indian; however, the statement in the GTKY file actually reads: “. . . Beatrice Pierce (Weber says Indian from N. Stonington, CT). . .” Petitioner 69B does not offer any new evidence to support the claim by Weber that she was an Indian.

⁸⁷“Previous Federal acknowledgment decisions clearly show that intermarriage with non-Indians is not a barrier to Federal acknowledgment. However, primary source documentation of descent from known American Indian ancestors, rather than phenotype or tradition, must demonstrate descent from a historical Indian tribe”(Ramapough Mountain Indian FD, 27-28).

⁸⁸OFA’s notes in FTM for Eva Dailey says:

NARS M-653, Roll 92, 1860 U.S. Census, Windham Co., CT, Town of Killingly, p. 497, #114/115: Charles Henry, 33, m, M, Laborer, b. CT; Joanna, 40, f, M; Elizabeth, 21, f, M; Nancy, 19, f, M; Silvia, 17, f, M; Jane, 15, f, M; Emma, 9, f, M; Frances, 7, f, M; Charles, 1, f [sic], M; Mary Jane, 6, f, M; Francis, 4, m, M; Eva, 3, f, M; Amos Dailey, 26, m, M. [BARNipmucNipmuck4.FTW] [Emphasis added]

Charles R. and Joanna (Mowry) Henry, was identified as “mulatto” on the 1860 and 1920 Federal censuses, and “black” on the 1880 and 1900 Federal censuses, but Indian on the 1910 Federal census. Notes in the GTKY file said to check for Eva’s death and marriage records and the petitioner’s Genealogical File for Eva Marie Dailey included an abstract of her death record in Woodstock, Connecticut, that was published in *People of Color at Woodstock, Connecticut*. The death record identified Eva (Brown) Dailey as a black woman, daughter of Amos and Mary Dailey, born in East Killingly, Connecticut (69B PF Comments 2002.09.27, Genealogical File, Dailey, Eva Marie).⁸⁹ Petitioner 69B has not supplied any new, reliable evidence to support the claim that Eva Marie (Brown) Dailey was a “generic Indian.” There are 72 individuals in 69B’s membership who descend from Eva Marie Dailey and Joseph Welcome Brown through their great-granddaughter, Eva Viola (Brown) Heath, who was also a descendant of Lydia Sprague, a Dudley Indian on the 1861 *Earle Report*.

The evidence available for the FD shows that three individuals the petitioner identified as “generic Indians;” Josiah Bakeman,⁹⁰ Rebecca White (Bixby) Belden, and Sophia (Ebbets) Kyle, were identified as “mixed foreigners” on the *Earle Report*. Likewise, the petitioner’s “generic Indians” Augustus Toney and Lemuel Henries were “colored foreigners” on the *Earle Report*. (Rebecca White Bixby, Augustus Toney, and Lemuel Henries have descendants in petitioner 69B’s membership). As noted earlier in this FD, Earle applied the term “foreigner” to individuals who did not have Indian ancestry. Therefore, without additional contemporary primary evidence that contradicts Earle, the term “foreigner” is not sufficient to show by a reasonable likelihood that the individual was an Indian. The petitioner has not provided new evidence that any of these five individuals were Indian.

The OFA’s research found that Elizabeth D. Baker (1874- aft.1897), who was not identified as an Indian at the time of the PF, appears to have separated from her husband, Perry/Payne Henries, and reportedly “died on a reservation in Maine”; however, petitioner 69B did not provide any new evidence that she was Indian, and the death place alone is not evidence of Indian descent.

Finally, the spouse of one living member of 69B was identified as a “generic Indian,” but was listed as a Micmac Indian in OFA’s genealogical notes in FTM; however, no specific source for tribal affiliation was listed and the OFA has no documents to verify or refute the claim.

The evidence in the available record confirms that Thomas Humphrey (1773-1835) was identified as Indian on his 1794 marriage record and the 1795 birth record of his son in Barre, Massachusetts,⁹¹ and that Bristol Greene (1791- aft. 1820) was identified as “one-half Indian” by the town clerk in Northampton, Massachusetts in 1859 (Earle Papers, Lyman to Earle, 1859.07.11), although the records do not identify either of them with a particular tribe.

⁸⁹Pasay’s *Full Circle*, p. 120, says that Amos Dailey was married to Elizabeth Morsey/Mowry on June 23, 1857, in Killingly and states that he was a Civil War veteran.

⁹⁰One of the 1859 letters in the Earle papers called Josiah Bakeman “a full-blooded negro.”

⁹¹See abstracts of vital Records of Barre, Massachusetts, 1903, page 49, cited in GTKY.

Therefore, the evidence is sufficient to confirm that 2 of the 23 “generic Indians” in the petitioner 69’s Table A-15 were Indians. The petitioner has not provided any new evidence to change the conclusions in the proposed finding regarding the other 21 individuals it now calls “generic Indians.”

Individuals that the Petitioner Identified by Tribal Affiliation in Table A-15

Petitioner 69B identified Hannah Vickers (1819-1900) and Alexander Johnson (1846-p.1900) as Narragansett Indians under “Lineage, Affiliation or Generic;” however, the evidence available at this time does not support those claims. Hannah Vickers (1819-1900) was identified as “Natick” on the *Earle Report* (Earle 1861, lix), although that identification is questionable.⁹² Petitioner 69B submitted a letter from researcher Holly Izard that stated Alexander Johnson was Narragansett, but no documents to support that statement.⁹³ The copy of the 1900 census that petitioner 69B submitted shows Alexander Johnson was identified as a black man, born in Massachusetts, whose father was born in Virginia and whose mother was born in Rhode Island. The GTKY file cited only to Izard’s claim, but did not cite documentary evidence showing Alexander Johnson was Narragansett or other Indian. Neither of these lines have descendants in the petitioner’s membership.

