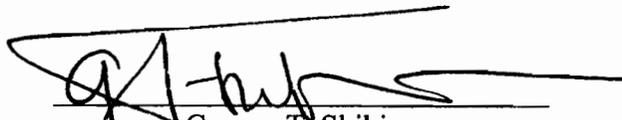


Summary under the Criteria and Evidence for  
Final Determination Against the Federal Acknowledgment of the  
Little Shell Tribe of Chippewa Indians of Montana

Prepared in Response to a Petition Submitted to the  
Assistant Secretary - Indian Affairs for Federal  
Acknowledgment that this Group Exists as an  
Indian Tribe.

October 27<sup>th</sup>, 2009  
(Date)

  
George T. Skibine

Acting Principal Deputy Assistant Secretary - Indian Affairs

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

Summary under the Criteria and Evidence for  
Final Determination against the Federal Acknowledgment of the  
Little Shell Tribe of Chippewa Indians of Montana

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## Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)

### ABBREVIATIONS AND/OR ACRONYMS USED IN THIS REPORT

AS-IA	Assistant Secretary - Indian Affairs
BAR	Branch of Acknowledgment and Research
BIA	Bureau of Indian Affairs
CFR	<i>Code of Federal Regulations</i>
DOI	Department of the Interior
FAIR	Federal Acknowledgment Information Resource
FD	Final Determination
FTM	Family Tree Maker <sup>TM</sup> genealogy software
FR	<i>Federal Register</i>
IBIA	Interior Board of Indian Appeals
IRA	Indian Reorganization Act
OFA	Office of Federal Acknowledgment, formerly BAR
PF	Proposed Finding
LS	Little Shell Petitioner
LSCG	Little Shell Community Group
RFD	Reconsidered Final Determination
RRS	Red River Settlements
TA	Technical Assistance
TMG	The Master Genealogist, the Petitioner's Genealogical Database
TR	Technical Report

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Final Determination against the Federal Acknowledgment of the  
Little Shell Tribe of Chippewa Indians of Montana

**INTRODUCTION**

The Office of the Assistant Secretary-Indian Affairs (Assistant Secretary or AS-IA) within the Department of the Interior (Department or DOI) issues this final determination (FD) in response to the petition received from a group known as the Little Shell Tribe of Chippewa Indians of Montana (Little Shell, LS, or Petitioner #31), with an office located in the town of Great Falls, Montana. The LS petitioned for 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 Assistant Secretary delegated authority to sign some Federal acknowledgment findings to the Acting Principal Deputy-Assistant Secretary- Indian Affairs, effective June 4, 2009. The acknowledgment regulations, 25 CFR Part 83, establish the procedures by which groups may seek Federal acknowledgment as an Indian tribe entitled to a government-to-government relationship with the United States. To be entitled to such a political relationship, the petitioner must submit documentary evidence that the group meets all seven mandatory criteria set forth in section 83.7 of the regulations. The Department shall acknowledge the petitioner as an Indian tribe when it determines that the group satisfies all of the criteria in 83.7(a-g). The Office of Federal Acknowledgment (OFA),<sup>1</sup> within the Office of the AS-IA, has responsibility for petition review and analysis. This FD concludes the petitioner does not meet all seven mandatory criteria and is not an Indian tribe within the meaning of Federal law.

On July 21, 2000, the Department issued a proposed finding (PF) that concluded the petitioner met all seven mandatory criteria and proposed to acknowledge the group as an Indian tribe. In doing so, the AS-IA explicitly acknowledged several proposed departures from practice in previous acknowledgment decisions (65 FR 45395; Little Shell PF 2000, Summary, 6). Publishing notice of the PF in the Federal Register on that day initiated a 180-day comment period during which time the petitioner, interested and informed parties, and the public could submit arguments and evidence to support or rebut the PF. The regulations at 25 CFR 83.10(k) provide the petitioner a minimum of 60 days to respond to any comments that interested and informed parties and the public submit on the PF during the 180-day comment period. The petitioner requested and the Department provided a series of extensions for good cause that eventually extended the deadline for the comment period to February 5, 2005.<sup>2</sup>

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<sup>1</sup> The Branch of Acknowledgment and Research (BAR), within the Bureau of Indian Affairs (BIA), was previously charged with the responsibility of petition analysis. Effective July 27, 2003, this office was renamed the OFA and relocated administratively under the Office of the AS-IA.

<sup>2</sup> See Smith 1/17/2001; Supernaw 7/13/2001; Smith 1/14/2002, 7/16/2002; Birdbear 1/22/2003; Smith 7/15/2003;

## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

After the publication of the notice of the FD in the Federal Register, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures specified in section 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the Federal Register. The FD will become effective as provided in the regulations 90 days from the publication unless the petitioner or any interested party files a request for reconsideration within that timeframe.

The Department bases this FD on an evaluation of materials the petitioner and third parties submitted in response to, and materials already in the record, for the PF. The FD also incorporates evidence Department researchers developed during their verification research. Therefore, this FD should be read and considered in conjunction with the PF.

### Administrative History of the Petition since the Proposed Finding

In March 2000, the OFA drafted a recommended proposed finding against Federal acknowledgment of the Little Shell Tribe of Chippewa Indians of Montana. The March 2000 recommendation proposed that the petitioner had not submitted evidence to demonstrate it had met criteria 83.7(a), (b), (c), and (e). On July 14, 2000, the Assistant Secretary-Indian Affairs rejected the recommended proposed finding and revised it to propose finding for Federal acknowledgment of Little Shell petitioner. Notice of the revised proposed finding was published in the Federal Register on July 21, 2000.

The PF found that the petitioner met all seven mandatory criteria by proposing several departures “from practice in previous acknowledgment decisions in certain respects” (65 FR 45395; Little Shell PF 2000, Summary, 6). See the PF for a detailed administrative history up to July 2000.

The petitioner requested and received several informal technical assistance (TA) meetings during the comment period and received a copy of OFA’s March 2000 recommendation. At the request of the Little Shell, the OFA held informal TA meetings (either in person or by teleconference) with the petitioner’s researchers on October 18, 2000, November 30, 2001, May 15, 2003, July 15, 2004, April 20, 2005, and November 1, 2005, to provide additional guidance, with follow-up letters summarizing the main points (Smith 1/14/2001, Fleming 5/12/2001, 7/15/2003, 8/12/2004, 11/1/2005).<sup>3</sup> The FD describes the guidance provided in these meetings in a following section. Due to some technical difficulties with mail delivery, the OFA allowed the petitioner to submit its comments on the PF sequentially and received them on February 5, 7, 11, and 22, 2005 (Fleming 4/29/2005). It also received comments on the PF from two third parties, one known as the “Lineal Mikisew-Asiniwiin Ojibwa Clan Council,”<sup>4</sup> on May 10, 2004, and one

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Fleming 1/14/2004, 5/14/2004 9/9/2004; Olsen 10/12/2004; Fleming 2/2/2005.

<sup>3</sup> Citations for documents cited in the FAIR database generally follow the format for Short Cite column in that database. However, for brevity’s sake the source may cite only the Author and Document Date column. For example, (Franklin 1994) stands for LSM Supplemental Evidence and Analysis 1994.12.12. For the reader’s information, this FD contains two bibliographies, one for sources cited in the FAIR database, and one for those not cited in the database.

<sup>4</sup> This group is an interested party and a petitioner, #172, for Federal acknowledgment, and has also gone by the

## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

from Terry Long Fox<sup>5</sup> on September 1, 2004. The OFA received the petitioner's response to these third-party comments on April 13, 2005.

The petitioner's comments consisted of more than 10,000 pages of documents and arguments submitted in reply to requests for information as outlined in the PF, the OFA's March 2000 recommendation, and the various informal TA meetings. Thus, the petitioner responded to both the PF and OFA's March 2000 recommendation. The FD considered this material in combination with the more than 60,000 pages in the record.

The "Lineal Mikisew-Asiniwiin Ojibwa Clan Council" comments consisted of an 11-page letter. Terry Long Fox's comments consisted of a 21-page argument. Neither third party submitted any documentation. As its response to these letters, the petitioner's governing body submitted an 11-page letter and 28 accompanying documents. The FD discusses these comments in a following section.

The Department began consideration of the Little Shell petition for the FD on August 1, 2007 (Fleming 8/9/2007). From September 29 to October 19, 2007, a Department researcher conducted a field trip as part of the active consideration of the group's petition. As part of the field trip the researcher requested the petitioner and several interviewees submit additional material for review. This material, submitted between November 2007 and June 2008, included copies of about 1,000 pages of historical analyses, reunion data, sign-in sheets, contact information for political groups and leaders, internet website on-line chat and electronic mail records, newsletters, photographs, and a CD on a 2007 powwow attended by members of the group.<sup>6</sup>

On June 14, 2008, OFA requested and received for good cause a 180-day extension for the issuance date of the FD for the Little Shell petitioner. The new deadline was established for January 28, 2009 (Fleming 7/24/2008). On January 15, 2009, the OFA requested and received for good cause an additional 180-day extension for issuing the FD. The new deadline was established for July 27, 2009 (Fleming 1/15/2009). Thereafter, the Solicitor was granted first a 60-day, and then a 30-day extension, to complete her legal review.

### Summary of the Proposed Finding and Analysis of Departures from Precedent

In March 2000, the OFA drafted a recommended proposed finding against Federal acknowledgment of the Little Shell Tribe of Chippewa Indians of Montana. The OFA based its proposed finding against acknowledgment on a 234-page technical report detailing the facts of the case that it included as part of its recommendation. The March 2000 recommendation proposed to find the petitioner had not submitted sufficient evidence to demonstrate it had met

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names of "The Lineal Descendants of the Original Rocky Boy's Band of Chippewa Indians" and "Ahon-to-ays Ojibwa Band."

<sup>5</sup> This individual is an informed party.

<sup>6</sup> See Anderson 10/19/2007, Fleming 12/13/2007, 2/8/2008, Kennedy 3/5/2008, Fleming 4/9/2008, 6/5/2008, 6/30/2008.

## Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)

criteria 83.7(a), (b), (c), and (e).

The Assistant Secretary rejected the OFA recommendation and on July 21, 2000, published in the Federal Register a notice of the proposed finding for Federal Acknowledgment of Little Shell petitioner. There were considerable differences between the March 2000 recommendation and the July 2000 positive PF. An examination of the two documents revealed the AS-IA fashioned the positive PF through a different weighing of the facts in the technical report, which resulted in a deviation from precedent and the regulations and in some instances without citing the facts for the conclusion. Although the AS-IA revised the recommendation, he published the Technical Report to accompany the revised PF as the factual basis for the record, without change.

The Little Shell PF concluded the petitioner met all seven mandatory criteria under the acknowledgment regulations. In doing so, the PF explicitly acknowledged several proposed departures “from practice in previous acknowledgment decisions in certain respects, principally in giving different amounts of weight to various types of evidence than had been done in prior determinations” (65 FR 45395; Little Shell PF 2000, Summary, 6).

The PF pointed out three specific proposed departures from precedent. It departed from precedent on criterion 83.7(a) by not requiring “evidence of specific identification of the petitioner as Indian entity during each decade.” The PF departed from precedent on criteria 83.7(b) and (c) by not relying “upon specific evidence showing the continuity of tribal existence substantially without interruption.” Finally, it departed from precedent on criterion 83.7(e) by accepting “descent from the historical tribe by 62 percent of the petitioner’s members as adequate for meeting criterion (e)” rather than at least 80 percent as in previous findings (65 FR 45395; Little Shell PF 2000, Summary, 6-7).

The PF invited public comment from the petitioner and third parties on these “departures from previous practice” and on the “consistency” of the PF “with the existing regulations.” It stated that such “supplementary evidence” could create “a different record and a more complete factual basis for the final determination,” and “eliminate or reduce the scope of these *contemplated* departures from precedent” (65 FR 45395; Little Shell PF 2000, Summary, 7; emphasis added).

The PF also departed from precedent in several other instances without specifically denoting them as departures. For some, but not all, of these departures, the PF “encouraged” the petitioner to provide additional evidence to strengthen the record for the FD.

The PF was subject to a review by the Office of Inspector General which issued an investigative report in 2002 entitled “Allegations Involving Irregularities in the Tribal Recognition Process and Concerns Related to Indian Gaming.”<sup>7</sup> The PF was discussed as well, although not specifically by name, in the *United States General Accounting Office Report to Congressional Requesters, Indian Issues “Improvements Needed in Tribal Recognition Process”* Nov. 2001, GAO-02-49. The GAO concluded that the written decision “did not explain why evidence might be limited and perhaps cause a deviation from past precedent or why past standards were unfairly high in this case. Without such an explanation, the report, which the regulations call for to

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<sup>7</sup> See US Department of the Interior, Office of Inspector General, Report NO. 010I-00329, February 2002; see also Devaney 3/20/2002 and Devaney Memorandum 3/20/2002).

## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

summarize the evidence, reasoning, and analyses that serve as the basis for proposed findings, is incomplete” (U.S. General Accounting Office, November 2001, 13).

In its comments on the PF, the petitioner made no detailed argument regarding these contemplated departures from precedent other than to restate them and argue they were justified given the historical circumstances and effects of governmental policies on the group. The petitioner also argued its additional research on the criteria had “largely, if not totally obviated the need for any arguable extension of previous precedent” (Little Shell Comments on the PF 2005, Introduction, 2-3).

No interested party submitted substantive comments or arguments related to the PF’s departures from precedent. The FD discusses third party comments and the petitioner’s response to them in a following section. The departures from practice applied to criteria 83.7(a), (b), (c), and (e), and are addressed in detail below. In sum, this FD does not adopt the proposed departures from precedent for criteria 83.7(a), (b), (c), and (e) because they are contrary to the language, intent, and the standards of evidence provided in the acknowledgment regulations. Those regulatory standards state that a criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. On the other hand a criterion is not met if the available evidence is simply too limited to establish the validity of the facts (59 FR 9280, 9295). The review of the petition is to be conducted by a team of professional researchers working in consultation with each other, using its expertise and knowledge of sources to evaluate the accuracy and reliability of the evidence submitted (70 FR 16515).<sup>8</sup> The changes of precedent contemplated in the PF are not supportable by professional researcher standards. In the case of the Little Shell petition, applying the standards of the professions, the evidence proved too limited even when taking into account historical circumstances and fluctuations in group activity.

### **Criterion 83.7(a)**

The Little Shell PF departed from criterion 83.7(a) precedent by concluding that external observers had identified the petitioner as an American Indian entity on a substantially continuous basis since 1900 despite there being no available evidence that external observers identified the petitioner’s ancestors as an American Indian entity from 1900 to 1935. For the 35-year period, the PF indicated there were only some limited examples of external identifications of, or references to, the petitioner’s ancestors as “Indians in Montana.” It also described “two modern recollections by outsiders” to “suggest the past existence of small, local settlements that included some of the petitioner’s families,” neither of which were “contemporaneous” to the period (Little Shell PF 2000, Summary, 8).