Petitioner 69B listed “Mohegan” as the tribe of Joseph Dorus (1789-1830), who married Polly Pegan Nedson before 1812, based on an 1897 newspaper article about Indian families that had lived in the vicinity of Brimfield in the early 1800’s, which said of the Dorus family:

Dorus, Joe and his wife Polly and a family of children: "young" Joe, Sol, Charles, and Diantha; thinks there were some other children she never saw. Polly had a brother named Josh [cut off]ingham, who sometimes traveled with them. They claimed to belong to the Mohegan tribe, and he was born in Woodstock, Conn. When Mrs. Woods was 7 or 8 years old, Joe Dorus died; Polly and her daughter Diantha came round and stopped a week at one of our neighbors making baskets.

⁹²A letter from the Town Clerk in Thompson, Massachusetts, stated Hannah (Vickers) Pegan was from Natick, the daughter of Christopher Vickers, whose brother Joseph Vickers now lived at Dudley and that the Vickers were Indian (Erastus Knight to John M. Earle, 6/29/1859). Earle apparently made additional inquiries concerning the Vickers family at Natick. In September 1859, a correspondent from Natick wrote: “You inquired about the Vickers family, they are in no way connected with the Natick Indians . . .” and summarized the non-Indian connections of the Coffee family that had been set forth in the 1810 court case (John W. B__ [illegible] to Earle, 9/6/1859).

⁹³Petitioner 69B explained:

Some spouses have only tribal affiliation, such as Alexander Johnson, whose Indian lineage is unknown. Some spouses carry only the generic identifier of Indian such as Eva Marie Daily. See respectively, “Woodstock Woman of Indian Blood,” Putnam (CT) Patriot, 20 August 1931; Brothertown Kansas Claims, no. 3321, “Susie Izanna Morris,” 13 February 1904, Kay Davis Files, Chaubunagungamaug papers; Marcia Jones-Flowers to [Virginia DeMarce], 28 February 1997, BIA-BAR, FOIA; Entry for Joseph Brown, Woodstock, Windham County, Connecticut Census of Population, 1910, Derek Henries papers (69B PF Comments 2002.09.27, 464, fn. 1038).

(Genealogical File: Joseph Dorus, See also article from The Warren Herald [Warren, MA], 18 June 1897, "Indian Families Who Lived in This Vicinity," by Mrs. Joseph L. Woods)

Petitioner 69B has not submitted any new evidence to support the Mohegan claim, but there is evidence to demonstrate that Joseph Dorus was probably an Indian from Connecticut. Likewise, John Nedson (1767-1845), the father of Polly Pegan Nedson, was identified as Pequot in the petitioner's Table A-15, but as "probably Mashantucket Pequot" or "possibly Eastern Pequot" in the OFA's previous analysis.⁹⁴ Although the specific tribe may not be determined at this time, both of the men appear to have been Indians, probably from Connecticut. If Joseph and Polly (Nedson) Dorus are the parents of Esbon/Solomon Dorus, then 247 of their descendants are members of the current petitioner.

Petitioner 69B also identified three living individuals as Narragansett Indians who married into the Henries family; however, the only evidence submitted was a hand-written individual history chart and typed page of a family relationships from the file of Ronald Henries. There are no birth, marriage, census, letters from the Narragansett Tribe, or other primary evidence to verify their descent or membership in that tribe. There are 34 descendants of this Henries family in the petitioner's membership.

Petitioner 69B listed Mohegan, Mohawk, Onondaga, Sioux, Wampanoag, Micmac, Cherokee, and Mashantucket Pequot in the "Lineage or Affiliation or Generic" category for the spouses of eight Dudley Indian spouses on Table A-15. However, there is no reliable evidence in the petitioner's documents to support the assertions.

Tables A-8 to A-14

Introduction

Table A-8 "Non-Nipmuck Indian to Non-Nipmuck Indian Marriages" [20 couples], Table A-9, "Marriages of unknown ethnicity" [31 couples], Table A-10, "Marriages between Non-Nipmuck

⁹⁴See Genealogical File: Nedson, John in FAIR.

NOTE: Doughton 1996, p. 1, identified John Nedson as Paucatuck or Eastern Pequot. However, data provided to the BIA by Marsha Flowers, EP genealogist, identified him as a Mashantucket Pequot. Verification of the information sent by Marsha Flowers indicated that the Western Pequot John Nedson was much too young to have been this man. "The Nedson family still [period 1820-1845] occupied their reservation near Hatchet Pond . . ." (Larned, History of Windham County, Book IX, Vol. II; cited in Doughton 1996, 6).

"Jonathan Pegan was the father of Mary Pegan who married a Nedson brother, named John; a daughter of that union, Polly Nedson married Joseph Dorus" (Doughton 1996, 15 [no documentary citation, no confirmation of the parentage of Mary Pegan]).

[Mary per Doughton 1996; also given as Molly--no source citation] Pegan, [POSS b.c. 1769/74]. m. by c. 1789/93, John Nedson, PROB Mashantucket Pequot; POSS Eastern Pequot.

Indians and spouses of unknown ethnicity” [29 couples], and Table A-11, “Dudley/Webster Marriages: Nipmuck to Nipmuck” [40 couples], are based on the petitioner’s identification of the tribe, race, or ethnicity of the spouses of Nipmuck Indians and of others in the extended family trees.

Because some of the individuals married more than once, their names appear more than once on some tables and on more than one table. For example, Oscar Bates was listed as the non-Nipmuck Indian spouse of Alice Susan Dorus, a Nipmuck Indian, on Table A-15, and as the non-Nipmuck Indian spouse of Ida Beaudin, a “No information on ethnicity” woman on Table A-10. On the other hand, petitioner 69B did not list all of the marriages of an individual if the spouse did not fit into one of the above categories. As cited previously, the petitioner’s genealogical database shows that James E. Belden (1816-1888) married four times. His prior wives were Caroline M. Simmons, Mary Ann Willard, and Nancy [no maiden name], none of whom have been identified as Indian, and they were not included in any of the petitioner’s analysis. Petitioner 69B listed only the fourth wife, Rebecca White Bixby, as a “non-Nipmuck Indian” spouse in Table A-12 of “Nipmuck to Non-Nipmuck Indian” marriages. Rebecca White Bixby was identified as a “mixed foreigner” on the 1861 *Earle Report* (see analysis elsewhere).

Table A-8

Table A-8, “Non-Nipmuck Indian to Non-Nipmuck Indian Marriages” lists 20 couples who married between about 1822 and 1899. Petitioner 69B did not list the tribal affiliation or ancestry of the 40 individuals and did not cite to the evidence supporting the claim that they were Indians. About half of the names on this list were listed as non-Indian in OFA’s genealogical records at the time of the PF. Some of the family lines have been discussed in the above analysis of Table A-15. The lists include many people who are not direct ancestors of the current membership, but may be related to the larger population of Nipmuck Indians who were living in the mid-19th century, either their deceased ancestors or other relatives. The dates covered by the marriages listed in these tables span from the 1700’s to the 1990’s.

As stated in the analysis for Table A-15, some of the individuals on Table A-8 were identified as “mulatto” and “colored” on a census or other record. These terms do not exclude the possibility that there was some Indian ancestry in the individual’s background. However, these terms are also not synonymous with “Indian” and do not always mean that there was Indian ancestry in the family. As in previous findings, the Department has applied in this case a standard that Indian and tribal identity be based on primary, reliable evidence contemporary to the life of the individual. Therefore, the Department does not accept designations of individuals “colored” or “mulatto” in the historical records as indicating Indian ancestry. The Department requires other documentation which shows that the individual, or at least one of his or her ancestors, was an Indian.

Table A-9

In Table A-9 there are 31 “Marriages of Unknown Ethnicity,” in which both the husband and wife are listed as “Ethnicity – no information” (69B PF Comments 2002.09.27, 452). These 62

individuals were not identified as Indians in their own lifetimes, but information about their ethnicity does exist. For example, according to the 1900 census entry for Helen/Ellen Bradley, wife of Walter Samuel Henries, her parents (Michael Bradley and Mary MacMullen on Table A-9) were born in Ireland and Scotland and her own birthplace was listed as Scotland.

In subsequent tables, petitioner 69B listed the child of these “Ethnicity - no information” couples as “Non-Nipmuck Indian.” For example, Jonas Henry and Wealthy [no maiden name] are listed on Table A-9 as “Ethnicity - no information,” but on Table A-10, two of their sons, Lemuel and Lorenzo Henries are listed as “Non-Nipmuck Indians” (69B PF Comments 2002.09.27, 452-453). Hattie M. Anderson and Walter A. Bostic Sr. are listed on Table A-9 as “no information on ethnicity,” but their son, Walter A. Bostic Jr., is listed as the non-Nipmuck Indian spouse of Angenette I. Morse in Table A-12 of “Nipmuck to Non-Nipmuck Indian marriages” (69B PF Comments 2002.09.27, 452, 456). Likewise, Franklin Gould and Julia A. Corbin on Table A-9 as “Ethnicity - no information,” are the parents of Benjamin Gould, a “non-Nipmuck Indian” spouse of Fannie L. Nichols in Table A-12 (69B PF Comments 2002.09.27, 452, 455).

Table A-10

In Table A-10 petitioner 69B lists 29 individuals as “Non-Nipmuck Indians” who married individuals with “No information on ethnicity.” Four of these marriages have descendants in the petitioner’s membership. They are: Susie Izanna Arkless and Sandy Morris, Diantha Hazard and Sylvester Thomas, Lydia Hemenway and James Johnson, and Lorenzo Henries and Marie White. The family of Susie Izanna Arkless (four descendants) claimed to be Narragansett when they applied for claims as Brothertown Indian descendants (NARS RG75, Entry 904, Guion Miller Report on Rejected Kansas Claims, #3324, quoted in OFA’s GTKY report: see notes in OFA’s FTM program). Their claim was rejected as “not Brothertown,” without investigation of the Narragansett lineage. Diantha Hazard (nine descendants) was identified as “miscellaneous Indian” by Earle in 1861 and “mixed” on her marriage record. Lydia Hemenway (four descendants) was a Hassanamisco Indian.⁹⁵ Thus there is sufficient evidence in the historical record to identify these women as Indian descendants. On the other hand, Lorenzo Henries was not identified with any tribe or as an Indian on any of the census enumerations.⁹⁶ As the father-in-law of Lydia Sprague (Nichols) Shelley Henries and paternal grandfather of her sons Walter Henries and Winifred Lemuel Henries, he has 196 descendants in 69B’s membership (the “Sprague/Henries” line). Susie Izanna Arkless, Diantha Hazard, and the Lydia Hemenway each had a descendant that married a descendant of Lydia Sprague.

OFA checked the genealogical databases and the documents submitted in response to the PF and found that the 29 marriages took place between about 1818 and 1920. Petitioner 69B did not

⁹⁵Lydia (Hemenway) Johnson (1791-1850) was not on either the 1849 *Briggs Report* and died prior to the 1861 *Earle Report*. However, her son James J. Johnson and her sister Hannah Hemenway were identified as Hassanamisco Nipmuc Indians on Earle’s Supplementary List in 1861. Therefore, there is a reasonable likelihood that she too was Hassanamisco.

⁹⁶See the discussion above under Lemuel Henries in the ‘native Henries family’ section above for identifications of this family.

identify the tribe of the “Non-Nipmuck Indian” on Table 10, but OFA checked the information in the petitioner’s response and the notes in the OFA’s genealogical databases and GTKY file and found that about eight of the individuals were identified as Narragansett, although some of the claims were based on rejected claims (see notes on Ellen Brown,⁹⁷ Susie Arkless, Lucy M. Vickers, John A. Vickers) and descent from that tribe has not been substantiated from other evidence. The Bates individuals on the list may have descent from the Punkapoag tribe through Maria Croud (see discussion on Bates/Croud under Table A-15). It appears that petitioner 69B based its determination that some individuals (Sarah Benjamin, Susan Dailey, Hannah Greene, Edwin Jackson, and Henry C. Jackson) were Indian based on a birth, death, or census record that identified them as “red” or “colored.” OFA was not able to verify Indian tribal ancestry for these individuals, but did find some evidence suggesting that Hosea Dixon, Dolly Eaton Smith’s husband Samuel Judson Warmsley (NARA RG75, Entry 903, #2770), Caroline Ransom, and Nancy J. Ransom had at least one Indian ancestor.