The PF invited public comment on this specific proposed departure from precedent. It also suggested research “at the local and state levels could discover identifications made between 1900 and 1930 of local or state Indian groups or entities associated with the petitioner’s

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<sup>8</sup> This Federal Register guidance of March 31, 2005, supersedes the Federal Register guidance of February 11, 2000, that also provided that the review of a petition is to be conducted by a team of professional BIA researchers working in consultation with each other, applying the professional standards of BIA researchers to the review (65 FR 7052, 7053).

## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

ancestors in Montana,” and that such research “would strengthen the record for the final determination” (Little Shell PF 2000, Summary, 8). The PF called this conclusion a “more flexible interpretation of the available documentation” (Little Shell PF 2000, Summary, 10). *Discussion of the Proposed Finding’s Departures from Precedent for Criterion 83.7(a)* According to the 1994 regulations, acceptable evidence under criterion 83.7(a) may consist of identifications of the group as an Indian entity by Federal authorities, state and local governments, recognized Indian tribes or organizations, anthropologists, historians, or scholars, or newspapers or books. The regulations also state the identifications must be of an “Indian entity” and on a “substantially continuous basis since 1900.”

The Department’s Official Guidelines to the Acknowledgment Regulations, published in 1997, affirmed that external identifications had to be of a group, and “not only an individual” (Guidelines 1997, 42). The Guidelines also stated that substantially continuous meant no long interruptions in the identifications, with some kind of documentation occurring contemporaneously from each decade since 1900 (Guidelines 1997, 42, 44).

Department findings have followed the research standards prescribed in the Guidelines, including those issued after the Little Shell PF. The Duwamish PF issued in 1996 stated criterion 83.7(a) required “identification of an Indian entity, not just Indian individuals” (Duwamish PF 1996, 4). Since then the Department has affirmed this research standard of identification of the group every ten years in a series of decisions including, for example, the Duwamish FD, the Burt Lake PF, the Muwekma FD, the Chinook Reconsidered FD, and Mashpee Wampanoag FD (Duwamish FD 2001, 10, 17; Burt Lake Band PF 2004, 34; Muwekma FD 2002, 15, 29, 42, Chinook RFD 2002, 64-65; Mashpee FD, 2007, 8).

The regulations require substantially continuous identification since 1900, but provide no specific interval. Consistent identification is the primary requisite, and previous findings have generally regarded any gap of more than 10 years duration in identification as problematic (see Eastern Pequot PF 2000, 76; Duwamish FD 2001, 10, 17; Muwekma FD 2002, 45; Abenaki PF 2005, 22; Burt Lake FD, 2007, 22, 25; Mashpee FD 2007, 7-8). No petitioner has met criterion 83.7(a) since the issuance of the 1994 regulations with any significantly longer time gap in identifications.

The Little Shell PF claimed external observers had identified the petitioner as an Indian entity on a substantially continuous basis since 1900, despite a lack of external, contemporaneous, identifications of the group for a much more extensive period, 1900 to 1935, than previously allowed. The Department concludes that a 35-year period of non-identification by external observers is too long to meet the criterion under the reasonable likelihood standard of proof. To allow a petitioner to meet the criterion with such a long period of non-identification would violate the acknowledgment regulations which require substantially continuous external identification since 1900. There was no evidence that the lack of identifications between 1900 and 1935 was a fluctuation in activity. Applying the standards of the professions, the evidence proved too limited even when taking into account 83.6(e) concerning historical circumstances and fluctuations in group activity. No argument in response to the PF provides an adequate justification for this departure from precedent under criterion 83.7(a).

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The regulations also require the external identifications be of an Indian “entity.” As cited above, acknowledgment precedent since the Little Shell PF are consistent with precedent before the Little Shell PF that the identifications must be of a group rather than just Indian individuals or Indian families, and that they be of a contemporaneous group. There is no evidentiary basis on which to conclude that simple references to individuals as Indians during a prolonged period of non-identification of an entity are consistent with identifications of a group at a later period or that an identification can be other than contemporaneous. The assumptions in the Little Shell PF cannot be validated consistent with the evidentiary requirements of the criterion, which again require a reasonable likelihood of the validity of the facts. When interpreted within the meaning of the regulations, and precedent established in other findings, which require external identification of an Indian entity by external observers on a substantially continuous basis, the PF’s reasoning for the contemplated departure from precedent cannot be accepted.

### **Criterion 83.7(b)**

The PF departed from precedent by allowing the petitioner to meet criterion 83.7(b) without requiring “specific evidence showing the continuity of tribal existence substantially without interruption” (Little Shell PF 2000, Summary, 6). In doing so, the PF accepted “as a reasonable likelihood that patterns of social relationships and political influence among the Métis residents of settlements in North Dakota and Canada during the mid-19th century persisted among their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920” (Little Shell PF 2000, Summary, 6). The PF adopted this conclusion, despite the fact the available evidence at that time did not show the petitioner’s ancestors had migrated together as a community to Montana or maintained any previous community ties in the new settlements (Little Shell PF 2000, Summary, 12-13). The PF invited public comment on this specific proposed departure from precedent.

The PF also accepted evidence of inter-marriage between 1880 and 1940 among people of Métis ancestry and the limited kinship ties that were created within some parts of the two main areas of settlement, the Triangle and Front Range areas of Montana, for the group’s ancestors, as evidence of community by explicitly stating that it was not necessary that the ties encompass all of each region or extend across the two regions. In addition, the PF acknowledged there was limited available evidence to explain the underlying social context for the existence of these marriages (Little Shell PF 2000, Summary, 13, 15-16).<sup>9</sup> On this issue of kinship ties and inter-marriage, the PF encouraged the petitioner to supply additional evidence to strengthen the FD (Little Shell PF 2000, Summary, 15).

For the period since the 1930’s, the PF also accepted other kinship ties, informal social contacts,

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<sup>9</sup> The PF presented an incomplete portrait of OFA’s March 2000 analysis of the marriage data. OFA’s recommendation, based on the technical report, acknowledged a significant degree of Métis to Métis marriage among the petitioner’s ancestors, but could not determine if these were marriages occurring within a defined social group rather than within the Métis as an ethnic population. For OFA’s recommendation, the marriage data did not function as evidence of social community at that time and needed to be supplemented by additional information about the identity of the petitioner’s historical community (OFA 2000, 19-26; Little Shell PF 2000, TR, 166-181). This FD discusses the continuing methodological problems of the petitioner’s marriage data in criterion 83.7(b) and in the appendices.

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cultural differences,<sup>10</sup> social discrimination,<sup>11</sup> and some social interaction and cohesion among only a portion of the petitioner's members to function as sufficient evidence of community, rather than requiring evidence for a "predominant portion" as the regulations require (Little Shell PF 2000, Summary, 19-20, 24-26).<sup>12</sup> On these issues, the PF also encouraged additional information to strengthen the evidence for social community for the FD (Little Shell PF 2000, Summary, 19-20).

### *Analysis of the Proposed Finding's Proposed Departures from Precedent for Criterion 83.7(b)*

The regulations require that a "*predominant portion of the petitioning group* comprises a distinct community and has existed as a community from historical times until the present" (83.7(b); emphasis added). As defined in the acknowledgment regulations "community means any group of people which can demonstrate that *consistent interactions and significant social relationships* exist within its membership and that its members are differentiated from and identified as distinct from non-members" (83.1; emphasis added). This definition of community "must be understood in the context of the history, geography, culture, and social organization of the group" (83.1).

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<sup>10</sup> The PF deviated from the language of the regulations and precedent in weighing the significance of cultural differences, such as language, traditional foods, religious beliefs, and celebrations for modern community. In the case of food, religious beliefs, and traditional celebrations, the regulatory standards of proof and precedent hold that such cultural differences must "function as more than a symbolic identification" and must be deep seated rather than superficial (83.7(b)(vii); San Juan Paiute PF 1987, ix, 142-144; San Juan Paiute FD 1989, 6; Snoqualmie PF 1993, 13, 19-20; Snoqualmie FD 1997, 7-8). For language, a "significant portion" of the group must maintain the language difference from non-Indians for it to be evidence for community (83.7(b)(vii); San Juan Paiute PF 1987, 142-143). Unlike the PF, the March 2000 recommendation, based on evidence in the technical report, found only small cultural differences from non-Indians among most of the Little Shell members. Significant cultural differences existed only among a small number of the group, not among a "significant portion of the group" as required by the regulations. Thus, the recommendation did not accept these cultural differences as evidence of community for the group as a whole (OFA 2000, 26, 37; Little Shell PF 2000, TR, 186, 202-203). The PF did not cite evidence to support its conclusions.

<sup>11</sup> The PF presented an incomplete portrait of OFA's March 2000 analysis of the discrimination data. There was evidence of strong discrimination against the petitioner's ancestors before the 1960's because of their Métis ethnicity, but OFA's recommendation, based on the technical report, could not determine if this discrimination resulted because of their membership in a social group or because of their individual Métis ancestry. Thus, it was not evidence that the petitioner "comprises a distinct community," "differentiated from nonmembers" (83.7(b); 83.1). For the period after the 1960's, the recommendation found little evidence that discrimination continued in any significant way, but the PF allowed evidence of some limited discrimination to function as supporting evidence (Little Shell PF 2000, Summary, 19). In discussing social discrimination, the PF departed from the regulations that there needs to be "evidence of strong patterns of discrimination" which must be widespread to be evidence of community (59 FR 9287; see also Snoqualmie PF 1993, 21; Steilacoom PF 2000, 11; Miami FD 1992, 14). For OFA's recommendation, the discrimination data did not function as evidence of social community at any time (OFA 2000, 19-26; Little Shell PF 2000, TR, 186-187, 200-201).

<sup>12</sup> The PF did not discuss the data concerning the limited nature of the evidence for social connections among the modern Little Shell group, as described by the technical report (187-198). It accepted samples of social connections and marriage and kinship ties that did not encompass all of the regions of settlement or a predominant portion of the members as sufficient to demonstrate modern community for the entire group. On this issue, the PF was not in keeping with the regulatory requirement that a "predominant portion" of the petitioning group "comprises a distinct community" and how the Department applies the regulatory standards of evidence.

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A petitioner must demonstrate the existence of community on a “substantially continuous basis” although this does not require meeting the criterion at “every point in time” (83.6(e)). The regulations allow for “fluctuations in tribal activity,” but call for overall continuity (83.6(e)).<sup>13</sup> As stated in the Guidelines, there should be no long interruptions in tribal activity or periods when an entire generation loses contact with one another (Guidelines 1994, 42).

Department precedent has also established that specific evidence of community should show the continuity of tribal existence substantially without interruption since historical times (Jena Choctaw PF 1994, 6-7; Snoqualmie FD 1997, 9). Such precedent has always taken into consideration fluctuations in activity, patterns of migration and amalgamation, and the impact of historical circumstances on the availability of records (Mohegan FD 1994, 10, 11, 17; Poarch Band of Creeks PF 1983, 3-4; Narragansett PF 1982, 9, 11; Death Valley Shoshone PF 1982, 4-5; Tunica-Biloxi PF 1980, 4-5).

Department precedent and regulatory standards of proof have not accepted that earlier social relationships among residents of multiple settlements in one area establish by a reasonable likelihood that such social relationships would have persisted among their descendants in other areas without contemporary evidence demonstrating those ties (Duwamish FD 2001, 41, 43; see also Duwamish PF 1996, 4-6, 8, 11). In contrast, the Little Shell PF presumed such continuity and found continuity of tribal existence without citing evidence to support that finding. The PF thus was contrary to the regulatory standards of proof that provide that a criterion “is not met if the available evidence is too limited to establish it, even if there is no evidence contradicting facts asserted by the petitioner,” noting further that the Federal court in *United States v. Washington* “rejected the argument that ‘because their ancestors belonged to treaty tribes, the appellants benefitted from a presumption of continuing existence’” (59 FR 9280, 9282).

Nor has the Department assumed the existence of continuous community for any petitioner during periods when evidence is lacking or insufficient, either before or subsequent to the Little Shell PF (see Miami FD 1992, 5; Chinook RFD 2002, 78). Rather, sections 83.6(c) and (d) of the regulations provide that the Department may deny acknowledgment if there is insufficient evidence the petitioner meets one or more of the seven mandatory criteria (see also Snohomish FD 2003, 32-34; Ramapough FD 1996, 23-24; PACIT PF 2008, 35-36, 38). While insufficient evidence may result from a minimal submission of information rather than its non-existence, petitioners have always been given ample technical assistance and time to supplement their petitions with additional data before a FD. Regulatory standards have always required evidence to establish a fact, such as the existence of social relations between members. If there is little or no evidence for such important facts, then the petitioner cannot meet the criterion. Either the lack of evidence of social interaction or evidence of little or no contact would mean the petitioner has not met criterion 83.7(b) (59 FR 9280).

In sum, the regulations require a reasonable likelihood of the validity of the facts for a petitioner to meet a criterion (83.6(d)). Accepting “as a reasonable likelihood that patterns of social relationships and political influence” persisted among a group of descendants for over 50 years while also acknowledging the available evidence at that time did not show such persistence, as did the Little Shell PF, does not accord with the regulations and how the Department has applied

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<sup>13</sup> See also 59 FR 9281.

## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

regulatory standards of proof.

The regulations for criterion 83.7(b) require that a “predominant portion of the petitioning group comprises a distinct community” rather than just portions of the membership as permitted in the Little Shell PF. The term “predominant” means at least half of the membership maintains significant social contact with each other (59 FR 9092) through relationships, interaction, or institutions used to demonstrate community and the remainder of the membership remains connected in some way to those who participate. This requirement does not demand a specific counting of individuals when patterns of broad-based interaction are visible. Instead, the evidence for community should reasonably demonstrate that the greater portion of the membership meets the definition of community. Departmental precedent and standards of proof consistently rejected the notion that evidence concerning a minority portion of the petitioner suffices to permit the petitioner as a whole to meet the requirements of 83.7(b) (see Burt Lake PF 2004, 38; Chinook RFD 2002, 34, 36, 38, 76-78). The PF conclusion that the limited interaction in a minority portion of the petitioner is sufficient for the petitioner as a whole is contrary to the plain meaning of a “predominant portion” of a group having to be engaged in social interaction, unless those portions are a sample of the whole. Such an assumption, however, is without basis in fact in this case. Further, such an assumption does not work for purposes of defining the boundary of the petitioner’s community, which is a significant part of the evaluation done by the Department researchers.

This FD concludes that the PF’s proposed departures from precedent under criterion 83.7(b) were inconsistent with the language, the requirements, objectives, and intent of the regulations that require a demonstration of continuous existence (meaning substantially without interruption) by a distinct community since historical times by a predominant portion of the petitioning group. The proposed departures were not ratified by subsequent decisions and were proven not to be warranted by the subsequent analysis and research. The petitioner’s response to the PF does not present any argument based on professional methodology in history or anthropology that would adequately justify the proposed finding’s departures from precedent. When considered against the plain language of the regulations, the intent of the regulations, regulatory standards of proof, precedent established in other findings, and the totality of the available evidence, the PF’s proposed departures from precedent cannot be justified.