In some cases, especially those in which petitioner 69B states that the ethnicity is not known, there are records that show the individual was not Indian. For example, in Table A-10, Sandy Morris was categorized as “no information on ethnicity.” However, he was identified as a black man born in Louisiana on his 1874 marriage record, and his daughter’s death record listed his birthplace as New Orleans, Louisiana (69B PF Comments 2002.09.27, Genealogical File: Morris, Sandy and FTM notes). Petitioner 69B enclosed a copy of the 1898 marriage record of Michael George Morrison to Ellen Ann Brown which stated that his parents were both Irish, but listed him as a spouse with “no information on ethnicity.” Petitioner 69B listed Samuel Judson Warmsley/Onsley (1811- aft.1875) as a spouse for whom there was no information on his ethnicity (although 69B stated elsewhere that the Onsley/Warmsley was a well-known Narragansett family (69B PF Comments 2002.09.27, Genealogical File: Buck, Emma). The petitioner included photocopies of two census records (the 1880 Federal census and the 1875 census of Providence, Rhode Island) that identified him as a black man from Rhode Island (69B

⁹⁷For Ellen Brown see the Narragansett detribalization records:

“Emily L. Hull, (sworn)--As near as I can understand it, I am connected with the tribe from my mother and father's side. My mother was Sally Brown, and father was John Lewis. I have lived on the reservation about two years. Married Daniel Hull. Mother died when I was quite small. I have one half aunt on my father's side. She is not here, as I know of. I don't know whether mother lived on the reservation before she was married or not. I have always been told that they lived in Massachusetts. My uncle on my mother's side always told me that my mother belonged to the Charlestown Narragansett Tribe, and, I think, that they did live here. They went to Webster, and from Webster to Sturbridge, Mass. His name is Layton Brown. He is the only one that is living. I can't tell how long ago it was that they lived here. My uncle was mother's brother” (*Report of Commission on Narragansett Indians* 1881, 83). Further discussion; council had discussed several times and decided against their claim (*Report of Commission on Narragansett Indians* 1881, 84); Daniel Hull testified that the father of his wife's father had been murdered; data on his own family (*Report of Commission on Narragansett Indians* 1881, 84).[Nipmuc 69AFDsubmission.FTW].

The other names appear in rejected New York Indians Kansas Claims applications (NARA RG75, Entry 904).

PF Comments, Genealogical File: Onsley, Samuel J.), but omitted the New York Indians Kansas Claim file that identified him as Indian.

Petitioner 69B listed full names for 28 of the 29 “No information on ethnicity” spouses for the “Non-Nipmuck Indians” in Table A-10. OFA found that it was not so much the case that the ethnicity was unknown, as it was that the individuals were not identified as Indians, except for Edwin Smith (“undocumented Pequot” and “Nipmuc Claimed”), Eunice Sampson (“unknown Connecticut Indian”), and Jane Pollock (“Indian, possibly Nipmuc, a descendant of Nancy Pollock and Molly Pegan”). Evidence cited in OFA’s genealogical database identified the remaining spouses in this list as non-Indians. Petitioner 69B has not submitted any new, significant information to change the designation.

Table A-11

Petitioner 69B identified 40 “Nipmuck to Nipmuck” marriages that took place between about 1829 and about 1990 (69B PF Comments 2002.09.27, Table A-11, 454). The OFA was able to verify the information on 39 of the marriages and confirm that both the bride and groom had some Nipmuc ancestry. This table lists Esbon/Solomon Dorus (1816-1884) as a Nipmuc Indian who married Angenette Briggs White; however, Esbon Dorus’s tribal origins are in question. He was identified as “New York” for tribe or race on the 1861 *Earle Report*, as Mohegan in an 1897 account of the family of Joseph and Polly Dorus,⁹⁸ and was inferred to be of Dudley descent as one of the heirs to the distribution of the Dudley fund in 1891.⁹⁹ Neither of Esbon’s parents nor

⁹⁸See FTM notes for Polly Nedson:

Previous to 1830, in Brimfield [Hampden Co.], MA; description. Father of family: Joseph Dorus. Mother Polly Nedson, dau. of John Nedson. "They claimed to belong to the Mohegan Tribe and he was born in Woodstock, Conn." She had a brother Josh . . . ingham. "Indian Families who Lived in this Vicinity," by Mrs. Joseph L. Woods, *Warren Herald*, 18 June 1897.

NOTE: The tie to the Nipmuc would be through Polly, if her mother was a Pegan. Nedson is an Eastern Pequot family name, not a Mohegan family name. Her father's supposed birthplace in North Stonington, CT, also indicates Eastern Pequot.

⁹⁹There were two women named Polly Dorus on the 1850 census: a 60-year-old black woman in the household of Amasa Haskell in Dudley, Worcester County, Massachusetts, (NARA M432, R340, 140, hh #20/fam #27) and a 72-year-old mulatto woman in the household of Esbon Dorous in Woodstock, Windham County, Connecticut (NARA M432, R5, 260, hh#232/fam #263).

See FTM notes for Polly Nedson (1788/1790-1872):

NOTE: The Polly Dorus named on the 1890 supplementary payment list may NOT have been this woman, who had been dead for 18 years. 69A supplement 1997 includes petition of Francis M. Morrison to be appointed administrator of the estate of Polly Dorous, late of Webster in the County of Worcester, 2 December 1890. The death date was given as 21 March 1872, leaving “Brother whose name is Esbon Dorous and as her only next of kin, the persons whose names and residence, and relationship to the deceased are as follows, viz: Esbon Dorous Brother Webster Mass. Decd -- Angenette B. Hazard Sister in Law Woodstock Conn; Henry L. Dorous Nephew South Woodstock Conn; Betsy Arkless Niece Webster Mass - Manda Dorous” [Niece], Marlboro

any of his known siblings were on the 1849 Briggs list of Dudley or Grafton Nipmuc Indians, or on the 1861 *Earle Report* of Dudley or Hassanamisco Indians (although, since they were living in Connecticut, they may not have been listed in these reports even if they were of Nipmuc ancestry). Petitioner 69B included the obituary of Charles Dorus (1818-1887), brother of Esbon, which stated:

Charles Dorus, a full-blooded Indian died here Tuesday night, December 13, of heart disease, age about 70 years. He claimed descent from the Narragansett tribe his wife being of Mohegan blood. He was a man of good habits and strictly honest. He leaves a widow and quite a number of children (Ellsworth Back Diaries, Woodstock, 1876-1900, 57, 12/24/1887: quoted in 69B PF Comments 2002.09.27, Genealogical File: Dorus, Charles)

Although it is reasonable to accept that Esbon Dorus was of Indian descent, it is not reasonable to assume that he was a Dudley Indian. Dudley/Webster descent for this family comes through his wife, Angenette Briggs White (1829-1897) who was on the 1835 list of Dudley Indians, on the 1861 *Earle Report* on the Dudley Indians, and also was included as an heir on the 1890 Dudley/Webster distribution list.

Esbon Dorus died in 1884, although he was listed as one of the distributees in 1891. The probate record named the heirs of Polly Dorus who died on March 21, 1872, in very specific family relationships, listing Esbon Dorus as her brother. It is not likely that a probate record would confuse a son for a brother, as 69B asserts, and other information in the probate record submitted clearly described other family relationships, including naming as Polly's sister-in-law Angenette B. Hazard, who had been divorced from Esbon since before 1867 when she married Samuel Hazard. The probate record listed Esbon and Angenette's children as Polly's only "next of kin." However, several children of Charles Dorus, the brother of Esbon Dorus, were still alive in 1891. The individual who provided the names of the heirs to the attorney in the case may not have known the other brother's family, or may have been interested in identifying only those who were heirs to the Dudley/Webster assets. In either case, the statement in the probate record that the children of Esbon were the only heirs of Polly Dorus is not consistent with other information in the record. The death record in Dudley, Massachusetts, for Polly (Nedson) Dorus, mother of Esbon and Charles, listed her as a 98-year-old widow, Indian, who died on July 14, 1872 (69B Genealogical File: Nedson, Polly Pegan). Therefore, there are two generally reliable sources for a death date, a probate record and a death record, showing that the mother and daughter (Polly Dorus and Polly (Nedson) Dorus) died within months of each other in two different towns. Thus, the petitioner's theory that Esbon Dorus was the son of a Dudley/Webster Nipmuc Indian is not supported.

Of these 40 "Nipmuck to Nipmuck Marriages," 10 have descendants in the current petitioner's membership. Two of the marriages took place in the early 1800's: Israel Sprague to Sarah

Mass; Christina Gordon, " [Niece], Albany, N.Y." Morrison posted bond as administrator, with Angenette B. Hazard and Betsy Arkless of Webster as securities, December 2, 1891(OFA FTM notes).

Brown¹⁰⁰ in about 1829, and Esbon Dorus to Angenette Briggs White in 1844.¹⁰¹ In both cases, the classification is questionable. The only child of Israel and Sarah (Brown) Sprague known to have children was Lydia Ann Sprague, who had 14 children by three husbands, none of whom were Dudley/Webster Indians.¹⁰² Two of her children, Hannah Frances Nichols and Winifred [*sic*] Lemuel Henries, are listed in the petitioner's analysis as having "Nipmuck to Nipmuck marriages" (69B PF Comments 2002.09.27, 454).

Eight of the "Nipmuck to Nipmuck marriages" that have descendants in the petitioner's membership were between either a grandchild (2), great-grandchild (2), great-great-grandchild (2), or great-great-great-grandchild (2) of Israel and Sarah (Brown) Sprague and another Nipmuck descendant. When Winifred Lemuel Henries, the grandson of Israel Sprague and Sarah Brown married Angenette Arkless, granddaughter of Esbon Dorus and Angenette Briggs White, in about 1901, the two family lines combined; therefore, five of the later "Nipmuck to Nipmuck marriages" also included the descendants of both the Sprague/Brown and Dorus/White¹⁰³ marriages.

Winifred Lemuel Henries and Angenette B. Arkless's daughter, Elizabeth Rogers Henries (1902-1991) married a non-Indian, Charles Morse (1898-1967) in 1918; four of the petitioner's subsequent "Nipmuck to Nipmuck marriages" are between a descendant of Elizabeth (Henries) Morse and another Dudley/Webster descendant. One of these marriages took place about 1944 (one spouse is a member, the other is not) and the other three took place in the 1960's (24 descendants). All parties in the last two marriages are still living.

There are a total of 150 individuals on the petitioner's 2002 membership list who descend from Angenette B. Arkless and Winifred Lemuel Henries through their daughter Elizabeth Rogers (Henries) Morse: 25 from four of the "Nipmuck to Nipmuck marriages" listed in Table A-11 and 125 from the other eight children of Elizabeth (Henries) Morse who married non-Indians.¹⁰⁴

¹⁰⁰There is some question regarding the claim that Sarah/Sally Brown was Nipmuck Indian. The OFA has no information on her background, although she was listed as one of the members of the "tribe of Dudley Indians" in 1835, and received "necessaries" in 1836 after the death of her husband (List of Dudley Tribe, 2/16/1835). See notes in FAIR for Sally Brown. All of the Sprague descendants are from Lydia (Sprague) Nichols Shelley Henries, daughter of Israel and Sarah.

¹⁰¹The 150 descendants of Esbon Dorus and Angenette B. White also descend from Israel Sprague and Sarah Brown because of a marriage between the two family lines. Therefore, even if Esbon Dorus was not Nipmuck Indian, his descendants in the current petitioner's membership also descend from the "Nipmuck to Nipmuck" marriage of Israel Sprague and Sarah Brown.