### **Criterion 83.7(c)**

The PF concluded the petitioner had maintained political influence over its members as an autonomous entity since historical times. As with criterion 83.7(b), the PF accepted “as a reasonable likelihood that patterns of social relationships and political influence” among the petitioner’s ancestors in their “settlements in North Dakota and Canada during the mid-19th century persisted among their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920” (Little Shell PF 2000, Summary, 6). The PF invited public comment on this specific contemplated departure from precedent.

To reach this conclusion the PF adopted a “more flexible interpretation of the available documentation” before the 1930’s, which accepted that “evidence of some local leadership among a minority of the petitioner’s ancestors in the past” showed a “reasonable likelihood that

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patterns of political influence existed among many of the petitioner's ancestors" (Little Shell PF 2000, Summary, 34). On this issue, the PF encouraged the petitioner to "provide additional evidence to more fully demonstrate its political influence or authority" from historical times to the 1930's (Little Shell PF 2000, Summary, 34). For the time since the 1930's, the PF stated, "some of the evidence described in section 83.7(c)(1)" existed "for portions of the petitioner's members and ancestors for limited periods of time" (Little Shell PF 2000, Summary, 34-35).<sup>14</sup>

### *Analysis of the Proposed Finding's Proposed Departures from Precedent for Criterion 83.7(c)*

The acknowledgment regulations require that a petitioner maintain political authority or influence over its members as an autonomous entity from historical times until the present. Political influence or authority means a tribal council, leadership, internal process, or other mechanism that the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence (83.1). As with evidence for social community, a petitioner needs to demonstrate continuous existence of a political entity substantially without interruption.

Department precedent and its regulatory standards of proof have not accepted as a reasonable likelihood that "patterns" of political influence among a petitioner's ancestors in the middle 19th century would persist among their descendants 50 years later without contemporary evidence of actual, significant political leadership among the group (Burt Lake Band PF 2004, 61; Chinook RFD 2002, 104; Duwamish FD 2001, 51-52, 62; Steilacoom PF 2000, 14; Houma PF 1994, 18, 20, 22). To do so, as in the Little Shell PF, would base a conclusion of continuous political influence on supposition rather than evidence, and would be contrary to the standards of proof

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<sup>14</sup> OFA's March 2000 recommendation, based on the technical report, concluded the petitioner had one political process since the middle 1950's which dealt with a number of issues important to the members. Thus, the recommendation informed the petitioner it was unnecessary to provide additional evidence of political activities and process within its organization since the middle 1950's.

For purposes of demonstrating political authority or influence from historical times to the present, however, the March 2000 recommendation suggested the petitioner provide evidence to show if its current political system was a result of a past amalgamation of formerly separate social communities and their separate political organizations, or a political confederation of historically and currently separate social communities. On the basis of the evidence in the record, the recommendation did not find that the evidence demonstrated that the current petitioner was an amalgamation or confederation of formerly separate communities or political organizations.

In sum, the petitioner needed to demonstrate whether its current political system was the successor of a continuously existing autonomous entity which ultimately derived its political sovereignty from a historical Indian tribe, or the successor of continuously existing autonomous entities, now combined, which derived their sovereignty from historical tribes. Without such a demonstration of continuity of historical community, the petitioner could not meet criterion 83.7(c) for the period since the 1950's (OFA 2000, 55-56). This demonstration of continuity of a historical community first was necessary to meet the intent of the regulations that continuous tribal existence is the essential requirement for acknowledgment. Under the regulations and precedent, political influence cannot be demonstrated without first showing there is a community within which to exercise such influence (59 FR 9287; Nipmuc Nation FD 2004, 154; Principal Creek Nation PF 1984, 3; Lower Muscogee Creek PF 1980, 3). In contrast, the PF found such an amalgamation or confederation without citing evidence to support this conclusion.

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provided for in the regulations. Further, such a supposition is not consistent with standards used by professional researchers that are applied to the review of the petition 70 FR 16515. The petitioner's response to the PF does not present any argument based on professional methodology in history or anthropology that would adequately justify the proposed finding's departures from precedent.

The regulations do not permit an assumption of political influence for any petitioner during periods when evidence is lacking or insufficient. As stated previously, the Department shall deny acknowledgment if there is insufficient evidence the petitioner meets one or more of the seven mandatory criteria (83.10(m); Snohomish FD 2003, 32-34; Ramapough FD 1996, 23-24; PACIT PF 2008, 35-36, 38). Since insufficient evidence sometimes results from a minimal submission rather than the non-existence of information, the Department has always given ample time and technical assistance to petitioners to supplement their petitions with additional data before a FD. Nonetheless, regulatory standards of proof require evidence to establish a fact by a reasonable likelihood, including the existence of continuous political influence affecting a greater part of the membership. If there is little or no evidence for such an important issue, then the petitioner cannot meet the regulatory standard of proof for the criterion.

In sum, the regulations require a reasonable likelihood standard of proof for a petitioner to meet a criterion. Accepting as a reasonable likelihood that patterns of political influence persisted among a group of descendants for over 50 years while simultaneously acknowledging the available evidence did not show such persistence is inconsistent with the regulatory standards of proof and how the Department has applied them in other findings both before and after the Little Shell PF.

As defined in the acknowledgment regulations, criterion 83.7(c) requires a petitioner to demonstrate the political authority of its group, and the existence of a bilateral political relationship between the leadership and its members. Department precedent and regulatory standards of proof have established that political processes must involve a significant number of the group's members to be truly bilateral (83.7(c); Cowlitz PF 1997, 14-16, 37; Snoqualmie PF 1993, 15, 25, 30; Miami FD 1992, 17; Jena Choctaw PF 1994, 9, 10; Snohomish FD 2003, 45; Muwekma FD 2002, 113, 118-119, 135, 136, Steilacoom PF 2000, 15; Chinook PF 1997, 32; Duwamish PF 1996, 15). The evidence must also show a political connection between members and the leaders' actions. Groups that lack a bilateral political relationship between members and leaders cannot meet criterion 83.7(c). That lack is evident when over an extended period of time there are only sporadic examples of limited, local leadership. Such scarce evidence does not demonstrate claimed leaders are acting on behalf of or with the support of the community over time. Such a low level of political activities is inconsistent with the language of the regulations and would result in an unwarranted lowering of the regulatory standards of proof used to recognize petitioners as Indian tribes.

This FD concludes that the PF's proposed departures from precedent under criterion 83.7(c) were inconsistent with the language, the requirements, objectives, and intent of the regulations that require a demonstration that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. The proposed departures were not ratified by subsequent decisions and were proven not to be warranted by the

## Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)

subsequent analysis and research. The petitioner's response to the PF does not present any argument based on professional methodology in history or anthropology that would adequately justify the proposed finding's departures from precedent.

### Criterion 83.7(e)

The PF found that the petitioner had demonstrated its members descended from a historical Indian tribe. The PF stated:

The available evidence indicates that about 48 percent of the petitioner's members trace their ancestry back to the Pembina Band of Chippewa or to its successor the Turtle Mountain Band.<sup>15</sup> An additional 14 percent of the petitioner's members descend from a member of Rocky Boy's Band with Chippewa ancestry. If Pembina ancestry is assumed for the Chippewa element of the Rocky Boy's Band of Chippewa-Cree, as was done by the Indian Claims Commission and by the Bureau of Indian Affairs in preparing the 1994 judgment roll for the distribution of the Commission's award, then possibly 62 percent of the petitioner's members have Pembina Chippewa descent. Genealogical information is missing for many of the petitioner's members, and it would be in the petitioner's interest to provide during the comment period further evidence that additional members descend from ancestors with established Pembina Chippewa descent. (65 FR 45395-6; see also Little Shell PF 2000, Summary, 43-44)

The PF also stated this evidence established "a reasonable probability that a strong majority of the petitioner's members descend from individuals with Pembina Chippewa descent" (Little Shell PF 2000, Summary, 44). It accepted "descent from the historical Indian tribe by 62 percent of the petitioner's members as adequate" for satisfying the criterion, although it noted every previous petitioner had met the criterion with "at least 80 percent" of its members descended from a historical Indian tribe (Little Shell PF 2000, Summary, 7). The PF gave no specific reason why 62 percent was adequate for meeting the criterion, but it invited public comment on this specific departure from precedent.

### *Requirements of the Regulations for Criterion 83.7(e)*

The regulations do not specify a particular percentage for how many members of a group must

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<sup>15</sup> The Turtle Mountain Band of Chippewa is one of three possible successors to the Pembina Band of Chippewa for purposes of descent according to the Indian Claims Commission. The Little Shell PF technical report stated:

Following the Indian Claims Commission's 1964 decision in the Pembina Case, the Department of Interior in 1968 prepared a report on the award for the 1863 treaty cession which concluded that three reservation tribes—the Minnesota Chippewa Tribe of the White Earth Reservation in Minnesota, the Turtle Mountain band of Chippewa Indians of the Turtle Mountain Reservation in North Dakota, and the Chippewa-Cree Tribe of Rocky Boy's Reservation in Montana—"may be considered to be comprised in part of Pembinas or descendants of Pembinas" (Interior ca. 1968, 2). (Little Shell PF 2000, TR, 157)

The Turtle Mountain Band Reservation was established by executive order in 1882; the land cession and compensation involved in establishing that reservation was not officially enacted by Congress until 1904.

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demonstrate descent for a petitioner to meet this criterion. The Department intentionally avoided a specific percentage to demonstrate required ancestry under criterion 83.7(e). It did so because the reasons why a portion of the membership may not meet the requirements of the criterion vary with the history and nature of a group (59 FR 9289). The review of the petition is to be conducted by a team of professional researchers working in consultation with each other, using its expertise and knowledge of sources to evaluate the accuracy and reliability of the evidence submitted (70 FR 16515). Although new evidence obviates the need to rely on the Rocky Boy's rolls, the assumption in the PF regarding the 14 percent is not supported by genealogical researcher standards.

No petitioner, however, has met this criterion with less than 80 percent of its members demonstrating descent from the historical Indian tribe.<sup>16</sup> Nor has a petitioner ever met the criterion based on a "reasonable probability that a strong majority" of a group's members have descent from the historical tribe, based on assumptions not in keeping with professional genealogical standards. The Department believes the PF assumptions to demonstrate an important issue like descent from the historical Indian tribe improperly relies on presumption rather than facts and is not in keeping with regulatory standards of proof.

In response to two comments suggesting a 60 percent standard, the Department in 1994 declined to adopt a particular percentage for criterion 83.7(e), noting that the significance of the percentage varies with the history and nature of a group and the particular reasons why a portion of the membership may not meet the requirements of the criterion (59 FR 9289). The Official Guidelines advises petitioners that

[T]he regulations do not require that 100 percent of your individual members demonstrate Indian ancestry in order for your group to qualify for acknowledgment. Is it the case of an adopted child? Is it the cases of an Indian family, who joined your community in 1855, and has been active ever since? If the answer is yes, then depending on specific circumstances, acknowledgment may not be negatively affected. (Official Guidelines 1997, 54)

These examples clarify that criterion 83.7(e) may be met with less than 100 percent of the members having established descent from the historical tribe for very "particular reasons." These examples also link the individuals to the rest of the membership and link their ancestors to the community that is being evaluated. The Department's findings with percentages that are less than 100 percent have taken into account such circumstances as incomplete birth records that did not name parents, or historical records that identified the individuals as descendants of a different tribe (See Mashpee FD 2007, 34). A group with a percentage as low as 80 percent has met criterion (e); however, no group with less than 80 percent has met the criteria for community and political authority.

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<sup>16</sup> Paucatuck Eastern Pequot RFD 2005: 100 percent; Eastern Pequot RFD 2005: 100 percent; Schaghticoke Tribal Nation RFD 2005: 100 percent; Mashpee Wampanoag FD 2007: 97 percent; Nipmuck #69B 2004 FD: 87 percent; Muwেকma FD 2002: 99 percent; Duwamish FD 2001: 99 percent; Cowlitz FD 2000: 99.8 percent; Mashpee Wampanoag FD 2007: 97 percent; Jena Band of Choctaws PF 1994: 88 percent; Principal Creek Nation 1984: 81 percent; Samish FD 1995: 80 percent.

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Descent from the historical Indian tribe by only 62 percent of a group's members, as in the Little Shell PF, would result in an unwarranted lowering of the regulatory standards of proof for meeting the criterion. Since the issuance of the Little Shell PF, two petitioners have had higher percentages of descent from the historical Indian tribe and have not met this criterion. In 2004, the Snohomish petitioner demonstrated that 69 percent of its members descended from the historical Indian tribe and did not meet this criterion (Snohomish FD 2004, 52). And in 2007, the Burt Lake petitioner demonstrated that 68 percent of its members descended from the historical Indian tribe and did not meet this criterion (Burt Lake FD 2007, 125-126). In addition, the PF did not state that 62 percent of the petitioner's members had actually demonstrated descent from Pembina Band of Chippewa ancestors. Instead, it presented conditional paragraphs, indicating how the percentage *could* total 62 percent *if* certain groups of members were added, such as the 14 percent who had descent from the Chippewa element of the Rocky Boy's Band of Chippewa-Cree.

Based on the experience in implementing the regulations, the Department has found about 80 percent to be a minimum percentage to demonstrate that the petitioner has met the criterion. A lesser percentage would require an extraordinary justification based on the history and nature of a group. No such justification existed in this case at the time of the PF, particularly as there was no community and no "particular circumstances" that linked the membership with a community, whether or not they were Pembina Band descendants.

Therefore, this FD does not accept the PF proposed change in precedent to lower the percentage of petitioner's members documenting descent from the historical Indian tribe from 80 percent to "possibly 62 percent" to meet the requirements of 83.7(e). Further, for this criterion, additional evidence submitted during the comment period has eliminated any need to rely upon the departure from precedent stated in the Little Shell PF while maintaining professional genealogical research standards.

### Technical Assistance Provided by the OFA since the Proposed Finding

The OFA provided additional technical assistance to the petitioner in meetings on October 18, 2000, November 30, 2001, May 15, 2003, July 15, 2004, April 20, 2005, and November 1, 2005, documented by correspondence summarizing the main points of the meetings. In part, these meetings stressed the importance of the petitioner linking its claimed antecedent settlements from which the current group derived with an historical Indian tribe. This linkage needed to show the evolution of these settlements, as a group, from that Indian tribe. These meetings also provided detailed guidance on how the group might demonstrate previous unambiguous Federal acknowledgment (Smith 7/16/2002, 7/15/2003, Fleming 8/12/2004). The April 20, 2005, teleconference meeting dealt with the group's membership lists and genealogical database, but did not request additional research (Fleming 4/20/2005).

### Third Party Comments to the PF and the Petitioner's Response

The Department received two comments on the PF from third parties. One third party, the group

### **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

known as the “Mikisew-Assinwiin Ojibwa Clan Council,” mainly objected to the PF’s reliance on the Rocky Boy’s rolls for tracing ancestry for some of the Little Shell group’s then current members (14 percent) to the historical Pembina Band of Chippewa Indians (Gopher 5/10/2004). This third party provided no new documentation as part of its comments. The petitioner responded to these comments by contending that it had now “redone the genealogy” and demonstrated that over 94 percent of the group could trace its ancestry to Pembina Band of Chippewa Indians (Bunte 4/3/2005, 9). The FD, as described in criterion 83.7(e) below, concludes that at least 89 percent of the current members have demonstrated ancestry to the historical Pembina Band of Chippewa Indians. This fact renders the PF’s reliance on the Rocky Boy’s Band of Chippewa Indians rolls immaterial.

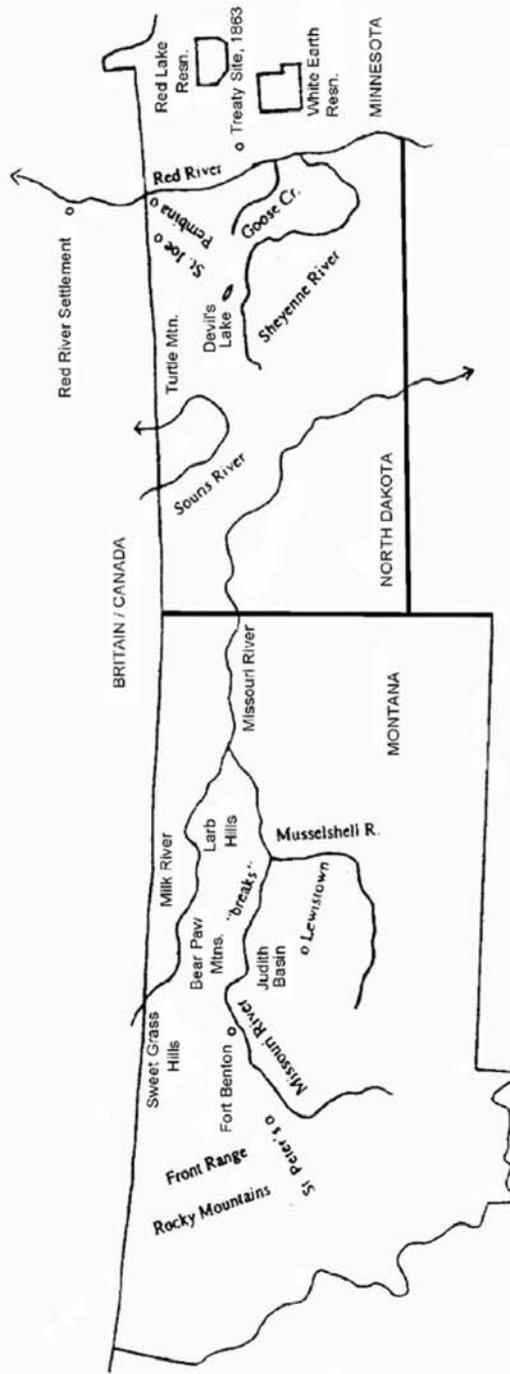
The other third party, Terri Long Fox, mainly argued that the “Little Shell Tribe of Chippewa Indians of Montana did not exist prior to, possibly the 1970’s at which federal recognition became a highly publicized issue by the Lumbees” (Fox 7/2001).<sup>17</sup> Long Fox made no direct comments on the issue of the PF’s departures from precedent other than to ask “why” such departures had occurred and request an explanation (Fox 7/2001). The comments provided no new documentation or citations to support her claims. Most of the comments consisted of extensive quotes from the PF, the PF’s technical report, and the Federal acknowledgment regulations and guidelines. The petitioner responded to Fox’s contention that the Little Shell group had not existed before the 1970’s largely by arguing it had been identified by external sources since the 1930’s, and that most of its members had believed they were affiliated with the federally recognized Turtle Mountain Band of Chippewa Indians before that period. Evidence for the PF and the FD affirms the petitioner’s argument that external observers have identified it since the 1930’s. This FD discusses the group’s connection to Turtle Mountain Band of Chippewa Indians in the Summary under the Criteria. The FD also answers Fox’s concerns regarding departure from precedent in the PF in the section above on that issue.

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<sup>17</sup> These comments may have been written as early as June 2001, but it appears the Department did not actually receive them until August 2004.

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LITTLE SHELL FINAL DETERMINATION



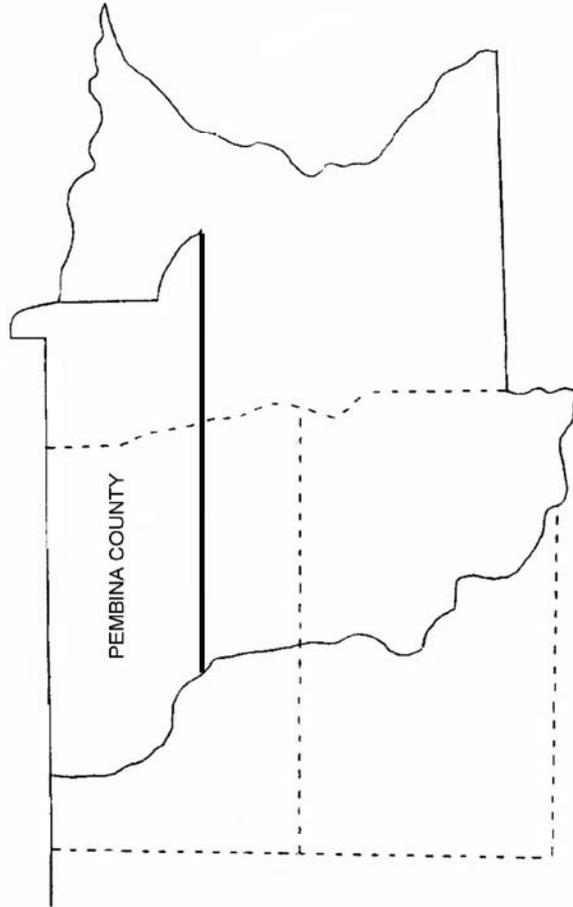
MAP 1: AREA MAP, 19TH CENTURY

Source: OFFICE OF FEDERAL ACKNOWLEDGMENT

100 mi.

500 mi.

LITTLE SHELL FINAL DETERMINATION

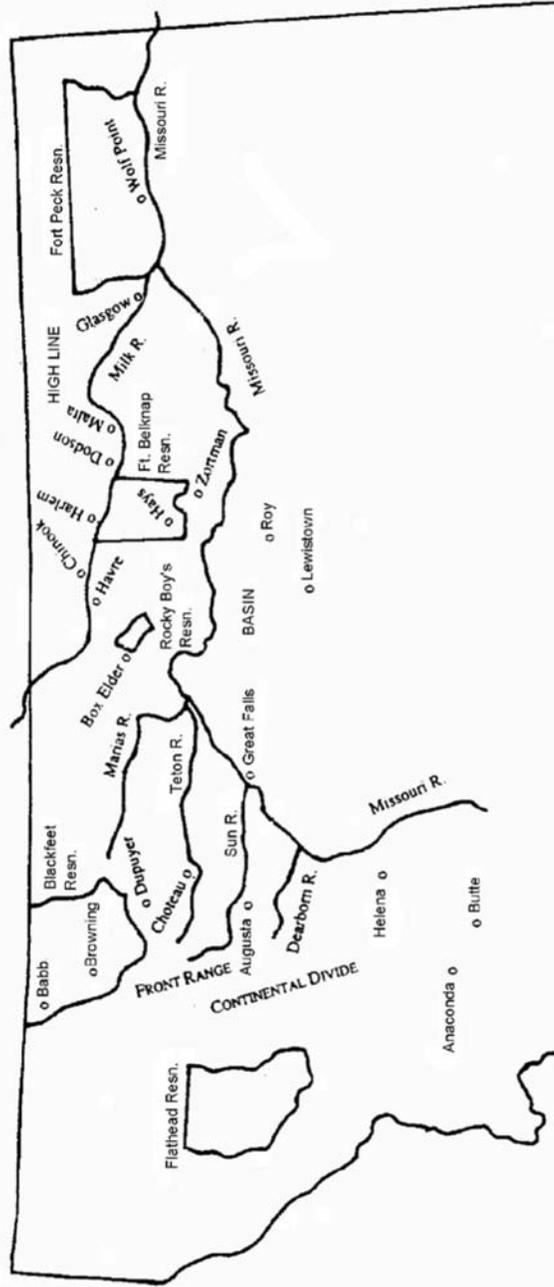


MAP 2: PEMBINA COUNTY, MINNESOTA TERRITORY, 1850

Source: William Thorndale and William Dollarhide, Map Guide to the U.S. Federal Censuses, 1790-1920 (1967), 171.

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LITTLE SHELL FINAL DETERMINATION



MAP 3: AREA MAP OF MONTANA

Source: OFFICE OF FEDERAL ACKNOWLEDGMENT

100 mi.

500 mi.





## **Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

### Terminology

The petitioner's ancestors were "Métis" a people of a mixed French-Chippewa-Cree culture which developed in the early 1800's as a result of the fur trade and marriages between European or Canadian men and Indian women. Historically, external observers used the term to describe many people besides those ancestral to the petitioner. This report also uses the term "Métis" to refer to many other people other than the petitioner's members and their ancestors.

This report employs the term "Métis," to refer to individuals who were the children, or descendants of the children, of non-Indian fathers, usually French-Canadian fur trappers or traders, and Indian mothers, usually Cree or Chippewa women. In the early 19th century, this population developed a mixed French-Chippewa-Cree culture and language often called "Michiff." Generally these Métis were socially and culturally distinct from both the European settlers and tribal Indians in the same area, but some were affiliated with or formed a part of Indian tribes. Scholars, government officials, and Indian groups have used the term "Métis" elsewhere to refer to other peoples resulting from different patterns of intermarriage and cultural contact between Europeans and Indians, including other and earlier, French-Indian populations in Canada.

For this report the term "Métis" usually refers to a population which was located in the middle 19th century on the Red River Settlement<sup>18</sup> in Canada and the Pembina<sup>19</sup> settlement in the United States, some of whom later became part of the Pembina Band of Chippewa Indians and, later, the Turtle Mountain Band of Chippewa Indians of North Dakota. However, this population included, especially after the 1870's, other people who had settled elsewhere in western Canada and the northern United States. It included at least some people with tribal backgrounds other than Chippewa and Cree, such as Assiniboine and Gros Ventre. Some Métis referred to in this report as living in Montana were, may have been, or may be, of a tribal background different from Chippewa or Cree, or derived from a location other than the Red River. It was not possible for this report to determine the precise and complete tribal background of the entire group of the petitioner's Indian and Métis ancestors.

### Definition of the Historical Indian Tribe

In the early 19th century, possibly as early as the 1820's, a band of Chippewa Indians was associated with the trading post on the Red River at Pembina, Minnesota Territory (now North Dakota). The earliest Chippewa settlers at Pembina, or their parents or grandparents, belonged to the Lake Superior, Red Lake, and other Chippewa bands from the east and on both sides of what became the United States and Canadian border, before migrating to the Red River area. The historical Pembina Band was composed of "full-blood" Chippewa Indians, and some of their "mixed-blood relatives." These "mixed-bloods" were the offspring of unions between the Chippewa and the French trappers or traders in previous generations, who continued to associate

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<sup>18</sup> The British Red River Settlement near Winnipeg in present-day Manitoba, Canada was divided into parishes.

<sup>19</sup> The settlement was located in Pembina County, North Dakota. The first census for this area took place in 1850 and was designated Pembina County, Minnesota Territory.

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with their “full-blood” relatives. They may also have been a part of the greater Métis population at the Red River Settlements in Canada, just north of Pembina.

The United States recognized a distinct Pembina Band of Chippewa in treaty negotiations in 1851 and 1863, although the Senate ratified only the latter treaty. As part of the 1863 treaty, the Pembina Band ceded land for which the Government paid annuities to members of the tribe. Annuity lists from 1864-1865 and 1868-1874 identified the Indian names of chiefs, headmen, “full-bloods,” and the “mixed-blood” Indians. These lists generally identified the “mixed-blood” Indians by their European-style names. For the purpose of determining descent from the historical tribe, the Department considers the records of the treaty negotiations and subsequent annuity lists evidence of the composition of the historical Pembina Band of Chippewa Indians in the treaty era.

The 1863 treaty and its 1864 amendment also provided for scrip in lieu of lands for the “mixed-blood” relatives of Pembina Band members, as a means to encourage their adoption of “civilized” ways of life. If they wished, recipients could exchange the scrip for land within the ceded treaty area. Upon accepting scrip, the “mixed-bloods” forfeited any future claims on annuities (Ramsey et al. 10/2/1863; Thompson et al. 4/12/1864).

Between about 1865 and 1874, the Secretary of the Interior appointed commissioners, who were aided by knowledgeable informants, to determine which Chippewa Indians had rights to land and “land-scrip” under various treaties, including those with the Pembina and Red Lake Bands. The Department issued the results of the investigations in 1872 and 1874 in a series of “treaty schedules” that identified the claimant’s name, place of residence, age, family relationships, and whether the individual was part of a Red River Settlement in Canada rather than an American Indian, or already a beneficiary under another treaty.

In 1879, the Secretary of the Interior appointed Special Agent C. W. McIntyre to investigate allegations of the fraudulent issue of scrip under the 1863 treaty with the Pembina Band and Red Lake Band of Chippewa. The Secretary confirmed “the issuance of scrip should be limited to the mixed bloods residing with the Red Lake and Pembina Indians at the date of the treaty who were connected with them by blood, and that mixed bloods of all other bands or tribes and all such as were foreign born, should be excluded” (McIntyre 1/3/1880). To accomplish this task, McIntyre, also aided by knowledgeable informants, identified the individuals by name (including some aka or *dit* names), residence, age, and family relationships to determine whether the scrip recipients were “good,” “entitled,” “bad,” or “doubtful.” The Department, for this FD, used treaty schedules and McIntyre’s report in conjunction with evidence from the Federal censuses, parish records, and other contemporary documents to provide additional identifications of the “mixed-blood” relatives who were considered to have descent from the Pembina Band at the time of the treaty. These individuals were not viewed by the Federal Government as part of the Pembina Band as were the treaty annuitants, but were seen by it as having Pembina ancestry because of relationship “by blood” to the full-blood members, thus making them eligible for treaty scrip.

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### Historical Overview of the Little Shell Petitioner

In its 2005 comments, the petitioner claimed the Little Shell group had “evolved out of the early 19th century Pembina Chippewa tribe into a primarily mixed-ancestry, Ojibwa/French, tribe” (Little Shell Comments on PF, Criterion B & C 19th, 1). The evidence available for this finding showed that many of the petitioner’s current members have descent from the historical Pembina Band of Chippewa Indians of North Dakota, a tribe recognized by the United States in treaty negotiations in 1851 and 1863, which remained in existence to the late 1870’s, when some of its members evolved into the federally recognized Turtle Mountain Band of Chippewa Indians of North Dakota, or joined other tribes.