¹⁰²John Nichols was non-Indian. Lemuel Henries was listed as "colored foreigner" on the *Earle Report* of Dudley Indians in 1861, and William Shelley has "Eastern Pequot?" in the fact field in BAR-NipmuckNipmuckExtended FTM file, but no notes, no source listed.

¹⁰³Note that this specific "Dorus/White" marriage is a different lineage from the "Dorus/White/Hewitt" ancestry claimed as one of the petitioner's three "traditional families."

¹⁰⁴Elizabeth Rogers (Henries) Morse had 10 children who had 17 marriages in total; she had 39 grandchildren with 49 marriages in total.

One branch of the Hannah Frances Nichols (1850-1869) and Peleg Brown Jr. (1847-1912) family tree has descendants in the petitioner's membership.¹⁰⁵ Hannah and Peleg Jr.'s son, Edgar Peleg Brown (1869-1943) married his first cousin, Mary Estella Brown (1872-1918) in 1890.¹⁰⁶ Their daughter, Ethel (Brown) Prince, has 87 descendants in the petitioner's membership: 72 through Eva Viola Brown who had descendants on the 1997 membership list, and 15 others through Mary Susan Brown, Ethel Marie Brown, and Nellie Gladys Brown who were not represented on the 1997 list. None of these women married other Dudley/Webster or other Indians.

The only "Nipmuck to Nipmuck" couple listed in this table who have descendants in the current group and who are not descendants of either the Sprague/Brown marriage or the Dorus/White marriage was Franklin Erastus White (1869-1936) who married his third cousin, Jane Louise Hewitt (1877-1936), in 1896.¹⁰⁷ Franklin Erastus White was the son of the non-Indian Samuel White and his first wife, Sarah Buckingham (1820- bef. 1860). Sarah Buckingham was a granddaughter of John Nedson and Mary Pegan who were born in the 1760's, but who have not been documented as Dudley/Webster Indians.¹⁰⁸ The surname "Pegan" was one of the names almost synonymous with the Dudley Indians, but also appeared at Natick. Samuel White's second wife was a documented Dudley Indian, Mary Etta Humphrey. Franklin Erastus White and Jane Louise Hewitt have 44 descendants on the petitioner's 2002 membership list through two of their three children. None of their descendants are known to have married other Indians.

There are a total of 281 individuals on the petitioner's membership list that descend from at least one of the marriages that the petitioner identified as "Nipmuck to Nipmuck:"

237 descendants of the Israel and Sarah (Brown) Sprague marriage that took place in 1829 (the 150 descendants of Esbon and Angenette Briggs (White) Dorus marriage that took place in 1844, [although not Nipmuck to Nipmuck"] are included in the 237 total above);

¹⁰⁵Hannah Frances Nichols was the daughter of Lydia Sprague and therefore granddaughter of Israel and Sarah (Brown) Sprague. After Hannah's death, her half-sister Ida Shelley (1855/1857-1908) also married Peleg Brown Jr. in 1874.

¹⁰⁶Their common grandparents were not from the Sprague side of the family tree, instead their common grandparents were Peleg Brown (1815-1892) and Sarah Ann Vickers (1819-1860).

¹⁰⁷Franklin Erastus White was the son of Erastus Henry White (1848-1922) and his non-Indian wife, Mary Hannis (1849- aft. 1877). Erastus Henry White also married two sisters, Mary A. Nedson and Eunice Amelia Nedson, descendants of John Nedson and Mary Pegan; however, none of the descendants of those two "Nipmuck to Nipmuck Marriages" are in the Dudley/Webster group today.

¹⁰⁸ Franklin was also the first cousin once-removed of Esbon Dorus, and Jane Hewitt was the grandniece of Esbon Dorus. One source attributes Hatchet Pond Indian ancestry to the Nedson family: "The Nedson family still [period 1820-1845] occupied their reservation near Hatchet Pond . . . (Larned, History of Windham County, Book IX, Vol. II; cited in Doughton 1996, 6)." However, others claim he was Paucatuck or Eastern Pequot (See FAIR notes on John Nedson.)

44 descendants of the Franklin Erastus and Jane L. (Hewitt) White marriage that took place in 1896.

Tables A-12 and Table A-13

Table A-12 lists 90 “Dudley/Webster Marriages: Nipmuck to Non-Nipmuck” by date of marriage and location [same marriages as in Table A-15], and Table A-13 is the petitioner’s “Statistics of Dudley/Webster Nipmuck Indian Marriages.” The OFA did not analyze these tables in depth since its analysis of the data in the tables A-9, A-10, and A-15 found that the petitioner’s information about the ethnicity or tribal affiliation was incorrect in many instances. See the above analysis of Table A-15 in particular.

Table A-14

Table A-14 of “Nipmuck to Nipmuck, Grouped by Lineages,” is the same list of individuals that were identified in Table 11-A of “Nipmuck to Nipmuck” marriages, but includes the petitioner’s determination of the Dudley/Webster lineage of both the husband and wife. The OFA did not analyze this table in detail. See OFA’s analysis of Table A-11.

Table A-6 and Table A-7

Table A-6 is a “Recapitulation of Dudley/Webster Nipmuck Indian Lineages from 1861 to 2002” by the petitioner’s determinations of the lineages associated with the 1861 Earle Report, the 1889/1891 Disbursement lists and the 2002 membership list. Table A-7 is “Progenitors for assigning Dudley/Webster Nipmuck Indian Ethnicity” showing how the “Eldest Person on the Earle Report” [in a single family line] was related to a “Pegan/Dudley Indian Progenitor” (69B PF Comments 2002.09.27, 446-448). Neither table listed how many members in the current group descend from each of the categories. OFA’s analysis elsewhere in this report describes the petitioner’s descent from the historical tribe.

Table A-5

Petitioner 69B states in the introductory paragraphs to Table A-5, “Focal Ancestors for the Modern Tribe,”

Kinship within one’s lineage can be traced downward from progenitor to descendants or upward to one’s ancestor. To ascertain the lineages present in the modern tribal membership and the recombinations of those lineages, the ancestry of the 322 members was examined. For each member, their ancestry was traced backward to the individual exhibiting the maximal number of Dudley/Webster core lineages and other native family lines. Ten individuals serve as the focal points for the current membership (69B PF Comments 2002.09.27, 438). [Emphasis added.]

Petitioner 69B then named 10 “focal ancestors” who were born between 1869 and 1931, listed the family lines it determined they descended from, and listed the number of descendants each ancestor has in the current group. Petitioner 69B stated that it examined the ancestry of the 322 current members; however, the petitioner’s membership list that was reviewed by OFA contained 357 names, including four undocumented individuals of unknown origins (69B Membership List 9/2002). The OFA finds that 353 individuals in the petitioner’s membership descend from each of the ten “focal ancestors” listed in Table A-5.

The OFA finds that the 10 “focal ancestors” identified by petitioner 69B can be grouped by descent from four individuals: Lydia (Sprague) Nichols Shelley Henries (1830-1880), 237 descendants; Martha (Dorus) Hewitt (1856-1908), 44 descendants; Mary Etta (White) Belden Slocum (1869-1938), 4 descendants;¹⁰⁹ and James E. Belden (1815-1887), 4 descendants.

Four of the petitioner’s “focal ancestors” are grandchildren of Lydia (Sprague) Nichols Shelley Henries: the three sisters Elizabeth Rogers Henries (150 descendants), Elsie Isabelle Henries (34 descendants), and Ethel Irene Henries (four descendants), and one of their first cousins, Earl Willard Henries (eight descendants). A fifth “focal ancestor” is a great-granddaughter of Lydia Sprague: Ethel Brown, who was the granddaughter of Hannah Frances Nichols and Peleg Brown Jr. Ethel Brown has 87 descendants in the petitioner’s membership.¹¹⁰ In all, there are 237 individuals in the petitioner’s membership who descend from the five “focal ancestors” descending from Lydia Sprague.

Three of the “focal ancestors” are descendants of Martha Dorus: her daughter Lucy Ann (Hewitt) Hinckley (18 descendants), and Paul Wesley White and Edward LeRoy White (44 descendants), who were the son and grandson of Martha’s other daughter, Jane Louise (Hewitt) White.

The two remaining “focal ancestors,” Marguerite Winona Slocum, the daughter of Mary Etta White, and Carrie Etta Belden, the daughter of James E. Belden, each have four descendants in the petitioner’s membership.

Petitioner 69B identified these 10 individuals as “focal ancestors” because they represent multiple Nipmuc family lines, or other lines that it described as “native” lines, thus contributing to the petitioner’s assertions that the “historic Dudley/Webster Nipmucks are a kinbased society” (69B PF Comments 2002.09.27, 418). For example, Table A-5 lists each of the “family lines” for the three granddaughters of Lydia Sprague are listed as Sprague, Pegan/Nedson, Pegan/Caesar, “native Henries mingled lineage,” [*sic*] and “native Hazard lineage” [*sic*] (69B PF Comments Appendix A, Table A-5, 439-440). See OFA’s analysis above on “native families.”

¹⁰⁹Mary Etta White (1869-1938) was first married to James H. Belden, the son of James E. Belden; however, her four descendants in the petitioner’s membership are from her marriage to William Slocum and are not Belden descendants. Carrie Etta Louise Belden is the daughter of James E. Belden.

¹¹⁰Ethel Brown’s four daughters are Eva Viola (72 descendants), Mary Susan (11 descendants), Ethel Marie (three descendants), and Nelly G. Brown (one descendant).