The available evidence showed that the Federal Government documented some of the petitioner’s ancestors as part of the Pembina Band of Chippewa Indians through the receipt of treaty annuities or described some of them as having mixed-blood Pembina Band ancestry on treaty scrip records. The available evidence, however, also showed that many of the petitioner’s other ancestors, whom the Federal Government did not recognize as Pembina Band of Chippewa, were part of other Métis settlements at that time. For example, before 1870, many of the petitioner’s ancestors were part of the Métis settlements on the Red River in Canada and also at Pembina and St. Joseph in North Dakota. Starting mainly in the 1870’s, but possibly even as early as the 1860’s, the petitioner ancestors, along with many other Métis, began migrating from these settlements farther westward to Saskatchewan, Alberta, the Turtle Mountain region in North Dakota, and northern Montana. This migration process lasted until the late 1920’s, although in the case of the petitioner’s ancestors the available evidence indicates it probably occurred mainly between 1880 and 1910.

The available evidence, including material submitted for both the PF and FD, did not show that the petitioner’s ancestors migrated as a group to Montana or as any part of a chain migration that retained significant social ties to or from older settlements. It also showed that many of the people of Métis background the petitioner claims to have been part of its Little Shell group in Montana had not been documented by the Federal Government as being part of the Pembina Band of Chippewa Indians and had not evolved from any such group.

Nor did the evidence show that the portion of the petitioner’s ancestors whom the Federal Government documented as having Pembina ancestry migrated as a group or maintained social connections to or from older settlements. Rather, the available evidence shows the petitioner’s ancestors migrated on an individualistic basis from a number of areas in Canada and North Dakota, over a long time, finally settling in a dispersed pattern throughout Montana, where they mainly lived in already existing, largely multi-ethnic settlements, which included non-Indians, Indians, and Métis. The available evidence did not show the petitioner’s ancestors maintained a distinct community while they migrated or after they settled in their new areas of settlement in Montana.

In the 1880’s and 1890’s, some of the petitioner’s ancestors were listed on reservation censuses of the federally recognized Turtle Mountain Band of North Dakota. The petitioner also claims that its ancestors evolved out of the Turtle Mountain to become a separate Indian entity in Montana. However, the available evidence did not support the petitioner’s claim that it evolved

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from this band, and then migrated as a group to Montana from North Dakota. Instead, the available evidence demonstrated that the petitioner's ancestors listed on the Turtle Mountain censuses, and their descendants, either remained affiliated with that group or migrated to a variety of areas, including Montana, Saskatchewan, and Alberta. Those who migrated to Montana did so over an extended period and settled in a dispersed fashion. The available evidence showed the bulk of these individuals retained their primary affiliation with the Turtle Mountain Band, and did not integrate themselves into a distinct settlement or settlements composed of other of the petitioner's ancestors in Montana.

In Montana, the petitioner's ancestors settled originally throughout two geographically separate regions, migrating to them by different routes roughly between the 1860's and 1930's, although the bulk of it likely occurred from 1880 to 1910. One settlement region was north-central Montana, or the so-called Triangle, which contain both the town of Lewistown and the towns of along the Highline, along the railroad line from Wolf Point to Havre. Some ancestors of the petitioner's members began settling this region as early as the late 1860's and early 1870's. The other settlement region was the Front Range, the area along the eastern edge of the northern Rocky Mountains. Those ancestors of the petitioner who settled in this region did so mainly in the 1880's and 1890's. Many of the original families that settled in this area came from Alberta and Saskatchewan and had neither documented Pembina Band of Chippewa ancestry nor a significant connection with the Pembina region.

The petitioner's ancestors first settled in the rural areas of Montana. Then in the 1910's and continuing into the depression of the 1930's, some of them began moving to rural towns on the Front Range and along the Highline, or into Great Falls and Helena. Yet the available evidence showed the bulk of petitioner's ancestors during this process of internal migration still lived in multi-ethnic neighborhoods inhabited by families of native and foreign-born Americans and Indians of mixed ancestry. In none of these multi-ethnic settlements did the petitioner's ancestors constitute a majority or even a significant percentage of the population. Nor did the available evidence demonstrate that they constituted a distinct Pembina Band of Chippewa enclave or a significant portion of a Métis enclave within any of these communities. Instead, they constituted only a small fraction of the population, living among a few extended family members, and not as part of any distinct community or communities in Montana. The available evidence also did not indicate that any significant number of the petitioner's ancestors within or between the two geographically separate regions interacted socially with each other.

A small number of the group's ancestors formed an organization in 1927 in Hays, which the petitioner claims as its first formally organized predecessor in Montana. Joseph Dussome was the elected leader of the 1927 organization. He also led organizations of different names in 1935, 1939, and 1949, which also contained some of the petitioner's ancestors. From the middle 1930's until the middle 1950's, two organizations advocated on behalf of some of the political interests of the Montana Métis. The Dussome organization, known as the Landless Indians of Montana after 1939, largely drew support from the Highline and Lewistown area, while the rival Montana Landless Indians mostly drew its support from urban areas and the Front Range. Since about 1955, the petitioner's members and ancestors have been part of a common political process within a single organization.

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The Little Shell Tribe of Chippewa Indians of Montana adopted its current organizational name and its current constitution in 1977. Its membership requirements provide membership eligibility to individuals who can trace their ancestry to the Roe Cloud Roll, a list of un-enrolled Indians in Montana which was prepared by the Office of Indian Affairs about 1938. The Little Shell petitioner had around 4,000 members as of 2006. Its members are now geographically dispersed, mostly within Montana, although about a third of the group lives out of state. The petitioner currently maintains an office in Great Falls, Montana.

### **UNAMBIGUOUS PREVIOUS FEDERAL ACKNOWLEDGMENT (25 CFR 83.8)**

The definition of unambiguous previous Federal acknowledgment in section 83.1 has two essential elements: (1) the Federal Government took an action with an Indian group clearly premised on identification of a tribal political entity, and (2) the action clearly indicated the recognition of a relationship between that entity and the United States (83.1). The regulations require that the acknowledgment be unambiguous and clearly premised on acknowledgment of a government-to-government relationship with the United States (59 FR 9283). For section 83.8 to apply, the evidence must also establish the petitioner is the same as the previously acknowledged Indian tribe, or is a portion which evolved from the Indian tribe as it existed at the last time of Federal acknowledgment.

According to the regulations, unambiguous previous Federal acknowledgment

is acceptable evidence of the tribal character of a petitioner to the date of such previous acknowledgment. If a petitioner provides substantial evidence of unambiguous Federal acknowledgment, the petitioner will then only be required to demonstrate that it meets the requirements of 83.7 to the extent required by this section. (83.8(a))

### Proposed Finding's Conclusion on Previous Federal Acknowledgment

In its submissions for the PF, the petitioner requested the Department evaluate its petition under the requirements of section 83.8 of the regulations. The petitioner claimed the Federal Government had recognized it during the 1930's as a political entity having collective rights to tribal land. The PF concluded, following a detailed review of all the pertinent evidence, that the Federal Government had not previously acknowledged the petitioner in the 1930's.<sup>20</sup> Thus, the petitioner was ineligible at that time to proceed under the modified requirements of Section 83.8 (Little Shell PF 2000, Summary, 3-4).

### Comments on the Proposed Finding

In its comments on the PF, the petitioner continued to assert the Federal Government's dealings with some of its ancestors during the 1930's constituted unambiguous previous Federal

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<sup>20</sup> See OFA 2000, 6-11 for details of that review.

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acknowledgment. Moreover, the petitioner claimed “four additional instances of previous acknowledgment” (Little Shell Comments on PF 2005, Introduction, 4). The FD analyzes these claims in chronological order below.

### **1. 1850: An Act Making Appropriations for Current and Contingent Expenses of the Indian Department and Fulfilling Treaty Stipulations (U. S. Congress 9/30/1850, 556).**

In 1850, Congress appropriated \$10,000 for the “expenses of treating with the Indians and half-breeds for the extinguishment of the title of their lands on the Red River of the North in the Territory of Minnesota.” The petitioner claims this appropriation constitutes “evidence” the Federal Government treated the petitioner’s ancestors as a group with collective rights in tribal funds or lands, “when considered in the light of the evidence of the evidence for criterion (e) showing descent from the Pembina Band” (Little Shell Comments on PF 2005, Introduction, 4-5).

The act’s language, however, did not specify a tribal entity with which the Government intended to negotiate a treaty. Indeed, it is unclear if Congress actually knew the identity of the Indian tribe or tribes possessing the land. Thus, the 1850 act did not recognize any collective rights by a specific Indian entity in these lands, was not unambiguous, and was not clearly premised on an identifiable entity with which the United States had a relationship. Even if this act had unambiguously specified an entity with which the Federal Government had a relationship, simple demonstration of descent from that entity is insufficient to demonstrate previous Federal acknowledgment (59 FR 9282).

A second 1850 document, cited by the petitioner, a letter from the Commissioner of Indian Affairs to the Secretary of the Interior in which he requested Governor Alexander Ramsey of the Minnesota Territory be appointed commissioner to negotiate the treaty, also contains the same ambiguous reference to “Indians and half-breeds” who might have had title to the lands in question. Thus, this document also did not describe or acknowledge any specific Indian entity (Little Shell Comments on PF 2005, Introduction, 4; Stuart 11/1/1850).

### **2. Pembina Treaty of 1851 (un-ratified)**

The petitioner claimed this treaty, negotiated with the Pembina Band of Chippewa Indians, constitutes “evidence . . . the group . . . had treaty relations with the United States.” It made this argument because one of the group’s Métis ancestors, Jean Baptiste Wilkie, signed the treaty, as “President of the Council of Half Breeds” from the Pembina area. The document was also signed by the full-bloods designated as chiefs and headmen of the Pembina Band itself (Little Shell Comments on PF 2005, Introduction, 5). The treaty also included the names of 10 other individuals identified as the “Council and Principal Men of the Half-Breeds.” These names appeared in the section of the treaty for the signatures of witnesses and interpreters (CIA 1851). The Government later identified Wilkie and the others in various official documents, including annuity rolls and scrip applications, as having Pembina Chippewa ancestry. Six of the 11 men have descendants in the current group.

The United States did negotiate with and recognize the Pembina Band of Chippewa as an Indian

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tribe through the 1851 treaty, a recognition that continues to this day through the Turtle Mountain Band that evolved from it. Although the treaty went un-ratified by the United States Senate, recognition of an Indian entity under the regulations and precedent would not depend upon such ratification. During the negotiations, however, Governor Ramsey, the representative of the United States stated he did not consider the mixed-blood, or “half-breed,” relatives of the Pembina Band as part of the tribe. He also chose not to treat with them directly during the negotiations, although there is evidence many were present during the process. The treaty also contained a clause to pay \$30,000 to the Indian tribe to make “provision for their half-breed children, and to arrange their affairs” (Ross 1856, 411-412).

Despite his refusal to recognize or negotiate with the mixed-bloods, or Métis, Ramsey allowed the “President of the Council of Half-Breeds” to sign the treaty. The reasons for his actions are unclear. By allowing the Métis to sign the treaty in this manner, the record may show that Ramsey saw them as separate from the Pembina Band of Indians or as an influential part of it. The available evidence, however, does not indicate Ramsey based his decision on a clearly premised identification of a tribal political entity among the Métis relatives, or that he recognized the existence of a relationship between them and the United States. Military officials knew of the council’s existence as early as 1849. One year later, Ramsey met with and dealt with the council as a legitimate representative of the Métis from the Pembina area (Little Shell PF 2000, TR, 19; Ramsey 10/21/1850, 64). Yet, the available evidence did not show Ramsey considered this council as representing a tribal entity with which the Government could negotiate. On the contrary, in 1850 and during the later treaty negotiations, Ramsey viewed the Métis relatives of the Pembina Band as either actual or “*quasi*” citizens of the United States. Their status as citizens, according to Ramsey, precluded the Government from negotiating, or “treating,” with them (Little Shell PF 2000, TR, 22; Ramsey 10/21/1850; Lea and Ramsey 1851, 285). For this reason, he refused to allow them to partake in the negotiations. Ramsey may have allowed the council president to sign the treaty to obtain his approval for the provision in the treaty that applied to the Métis relatives, and to eliminate any competing claims they might have to the territory. Whatever his reasons for allowing their leader to sign the treaty, his actions did not unambiguously indicate he viewed them as a separate tribal entity with which the Government had a political relationship.

### 3. Treaty with the Chippewa—Red Lake<sup>21</sup> and Pembina Bands, 1863

The petitioner claimed this ratified treaty constitutes previous unambiguous Federal acknowledgment of its ancestors. The treaty sought to extinguish title to the lands around the Pembina area of the Minnesota territory, which, the petitioner contended, were “owned” by both the Pembina Band of Chippewa Indians and the Pembina “half breeds.” Claiming the “evidence for criterion (e) indicates the petitioner’s ancestors were those half breeds whether represented by [Chief] Little Shell or the two half-breed signatories to the treaty,” the petitioner argued the treaty had to “acknowledge” those ancestors in order to extinguish the title (Little Shell Comments on PF 2005, Introduction, 7).<sup>22</sup>

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<sup>21</sup> The Red Lake Band of Chippewa constituted a separate tribal entity from that of the Pembina Band.

<sup>22</sup> The available evidence showed that one of the petitioner’s Métis ancestors was a signer of the 1863 treaty. A small percentage of the petitioner’s current members trace descent to that person. Descent of an individual from a

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The United States recognized the Pembina Band of Chippewa as an Indian tribe in 1863 when its agents negotiated the treaty with the group, a recognition that also continues to this day through the Turtle Mountain Band that evolved from it. The treaty extinguished the band's title to the land, but did not provide any reservation. Once again, Governor Ramsey followed the precedent he set during the 1851 treaty negotiations and declined to consider the Métis relatives of members of the Pembina Chippewa as part of the Band, or to negotiate with them as part of the treaty tribe. Thus, whether or not the Métis relatives of the Chippewa actually were a part of the Pembina Band, the Government in 1863 did not recognize them at that time to be legitimate members of the federally acknowledged treaty tribe (Ramsey et al. 10/2/1863, 44).

### **4. The Turtle Mountain Band of Chippewa Indians**

The petitioner claimed the Federal Government previously recognized it as part of the Turtle Mountain Band of Chippewa Indians (Little Shell Comments on PF 2005, Introduction, 7). The Federal Government has recognized the Turtle Mountain Band of Chippewa as an Indian tribe at least since 1882 when it granted the group a Federal reservation by Presidential executive order. In its comments, the petitioner stated,

At the time, the Federal Government negotiated with the Turtle Mountain Tribe for cession of land in North Dakota, the Tribe [presumably the Little Shell Petitioner] consisted of members in North Dakota, and Montana. All, including the petitioner's ancestors, were part of Turtle Mountain at least until Congress approved the agreement in 1904 and actually well after that time . . . . (Little Shell Comments on PF 2005, Introduction, 7)

The petitioner claimed some of its lineal ancestors appeared on the Turtle Mountain reservation censuses from the early 1880's to the early 1900's (Little Shell Comments on PF, Criterion B & C 19th, 2005, 207). The available evidence showed that some of the petitioner's ancestors were listed on those Turtle Mountain censuses. That same evidence, described in criterion 83.7(b), also demonstrated most of these ancestors and their descendants remained affiliated with the Turtle Mountain Band. Some, however, later migrated to Montana around the late 19th and early 20th centuries, and a small number of these individuals or their children have descendants in the current petitioner. Yet the available evidence did not demonstrate the Federal Government later recognized, or had a relationship with, these ancestors as part of a separate "Little Shell" Indian entity in Montana. Nor does the evidence show that these ancestors migrated as a group or evolved from the Turtle Mountain Band as a continuous community. In addition, the evidence did not indicate the Federal Government recognized the large number of the petitioner's other ancestors who were not included on Turtle Mountain censuses, whether living in Montana or North Dakota, as part of the Turtle Mountain Band from 1884 to 1904 or beyond.