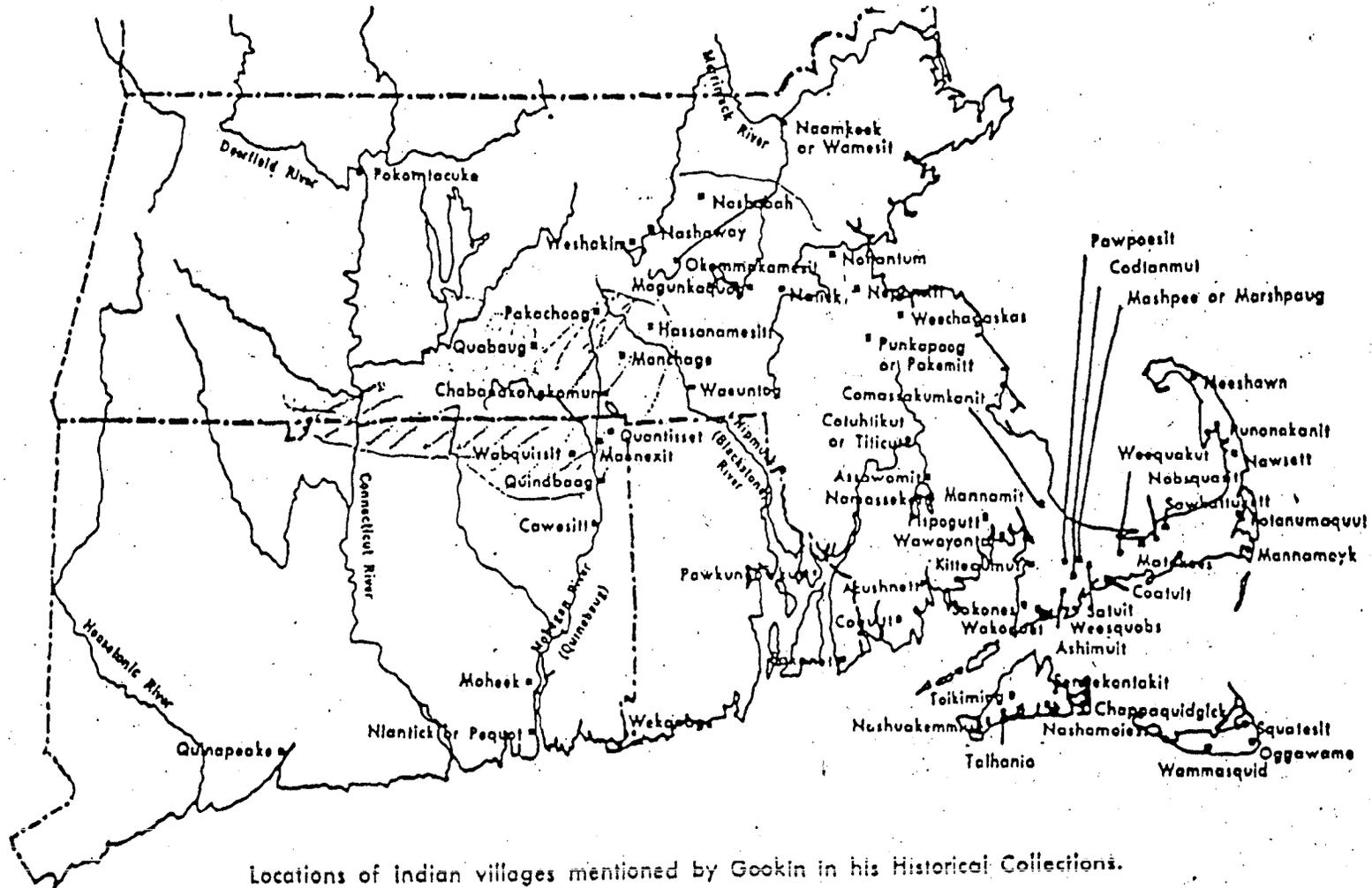
Table A-1 and Table A-2

Petitioner 69B stated that, “[a]nalysis of the Dudley Indian families located and enumerated by John Milton Earle finds nine core lineages, as well as two families with bilateral lineage ancestry. A tenth lineage is found in the miscellaneous section of the *1861 Earle Report*” (69B PF Comments 2002.09.27, 423). Petitioner 69B summarized the lineages of the 1861 tribe in Table A-1 “Dudley Indians in the 1861 Earle Report, Grouped by Lineage,” and Table A-2, “Pegan/Pollock Lineage Members Listed as Miscellaneous Indians in the 1861 Earle Report” that list the petitioners ancestors and other Indians listed on the 1861 Earle Report by family group (Belden, Corbin, Jaha, Pegan/Humphrey, Sprague, for example) followed by a brief statement such as “son of an unidentified Dudley Indian woman,” “son of James E. Belden,” “granddaughter of Scipio Jaha and Esther, a Dudley Indian,” “matriarch,” or “sister of Israel Sprague Sr.,” for example.

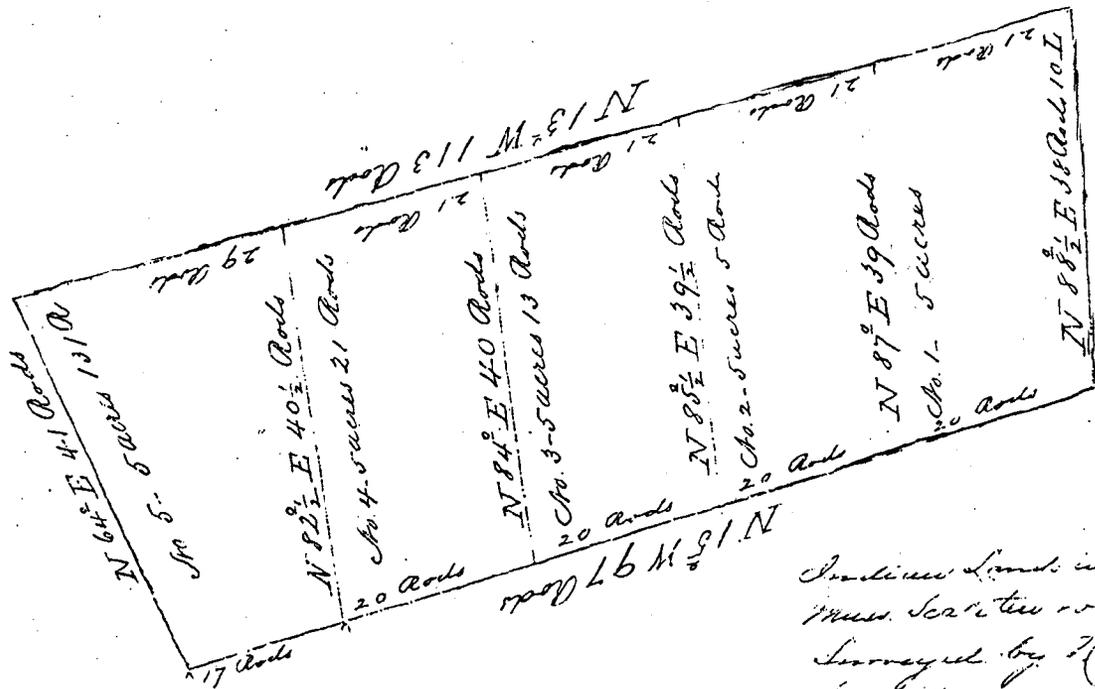
The petitioner’s analyses in these tables are of the composition of the Nipmuc tribe as it was identified in 1861; not of the petitioner’s ancestors, whether they were listed as Dudley Indians or not.

Table A-3 and Table A-4

Petitioner 69B listed over 100 names in Table A-3: “Dudley Indians on the 1861 Earle Report and/or the 1889 and 1891 Disbursement Lists” (69B PF Comments 9/29/2002, 430-435) and the “Dudley Indians on the 1889 and 1891 Disbursement Lists, Grouped by Lineage” in Table A-4 (69B PF Comments 9/29/2002, 435-438). Neither of these tables tells how many of the current group’s members descend from each of these lines.



Map drawn by M. E. Brown, for Towtaid reprint listed in Selected Bibliography. Used with permission of publisher. State boundaries shown are present ones, Indian data refers to 17th century.



Indian Land in Michigan
 was sectioned and sold
 Surveyed by H. J. ...
 Sold November 22nd 1887 by
 Chas. E. Stevens and
 Thomas Farrington, Commission

Dec 24 1887 at 9:30 a.m. and attached to the Record
 By Harry B. ...