### **5. The Landless Indians of Montana and the Indian Reorganization Act of 1934**

The petitioner also claimed the Indian Office's actions applying the Indian Reorganization Act

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treaty signer, however, is not the same thing as membership in a continuous tribal community that evolved from the treaty tribe (59 FR 9282).

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(IRA) of 1934 to the landless Indians of Montana in the 1930's and 1940's demonstrated previous Federal acknowledgment of its group. These actions included plans to purchase land, create a new Indian reservation, and organize a community of "half-blood" Indians.

Regarding these actions, the petitioner interpreted the recognition of a relationship between a tribal entity and the United States as described in the definition of unambiguous previous Federal acknowledgment (83.1) much more broadly than the acknowledgment regulations intend. A finding of previous recognition means action by the Federal Government clearly premised on the identification of a tribal entity and indicating clearly the recognition of a political relationship between that entity and the United States (83.1). The Government has dealt with Indian groups on a variety of bases that do not rise to the level of a government-to-government relationship between a clearly identified tribal entity and the United States (59 FR 9283; Cohen 1941, 272). For example, the Federal Government has dealt with groups on the basis that they had standing to bring a claim before the Indian Claims Commission, or that un-recognized groups may petition for Federal acknowledgment.

Interpreting the definition of unambiguous previous acknowledgment to mean any form of relationship would defeat the purpose of section 83.8. The section's clear intent is to sort from the varied Federal interactions with Indian groups and individuals those showing unambiguously that a relationship with an Indian tribe as a political body existed. In the present case, there were Indian Office dealings with a group during the 1930's that were prospective of reorganization as a tribe, but not based on a relationship of a tribal entity with the United States.

By defining un-enrolled individuals of one-half or more Indian blood to be "Indians" for the purposes of the act, section 19 of the IRA provided a mechanism for the Indian Office to extend the benefits of the Act to Indians who were not enrolled tribal members, and to organize them as Indian tribes. If the Federal Government considered the landless Indians of Montana a recognized Indian tribe under Federal jurisdiction, or as part of such an Indian tribe, at that time, then all of them would have had rights to Federal services regardless of their blood degree (Collier 3/7/1936). Yet by using the "half-blood" provision to certify the landless Indians of Montana and to acquire land for them, the Indian Office indicated it considered them Indians who were not members of a federally recognized tribe.

The Government did not organize the landless Indians of Montana as a tribal government. Rather, the Indian Office only created a roll of the un-enrolled Indians of one-half or more Indian blood living in Montana. It did not purchase land and establish it as a reservation for them. Nor did the Government organize a tribal government under the IRA, and thereby reorganize them as an Indian tribe. Although evidence exists which shows the Indian Office attempted to use the IRA to obtain land for the landless Indians of Montana, ultimately the Government used the land it purchased as an addition to an existing reservation instead of creating a new one for the landless Indians of Montana.

Both of the petitioner's organizations of landless Indians in Montana, Joseph Dussome's organization in 1938 and the Montana Landless Indians in 1940, asked the Government to approve their constitutions under the IRA. In both cases, the Department of the Interior replied that the groups lacked the status to carry out the requested action, because the Government had

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not purchased land for them and they did not reside on a reservation. This meant the Government did not recognize them as an Indian tribe under the IRA.

The petitioner also argued the Federal Government recognized its group had “collective rights in tribal lands,” a form of evidence specified in the regulations (83.8(c)(3)), because the Indian Office attempted to obtain land for Montana’s landless Indians and sometimes made reference to the interest those Indians might have in any lands possibly purchased. Section 83.8(c)(3) of the regulations, however, refers to evidence of existing ownership of tribal lands, recognized by Federal actions. The Indian Office did not premise its efforts to acquire land for the landless Indians of Montana in the 1930’s or 1940’s on the previous recognition of a tribe, or any obligations to a group or groups under treaties, agreements, or other Federal actions. In this case, any interests in the lands were essentially prospective, since the Federal Government never acquired most of the proposed lands. Neither did it place title to those it did obtain in Federal trust in the name of the landless Indians or precursor group to the current petitioner, but instead made the land an addition to the present Rocky Boy’s reservation with one organization. Therefore, the Federal Government did not recognize the landless Indians as having a collective legal interest in any purchased lands.

The arguments and evidence supplied by the petitioner concerning Federal relations with the landless Indians of Montana in the 1930’s and 1940’s did not demonstrate the Government considered the petitioning group to be an Indian tribe, or that it became a recognized Indian tribe because of those actions. The Indian Office contemplated using the provisions of the IRA to acquire land for half-blood Indians and to organize them. Yet, the Federal Government after identifying most of the landless “half-blood” Indians in Montana never created a reservation for them or organized them as a tribal government. The correspondence and planning documents of the Indian Office during this period showed, at best, that for a time the Government had plans to establish a relationship between the United States and a community of “half-blood” Indians. It was clear and explicit in those documents that the Federal Government did not recognize any organization of these landless Indians as a tribe. The available evidence did not show an unambiguous relationship that existed in the 1930’s or 1940’s between the United States and the petitioning group.

In sum, the petitioner has not provided substantial evidence of unambiguous previous Federal acknowledgment. The evidence available for this finding does not demonstrate the petitioner meets the requirements of previous Federal acknowledgment in sections 83.1 and 83.8 of the regulations. Therefore, the Department will not evaluate the petitioner under the provisions of section 83.8(d) that modify the mandatory criteria for Federal acknowledgment. The petitioner must meet the requirements of the seven criteria for acknowledgment as set forth in section 83.7.

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### **Criterion 83.7(a) requires that**

**the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.**

### Summary of the Proposed Finding and Departures from Precedent

The PF concluded external observers had identified the petitioner as an American Indian entity on a substantially continuous basis since 1900. As stated previously, the PF allowed the petitioner to meet the criterion despite there being no available evidence external observers identified the petitioner's ancestors as an American Indian entity from 1900 to 1935. For this 35-year period, the PF indicated there were only some limited examples of external identifications of or references to the petitioner's ancestors as "Indians in Montana." It also described "two modern recollections by outsiders" to "suggest the past existence of small, local settlements that included some of the petitioner's families," neither of which were "contemporaneous" to the period (Little Shell PF 2000, Summary, 8).

The PF also stated research "at the local and state levels could discover identifications made between 1900 and 1930 of local or state Indian groups or entities associated with the petitioner's ancestors in Montana." The PF suggested such research "would strengthen the record for the final determination" (Little Shell PF 2000, Summary, 8).

As stated previously, the Little Shell PF departed from precedent and from the acknowledgment regulations in finding external observers identified the petitioner as an Indian entity on a substantially continuous basis since 1900, despite a lack of external, contemporaneous, identifications of the group for an extensive period, from 1900 to 1935. The Department does not accept the PF's conclusion because it views 35 years as too long a time for non-identification by external observers. There was no evidence that the lack of identifications between 1900 and 1935 was a fluctuation in activity. Applying the standards of the professions, the evidence proved too limited even when taking into account 83.6(e) concerning historical circumstances and fluctuations in group activity. To allow a petitioner to meet the criterion with such a long period of non-identification would violate the acknowledgment regulations, regulatory standards of proof, and precedent for criterion 83.7(a) which require substantially continuous external identification since 1900. The regulations also require the external identifications be of an Indian group, rather than just Indian individuals or Indian families, and that they be contemporaneous identifications of an entity. When interpreted within the plain language and intent of the regulations, and precedent established in other findings, which require external identification of an Indian entity by external observers on a substantially continuous basis, the available evidence for this petition is insufficient to support the PF's reasoning for its conclusion.

### Analysis of the Evidence and the Comments on the Proposed Finding

In comments on the PF, the petitioner submitted additional arguments and copies of historical

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documents. The documents were mostly copies of newspaper articles, interviews of current members, school census records, Federal censuses, and court and police records. These documents were mostly from the late 1890's to the 1960's. Since the petitioner lacked identifications from 1900 to 1935 under established evidentiary standards, the FD examined documents only from that period. External observers have consistently identified the petitioner as an Indian entity since 1935. In general, the new documentation for 1900 to 1935 referred to individuals, rather than a group as required by the regulations. In other cases, the documentation contained vague references to Cree Indians, and collections of "wandering," "homeless," or "landless" Indians, who were likely of various tribal origins. These vague references did not identify a group of the petitioner's ancestors or an antecedent Indian entity of some kind.

The FD has arranged the petitioner's comments in the following order based on the categories presented in the group's narrative: "Petitioner's Comments"; "Non-Reservation Indians in Montana"; "Tribal Organization"; "Augusta—Dearborn Canyon"; "Great Falls—West Side/Hill 57"; and "Lewistown."

### **Petitioner's Comments**

Regarding criterion 83.7(a), the petitioner argued the Little Shell PF accepted a "reasonable likelihood" standard that "references to the petitioner's individual ancestors as Indians and references to portions of their ancestors as residents of Indian settlements before the 1930's" were "consistent with identification of these and other ancestors of the petitioner as Indian groups after 1935" (Little Shell Comments on PF 2005, Introduction, 1; Little Shell PF 2000, Summary, 6).

The Department does not accept as a "reasonable likelihood" that pre-1935 references to some of the petitioner's individual ancestors as Indian or as being only portions of Indian settlements were identifications of an Indian entity simply because there were later identifications of the petitioning group as an Indian entity. This policy would defeat the purpose of criterion 83.7(a), which requires substantially continuous, contemporary identification of an Indian entity by outside sources.

Furthermore, the Little Shell PF actually described only "two modern recollections" by external sources as references that "suggest the past existence of small, local settlements that included some of the petitioner's families, although they were not contemporaneous descriptions" (Little Shell PF 2000, Summary, 6-7). Such vague references to some of the petitioner's ancestral families living in "settlements" do not constitute the identification of an Indian entity composed of the petitioner's ancestors from 1900 to 1935.

The petitioner also contended the PF's "approach [to criterion 83.7(a)] was justified" because the Government had "pursued" what the PF described as a "discredited policy" of treating full-blood Indians differently from mixed-blood Indians which led to an absence of "formal organization" which outsiders could identify (Little Shell Comments on PF 2005, Introduction, 1-2; Little Shell PF 2000, Summary, 8). While the PF referred to such a policy, it provided no specific examples of it regarding the petitioner, or an explanation of how it might have caused a lack of identifications of the petitioner's ancestors as a group from 1900 to 1935. The emphasis on such

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a policy is based on a misinterpretation of this criterion as requiring identification of a formal organization. The regulations do not require that external identifications be of formal organizations, they require only the petitioner be identified by an external source on a substantially continuous basis. In many other findings, the Department has found that external observers in addition to the Federal Government, such as state and local governments, churches, other Indian groups, scholars, neighbors, and journalists, had identified petitioners without formal organizations as Indian entities regardless of Federal policy towards them. The regulations also do not require an inquiry regarding the reasons for which identifications were or were not made. They require only the petitioner be identified by external sources. In sum, the petitioner's argument does not negate the regulatory requirement that the evidence demonstrate that external observers identified the group as an Indian entity in Montana.

### **Non-Reservation Indians in Montana**

The petitioner submitted copies of a series of newspaper articles from 1889 to 1905 about non-reservation Indians (Little Shell Comments on PF 2005, Criterion A, 3-6).<sup>23</sup> These articles, including the pre-1900 ones, contained only vague references to "Indians," "half-breeds," "roaming half-breeds," "wandering Crees," or "strolling bands of Cree Indians" dispersed throughout Montana in the late 19th and early 20th centuries. These references to Indians, unconnected to any specific settlement or community, unconnected to a group of petitioner's ancestors, did not meet the requirement that the identifications must describe an Indian entity composed of the petitioner or an antecedent group.

### **Homeless Indians**

The petitioner submitted copies of a series of newspaper articles from 1912 to 1936, and an interview from 1995 of a current member, dealing with "homeless Indians" in Montana.<sup>24</sup> Most of these articles described numbers of homeless Indians or Indian families living on the edge of towns. Some refer to "Crees, Chippewa, and other homeless Indians" or to "mixed-bloods" living around those areas. This documentation did not contain descriptions of local settlements or groups described as Indian, mixed-blood, or Métis and associated with the petitioner's ancestors. Nor did it contain examples of identifications of an Indian, mixed-blood, or a Métis group that included individuals from a number of separate settlements as part of a larger entity associated with the petitioner's ancestors. Instead, the articles referred to vague numbers of Indians who were of various tribal origins. While these articles referred to Indians in the plural, they were too vague for the Department to attribute them to an entity or to a group of the petitioner's ancestors.

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<sup>23</sup> They include *River Press*, 6/26/1889; *Great Falls Tribune*, 6/6/1896, 6/11/1896, 6/19/1896, 6/24/1896, 9/7/1899, 1/3/1903; *Helena Independent* 6/26/1896; *Helena Daily Independent* 1/28/1904; *The Missoulian* 7/23/1896; and *Fergus County Argus* 10/3/1905. Many, but not all, of the newspaper articles the petitioner submitted for the FD were also part of the record for the PF and were not accepted as identifications. They are reanalyzed here because the petitioner has made new claims regarding their validity as identifications.

<sup>24</sup> They are the *Montana Daily Record* 11/23/1912; *Great Falls Tribune* 11/24/1912, 1/13/1913, 4/6/1926; 1/9/1932, 2/21/1934, 3/30/1934, 5/9/1934, 3/3/1936; *Helena Independent* 3/10/1913; *Northwest Tribune* 6/26/1925; and *Mineral Independent* 10/26/1925.

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One member's interview, which was not an external source and thus is not acceptable evidence under this criterion, only mentioned that a few of the petitioner's ancestors worked in beet fields around the town of Chinook (Ruby Elizabeth Velmer 1/24/1995). This identification is not of the petitioner.

### **"Tribal" Organization**

The petitioner provided several articles, dated 1934 to 1936, which discussed Joseph Dussome, a leader of the petitioner's group and his leadership of some landless Indians in Montana during that period. Since the petitioner already met the criterion for the post-1935 period in the PF under appropriate regulatory standards, this FD examined only the three articles from 1934 that appeared in the *Great Falls Tribune*. One article, dated March 25, 1934, described a trip Joseph Dussome and A. D. Nault, a Rocky Boy's Indian, made to Washington to obtain a separate reservation for homeless Indians. It referred to the two men as "Montana representatives of the homeless Indians," but the content of the article did not show if these Indians were mainly the petitioner's ancestors, or a variety of "homeless" Indians of various Indian origins throughout the state, who were, as the article states, "unable to gain recognition on reservations of their origin because of white blood" (*Great Falls Tribune* 3/25/1934). Two other articles in the *Tribune*, dated May 9, 1934, and July 13, 1934, about Dussome presented similar problems because they referred to dispersed homeless or "non-ward" Indians who cannot be connected to the petitioner (*Great Falls Tribune* 5/9/1934, 7/31/1934).

### **Augusta: Dearborn Canyon**

The petitioner submitted copies of two 1994 interviews by a non-Indian, Richard Kenck, as part of its evidence for this criterion, which it claimed discussed "Little Shell identity" in the Dearborn area of Augusta, Montana, from about 1906 to 1920 (Little Shell Comments on PF 2005, Criterion A, 18). As a young child, Kenck resided in the area and knew many of the petitioner's ancestors who also lived there. In the two interviews, Kenck often referred to unidentified "half-breeds" and "Indians," or occasionally gave the names of families he believed to be of Indian ancestry, but provided no identification of an entity at that time (Richard Kenck 6/7/1994, 6/22/1994).

### **Great Falls: Westside/Hill 57**

The petitioner submitted copies of several documents it claimed were identifications of the group's ancestors in the Westside and Hill 57 neighborhoods of Great Falls, Cascade County, Montana. These documents included two recent interviews of group members; Cascade County school census records for Great Falls from 1927, 1930, and 1933; a *Great Falls Tribune* newspaper article from 1927; and Federal census records from 1920 and 1930 (Little Shell Comments on PF 2005, Criterion A, 22-37).

The two member interviews provided information about some of the group's ancestors, but did not meet the requirement that identifications must be by other than the petitioner itself or its members (Joe McGillis 7/2/2001; Dan Jarvey 9/27/2002). The regulations require external, contemporary identification for this criterion.

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The 1927 Cascade County School Census did not meet the requirement of identification because school officials did not list any individuals on it as part of any Indian entity (1927 School Census Cascade, Great Falls City). The 1930 school census listed one family, which the petitioner claimed as part of its “Little Shell Community Group,” as living at an “Indian Camp” in town.<sup>25</sup> This family was the only one listed on the census as residing in that location, and therefore this census did not identify an entity (1930 School Census Cascade, Dist. 1). The 1933 school census listed 11 families, 9 of which the petitioner claimed as part of its “Little Shell Community Group, as residing in either “Hill 57 Indian Camp” “57 Indian Camp,” or “Hill 57” (1933 School Census Cascade, Dist 1).<sup>26</sup> Other evidence, however, showed the Indian enclaves in Great Falls contained many other Indians of various tribal origins at that time who were not the petitioner’s ancestors. In addition, most of the petitioner’s ancestors and members lived elsewhere in many other towns throughout northern Montana, in which they did not constitute the majority of the population, Indian or non-Indian (Little Shell PF 2000, TR, 88-89, 107-113).<sup>27</sup> While these school records provided some limited evidence of Indians living in an Indian camp and were identifications of that camp, they were not identifications of the petitioner’s ancestors or members as a Little Shell entity.<sup>28</sup>

The petitioner provided two articles from the *Great Falls Tribune*, one dated April 14, 1927, and the other, April 21, 1927. The first article discussed a report by the County Board of Commissioners describing the “condition of the Indians residing in the vicinity of Great Falls” as “serious.” It also stated many of these Indians, depicted as “numerous members of the Cree and Chippewa tribes,” needed medical assistance. While this article referred to “Indians,” it implied they were not an entity but individuals who had left the Federal reservations to search for food and jobs (*Great Falls Tribune* 4/14/1927). The second article also discussed the report on health conditions at the “Indian Camp” in Great Falls, which is Hill 57, and other areas in Cascade County. This article provided only vague references to families with Indian ancestry with connections to Indian groups in Canada or on Federal reservations elsewhere in Montana, which did not identify the petitioner’s ancestors as an antecedent group.

For example, the health officials found that “Indians making their home in West Great Falls and

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<sup>25</sup> This was the Charles Mosney (b. 1875) family. This family has no descendants in the modern membership and has no documented Pembina ancestry.

<sup>26</sup> Nine of the 11 families have descendants in the modern membership. Six of the 11 have documented Pembina ancestry. Seven of the 9 with descendants in the current membership on Hill 57 in 1933 were identified as being part of the Rocky Boy’s tribe in 1909 and 1917. One was adopted as part of that tribe in 1938.

<sup>27</sup> According to the 1930 Federal census and the petitioner’s evidence, the group’s families lived in a dispersed fashion in 10 of the state’s 57 counties. In Cascade County in 1930, they numbered 115 out of a population 41,146 in 10 enumeration districts. The census identified the largest number of them in Great Falls, Precinct 28 where they made up 8 families of 356 families in a small multi-ethnic settlement and in the Missouri and Sun Rivers outside of city where they were 6 families of 638 in 2 multi-ethnic districts (1930 Federal Census, Cascade County).

<sup>28</sup> The petitioner also submitted Cascade County School censuses from 1935 to 1961, during which the PF noted external observers identified the petitioner on a substantially continuous basis. In these years, school officials listed Indian children on a separate “Indian” list. These lists described them as Indian but did not identify an entity to which they belonged.

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other places in Cascade County” were “living under conditions as favorable as” those “found among tribesmen on the reservations of the state. . . .” These officials believed all but four families of the “members of the camp” were Cree from Canada, which are not the petitioner’s ancestors. The other four were families of Rocky Boy’s Indians. The article also stated that Indians from Canada resided in many places “along the main line of the Great Northern, in Great Falls, at Helena and other points in the state.” The newspaper article contained a sworn statement by Charles Mosney, whom the petitioner claimed as a “Little Shell Member.”<sup>29</sup> However, Mosney described himself in the article as a “Rocky Boy Cree.” He also identified four other Indians at the camp, John Young, John La Pere (b. 1882), Baptiste La Frombois (b. Mar. 5, 1850 ?), Pete Rasberry (Laframboise, b. Feb. 15, 1891),<sup>30</sup> the last three of whom have descendants in the petitioner’s modern membership. All these men answered questions about conditions in the camp, but they did not describe an Indian entity composed of the petitioner’s ancestors (*Great Falls Tribune* 4/21/1927).

The petitioner provided copies of portions of Federal census records for Great Falls, of one precinct in 1920 and three in 1930, as evidence of external identification. In both 1920 and 1930, census enumerators in these precincts listed a small percentage of the petitioner’s ancestors as Indians, living among the much larger general population, but they did not refer to an Indian community or group (1920 Census Cascade, MT Great Falls, Precinct 21; 1930 Census Cascade, MT Great Falls Ward 5 Pct. 27, School Dist. 3 Outside of Cascade).<sup>31</sup> Because the censuses listed only individuals as Indian and contained no references to an Indian group, they did not meet the requirements of criterion 83.7(a).

### **Lewistown**

The petitioner provided information and copies of documents regarding the identification of its ancestors as an American Indian entity in two areas it claimed to be “Little Shell enclaves,” located in Lewistown, Montana, from 1900 to 1930. They included a copy of a 1902 school census and other school records, and copies of newspaper articles and several court cases (Little Shell Comments on PF 2005, Criterion A, 38-55).

The 1902 Fergus County School Census for Lewistown included a separate “Breed List.” The petitioner claimed 97 of the 117 individuals on this list were “part of the Little Shell Community Group.” While this census listed some of the petitioner’s ancestors as “breeds” in a manner that distinguished them ethnically from the general school population, it did not identify them as part of a Little Shell group, or as being a specific Indian entity or settlement (School Census Fergus,

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<sup>29</sup> Neither Mosney (b. 1875) nor his wife, Christine Gardipee (b. 1892), have documented Pembina ancestry or descendants in the modern membership. Several of Christine’s siblings and half-siblings do have descendants in the current group.

<sup>30</sup> All three men were of documented Pembina Chippewa ancestry. Laframboise was part of the Rocky Boy’s tribe.

<sup>31</sup> The petitioner submitted a series of census records from 1880 to 1930 for 12 counties in Montana, but made these census records part of its comments for criterion 83.7(b). While some of these records identified some of the petitioner’s ancestors as Indian, they did not identify an entity to which they belonged (Little Shell Comments on PF 2005, Table 18).

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Lewistown, 1902).<sup>32</sup>

Two school reports from 1901 and 1902 also indicated the “Boyd Creek School” in Fergus County “generally” contained “half-breed children” or “half breeds,” but they did not describe an entity to which they belonged.<sup>33</sup> General references to unidentified children as “half-breeds” did not meet the requirements of criterion 83.7(a) (Fergus County Supervisor 6/20/1899-5/23/1902, 236, 250).

The petitioner also submitted a series of articles and court cases that described some of the petitioner’s ancestors as “breeds,” “half breeds,” or “half-breed Indians” in Lewistown.<sup>34</sup> The petitioner claimed that when people in the town used these terms, “they were clearly referring to the Little Shell people.” However, there was no evidence in these documents describing any Little Shell or Indian entity. The documents only referred to individuals as having mixed Indian ancestry. References to individual Indian descendants or Indian families by such terms as “breed” or “half breed” do not meet the requirement that identifications must be of an Indian entity. Nor was there evidence either in these articles or elsewhere that external observers used these terms to refer exclusively to the petitioner’s ancestors.

### Summary of Evidence for Criterion 83.7(a)

For the period from 1900 to 1935, the new evidence did not demonstrate that identifications of individuals as Indian or as Indian of mixed ancestry constituted identifications of an Indian entity. The censuses and other documents did not show external observers identified the petitioner’s ancestors or an antecedent group as an Indian entity. Instead, the evidence demonstrates that external observers described some of them as individuals of mixed ancestry, living mostly among the general population. In some cases, external observer described them as individual Indians, or Indians or mixed ancestry, living in small enclaves with some Indians of other tribal origins in which they were not the dominant population, but these are not identifications of the petitioner as a group.

This FD concludes the standard for identification used in the PF departed from the language and intent of the acknowledgment regulations, the regulatory standard of proof, and prior

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<sup>32</sup> In other findings, the Department used censuses as evidence under criterion 83.7(a) when they specifically identified an Indian settlement, village, or reservation separate from the general population. Individual Indian ethnicity alone was not accepted as evidence of identification of an entity (Match-e-be-nash-she-wish Band PF 1997, 3; Huron Potawatomi PF 1995, 4; Muwekma FD 2002, 43).

<sup>33</sup> The petitioner submitted 26 school census records for 1902-1935 from four different counties in Montana. The 1902 Fergus County Census was the only one that included a “breed list” or identified any student as Indian. Seventeen of the censuses were for various school districts in Fergus County in 1902, 1910, 1912, and 1935; two for Teton County in 1905 and 1915; three for Lewis and Clark County in 1915; four for Cascade County in 1927, 1930, 1933, and 1935.

<sup>34</sup> They included the *Fergus County Argus* 8/4/1905, 5/5/1916, 7/14/1916, 12/1/1916, 9/21/1917, 7/25/1929, 8/8/1929, 8/15/1929, and 9/12/1929; and *Fergus County Court Records* 7/12/1905, 7/22/1905, 8/2/1905, 11/14/1906, 6/28/1911, 7/7/1911.

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Departmental interpretations of those regulations in concluding that external observers had identified the petitioner as an American Indian entity on a substantially continuous basis since 1900 under criterion 83.7(a). When interpreted according to the language, intent and standard of proof in the regulations and precedent, the evidence in the record on this petition is insufficient to support the PF's conclusion, due to the absence of identifications of the petitioner from 1900 to 1935. The petitioner cannot meet the requirements of this criterion when there is no evidence of external identifications for a period as long as the first third of the 20th century. Therefore, for these reasons, the petitioner does not meet criterion 83.7(a).

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### Criterion 83.7(b) requires that

**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 Proposed Finding and Departures from Precedent

The PF concluded the Little Shell petitioner comprised a distinct community since historical times until the present, thus meeting the requirements of criterion 83.7(b). It stated the available evidence had shown the petitioner derived “as a community from a continuously existing historical community, or amalgamated communities, which evolved from historical tribes” (Little Shell PF 2000, Summary, 25). The “petitioner’s ancestors in Montana” had “formed a distinct community or communities,” while the current members living in the “two traditional rural areas” of settlement in Montana had demonstrated “social cohesion” (Little Shell PF 2000, Summary, 25). These members also maintained ties to other members living in the “two major urban centers of settlement” in Montana. Finally, the PF determined that members living “elsewhere” had “maintained social ties with other cohesive portions of the membership” (Little Shell PF 2000, Summary, 25).

As stated previously, to reach this conclusion, the PF acknowledged it departed in several ways from Department precedent. First, the PF accepted “as a reasonable likelihood” that “patterns of social relationships and political influence” among the “Métis settlements in North Dakota and Canada during the mid-19th century persisted among their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920” (Little Shell PF 2000, Summary, 6). The PF adopted this conclusion despite admitting that the available evidence at that time did “not show clearly that immigrants to Montana from Dakota or Canada necessarily moved together as a community or in a pattern of migration that maintained old community ties” (Little Shell PF 2000, Summary, 12-13). Second, the PF differed from former findings by not requiring “specific evidence showing the continuity of tribal existence substantially without interruption” (Little Shell PF 2000, Summary, 6), which for the migration period, constituted a period of about fifty years (Little Shell PF 2000, Summary, 13). Third, the PF accepted evidence of inter-marriage between 1880 and 1940 among people of Métis ancestry and the limited kinship ties that were created within some parts of the two main areas of settlement, the Triangle and Front Range areas of Montana, for the group’s ancestors, as evidence of community by explicitly stating that it was not necessary that the ties encompass all of each region or extend across the two regions. Finally, for much of the period since the 1930’s, the PF permitted “kinship ties” and “informal social contacts” among only “portions” or “some” of the petitioner’s membership” to be sufficient evidence to show distinct community, rather than requiring evidence for a “predominant portion” as the regulations and precedent require, to provide sufficient evidence of distinct social community (Little Shell PF 2000, Summary, 19-20, 24-25).

The PF invited “public comment” on several of these proposed departures from precedent, including their “consistency” with the regulations. It also encouraged the petitioner and third

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parties to supply additional evidence and analyses on other departures from precedent. This new evidence could create “a different record” and a more “factual basis” for the FD, and “eliminate or reduce” these departures from precedent (Little Shell PF 2000, Summary, 7).

This FD concludes, as stated earlier, that these departures from precedent under criterion (b) are inconsistent with the language, the requirements, objectives, standard of proof and subsequent application of the regulations to other petitioners. The proposed departures were inconsistent with the intent of the regulations that require a demonstration of continuous existence (meaning substantially without interruption) by a distinct community since historical times by a predominant portion of the petitioning group. The proposed departures were not otherwise justified. When interpreted under the language, requirements, objectives, standard of proof and intent of the regulations, all the available evidence for this petition was insufficient to conclude that a predominant portion of the petitioner had demonstrated community since historical times.

### The Petitioner’s Definition and Description of Community from the Early 1880’s through Present

The PF requested that the petitioner provide a description of the group’s ancestral community and its evolution at different points in time (Little Shell PF 2000, Summary, 12-13, 15). Lacking from the petitioner’s original submission was a description of who the original members were in the Red River and Pembina areas. In addition, the petitioner provided no sociocultural information on social interactions demonstrating its distinctiveness from other Métis and or Indians in these areas. While the petitioner provided some evidence of community in the form of in-group marriage rates, without a discussion of the social context of these marriages and a designation of the composition of an ancestral community group, the marriage rates indicated no more than marriages between the petitioner’s ancestors and other Métis and Indian peoples of similar cultural backgrounds. The problem of a description of the petitioner’s community was found in subsequent time periods as its ancestors moved into the Front Range, Triangle Region, and other areas of Montana.

A marriage analysis for the period from 1870 to 1940 conducted by the OFA for the PF indicated that within both the Front Range and Triangle Regions some of the petitioning group’s large extended families were connected through marriage. This was also indicated in the petitioner’s kinship diagrams demonstrating intermarriage among its ancestors within the two major regions (Franklin and Bunte 1994, 44, and figures 1-4). These analyses did not provide sufficient evidence indicating that each region as a whole, or sub-groups within the regions, comprised a distinct community or communities based on marriage. The OFA’s 2000 recommendation against acknowledgment noted that the petitioner’s methodology assumed an overall community organization based on its aggregation of data for the petitioner’s ancestral population (OFA 2000, 28-31). A lack of a clear description of community was found in the petitioner’s subsequent periods as well as from the 1900 to the present.

The PF requested that the petitioner provide a more in-depth marriage analysis as well as information on the social and economic contexts underlying marriages (Little Shell PF 2000, Summary, 15-16). In its comments on the PF, the petitioner provided a model of its

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“community” entitled: “The Little Shell Community Group.” The petitioner’s “Little Shell Community Group” model does not describe a tribe. The LSCG model does not identify a historical Indian tribe and trace its members through time to the present as is required in the regulations. Rather it combines all categories of possible community members such as ancestors, their descendants and affines, into one database without distinguishing between time periods.

The LSCG model, as such, does not identify community at different points in time but instead creates a “tribe” based on the current membership who can trace back to any number of criterion or “components” which allow for these current members inclusion in the group. The ancestors are then traced back to a set of common progenitors. All descendents of the progenitors are then potentially included in the current membership. The group’s progenitors, as defined by the petitioner are not limited to Chippewa from Pembina but include American Indian peoples from various ethnic backgrounds including Sioux, Assiniboine, and Cree. This model, thus, relies on the ancestry of current members without regard to whether the prior generations ever formed a distinct community.

The petitioner’s model contains additional flaws. First, it assumes that individuals who are descendants of the historical Pembina Band actively participate in group events at various points in time. The petitioner’s record, however, indicates that large numbers of descendants who potentially could have been members and involved in group activities at various points in time are unaccounted for both in the membership and in the evidence of group events and interactions such as family reunions, Joe Dussome Day event, etc.

Second, the petitioner has included affines of Pembina descendents in its various analyses of “community” decades before they were married to these Pembina descendents. Thus the petitioner has inflated the composition of any potential “community” at earlier points in time.

Third, in its description of community the petitioner does not include any information about the social and economic contexts that would potentially define the social cohesion of its members as a social group distinct from its surrounding Métis population. Why this group is different from other Métis and, or, Indian groups or populations has not been demonstrated. For a complete analysis of the petitioner’s “Little Shell Community Group” construct, please see Appendices II and III.

### **CHRONOLOGICAL SURVEY: EVALUATION OF THE EVIDENCE IN THE PETITIONER’S RECORD**

#### **Before 1880: The Petitioner’s Ancestors in the Red River Settlements of North Dakota and Canada**

As stated before, the Little Shell PF requested additional information on the group’s history before 1930. To “further demonstrate tribal continuity,” the PF advised the petitioner “could strengthen the description and analysis of the migration of its ancestors to Montana,” since it was “clear” they migrated from “somewhat diverse origins, [and] arrived over a substantial period

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rather than coming all at more or less the same time.” It also encouraged the petitioner to “evaluate the possibility that there were social ties between the residents of the new settlements in Montana which were based on the earlier residence of these immigrants in the same Canadian or North Dakota settlement, or in Montana originally at St. Peter’s Mission.” The PF requested this evaluation because the available evidence did not show “clearly” those “immigrants to Montana from Dakota or Canada necessarily moved together as a community or in pattern of migration that maintained old community ties.” Finally, the PF suggested the petitioner might “strengthen the petition” by providing a “description of the communities” its ancestors formed once they migrated to Montana, which might “account for a larger proportion of the ancestors” than shown in the PF (Little Shell PF 2000, Summary, 12-13). The PF indicated the description “should consider the location, kinship ties among residents, and the degree to which the settlements were made up substantially or exclusively of ancestors of the current group” (Little Shell PF 2000, Summary, 13). In response, the petitioner submitted both arguments and new evidence.

The available evidence for the PF and the FD showed many of the petitioner’s ancestors were originally part of several Métis settlements on the Red River in Canada and in Pembina County in present-day North Dakota before the 1850’s. From the 1860’s to the late 1870’s, some were documented as being part of the Pembina Band of Chippewa Indians in North Dakota, while some others were only described as having “mixed-blood” ancestry, from that Band. As early as the 1860’s and 1870’s, some of the petitioner’s ancestors migrated farther west to new Métis settlements in southern Saskatchewan and southern Alberta in Canada, either from the Pembina area or the Canadian settlements of the Red River. The available evidence showed the petitioner’s ancestors were only a part of these various settlements, all of which, with the exception of the Pembina Band, were part of a much larger Métis ethnic group dispersed throughout the northern plains along the Canadian and American border. Even in the case of the historical Pembina Band of Chippewa Indians, the available evidence demonstrated the petitioner’s ancestors were only a portion of that group, which included a much larger mixed- and full-blood population. The available evidence did not show these ancestors were a distinct community as part of the Indian tribe or as a separate community. Later many of these ancestors migrated westward and lost their association with the band, while others remained in North Dakota and eventually became members of the federally recognized Turtle Mountain Band, a successor to the Pembina Band. In none of these separate pre-1880 settlements did the petitioner’s ancestors constitute a distinct community; nor did they later migrate as a group to Montana.

In fact, as described in the various appendices<sup>35</sup> in this FD, due to a variety of social, economic, and political factors most of the petitioner’s ancestors migrated on an individualistic basis from these various settlements in North Dakota and Canada to many locations in Montana roughly over 50 years beginning in the late 1870’s, with the bulk of it occurring between 1880 and 1910. During these years many of the petitioner’s ancestors could also be found in Saskatchewan and Alberta in Canada or even the Turtle Mountain Reservation area in North Dakota. The migration to Montana at first resulted in a dispersed pattern of settlement mostly in the rural areas of the northern part of the state along the Triangle and Front Range Regions. The available evidence

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<sup>35</sup> See Appendices II, III, IV, VII, VIII, IX, X, XI, and XII.

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did not indicate this was a group migration or that the migrants retained significant ties with older settlements of origin. For more information on the pre-1880 period, please see Appendices II and III on the petitioner's claimed "Little Shell Community Group," progenitors, and documented lineal ancestors. The available evidence for the FD is insufficient to show whether the petitioner's ancestors, before their arrival in Montana, constituted distinct communities which had evolved from an Indian tribe as required by the regulations.

The petitioner also provided marriage data for 1830 to 1880 that was consistent with other data that confirmed the dispersed origins and settlement patterns of the petitioner's ancestors. By the petitioner's own computations, "in-group" marriage rates did not exceed 50 percent before 1850. For the period from 1851 to 1880, the petitioner claimed "in-group" marriages constituted over half of the marriages within a "Little Shell Community Group." As stated previously, however, the petitioner's claimed "Little Shell Community Group" was not a substantially continuous historical community, but a collection of individuals with shared Indian ancestry who did not have social interactions or relationships with each other as a distinct group or set of groups. Rather than these marriages occurring as part of a claimed "Little Shell Community Group," they took place within a much larger ethnic group in multiple Métis settlements in Canada and North Dakota. The available evidence showed that the petitioner's marriage statistics covered only a small portion of the marriage information for these settlements during this period.

The OFA's analysis of the marriages of the petitioner's ancestors revealed that in the 1840's and 1850's, most of these marriages were occurring in the Métis settlement areas of Pembina County, and St. Francis and St. Boniface Parishes. Yet occasionally, marriages also took place in the other Métis settlements along the Red River, and even in the provinces of Alberta and Saskatchewan. The birth locations of the partners, when discernible, ranged more widely throughout the northern Plains, probably reflecting the mobility of the petitioner's ancestry, but the Métis settlement areas of Pembina County and St. Francis, St. Boniface, and St. Norbert Parishes, dominated.

In the 1860's and 1870's, many marriages still occurred in Métis settlement areas of Pembina County and St. Francis Parish, but also St. Boniface Parish and to a lesser extent St. Norbert Parish. However, more marriages now took place in Saskatchewan and Alberta, due to the wider ranging buffalo hunting then occurring. Birth locations of the couples were also mainly from Pembina County and St. Francis Parish, but also sometimes from St. Boniface Parish, and to a lesser degree St. Norbert Parish. In the case of Pembina County in the 1860's and 1870's, the petitioner also argued some of its Métis ancestors were part of the Pembina Band of Chippewa Indians, but the available evidence did not show information on the full-blood marriages that would have occurred in this Indian community, or how its ancestors' marriages within this band were distinctive from or related to the largely Métis marriages occurring among the petitioner's ancestors living in the other Métis settlements.

Thus, the marriage data and other available evidence is insufficient to show whether the petitioner's ancestors, before their arrival in Montana, constituted distinct communities which had evolved from an Indian tribe as required by the regulations. For more information on marriage data in the pre-1880 period, for both the PF and the FD, please see the marriage analyses in Appendices IV and V.

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### 1880 to 1900: Migration and Settlement Patterns of the Petitioner's Ancestors

To determine how the petitioner's ancestors moved westward from the Red River Valley to Montana, Saskatchewan, and Alberta, the OFA analyzed, as suggested in the PF, the migration and settlement patterns of petitioner's ancestors from 1880 to 1900. It made this analysis using the petitioner's genealogical database as augmented by OFA, Federal census records, marriage analyses, witnessing information, and other data tables. The OFA also reviewed the Turtle Mountain Reservation census data from the 1880's to the early 1900's. The full analysis of these records is in Appendices IV-X.

The available evidence showed that in the late 1870's and the 1880's, many of the petitioner's ancestors began to disperse even further away from the Red River settlements of North Dakota and Canada. Several factors, affecting all of the Métis population in these areas, combined to foster this dispersal of the petitioner's ancestors. First, overhunting of the buffalo herds close to the Red River forced the Métis populations onto the plains of northern Montana and southern Saskatchewan to hunt and maintain a livelihood. By the early 1880's, most of the remaining herds had been hunted to near extinction. This development forced another dispersal of the Métis to other areas as they tried to adopt more settled lifestyles as homesteaders and rural laborers. Next, a failed Métis rebellion in the Canadian province of Saskatchewan during 1885 uprooted more Métis, including some of the petitioner's ancestors in Canada. Finally, in the early 1880's the Federal Government took steps to establish a reservation for the Turtle Mountain Band of Chippewa Indians of North Dakota, a successor group to the Pembina Band of Chippewa. The Government did not complete a land cession officially until 1904. During this period, many Métis, including some of the petitioner's ancestors, became part of the Turtle Mountain Band of Chippewa Indians of North Dakota.

Owing at least in part to these factors, the petitioner's ancestors, residing throughout these areas, began to disperse even more. In the late 1870's and 1880's, new arrivals in Montana who had been part of hunting parties, sometimes found themselves forced back across the border, but some managed to remain, spread out in mainly rural areas in the state.<sup>36</sup> These individuals generally settled in northern Montana mainly in the Triangle region where an influx of white settlers soon joined them. In the 1880's some briefly lived around at the St. Peter's Mission while their children attended school, only to later move to other areas of Montana, or to North Dakota and Canada. Others in the late 1880's migrated down from Saskatchewan to Montana, or moved farther west from to the Canadian province of Alberta.

During the 1880's and 1890's some of the petitioner's ancestors left Montana and Saskatchewan for the reservation at Turtle Mountain in North Dakota, where they were recorded on the reservation censuses of the federally recognized Turtle Mountain Band of Chippewa Indians. A few of the petitioner's ancestors associated with the Turtle Mountain Band gradually returned to Montana. This migration of some of the petitioner's ancestors from Turtle Mountain to Montana began in the late 1880's and lasted until the early 1920's. However, the petitioner's ancestors constituted only a small portion of the Turtle Mountain Band in North Dakota. Most of the petitioner's ancestors connected to the Turtle Mountain Band remained affiliated with that band did not become part of or have significant interaction with a group of the petitioner's ancestors in

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<sup>36</sup> See Appendix IX for more information on these particular individuals.

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Montana during the late 19th century or after.

The two principal forms of evidence submitted by the petitioner for the FD to demonstrate actual social interaction and relationships among its ancestors in Montana from 1880 to 1900 were marriage data and witnessing records. The petitioner claims its marriage data for 1880 to 1900 show that new in-group marriages declined below 50 percent but remained significantly high, and therefore provided good evidence of community under 83.7(b)(1)(i). While the petitioner's marriage data did show a significant degree of Métis-to-Métis marriages among the petitioner's ancestors, many of whom had Pembina Band of Chippewa ancestry, they did not provide evidence of marriage within a group. As stated previously, the petitioner's claimed "Little Shell Community Group" was not a substantially continuous historical community, but a collection of individuals with shared Indian ancestry who did not have social interactions or relationships with each other as a group or groups that were distinct. Rather than being part of a social group, the marriages from 1800 to 1900 claimed as part of the "Little Shell Community Group" actually took place within a very expansive geographical framework that included settlements in Saskatchewan, Alberta, Manitoba, North Dakota, and Montana. The petitioner's marriage statistics covered only a small portion of the marriage information for these settlements from 1880 to 1900 and thus is not a valid indicator of distinct community. For example, in the 1880's and 1890's, marriages were occurring at St. Peter's Mission in Montana, but also in Saskatchewan and Alberta, and the Turtle Mountain Reservation area. As for the birth locations, the marriage partners were born in Saskatchewan and Alberta, but some marriage partners were also born in St. Francis Parish and Pembina County, and to a lesser degree St. Boniface Parish.

Thus, the marriage data did not show that the petitioner's ancestors, during their early migration to Montana, constituted distinct communities which had evolved from an Indian tribe as required by the regulations. For more information on data for marriages from 1880-1900, for both the PF and the FD, please see the marriage analyses in Appendices V and VI.

The petitioner also submitted witnessing data as evidence that its ancestors in Montana in the late 19th century interacted with each other as part of community or communities. The OFA analyzed this data from Catholic churches and missions within the Triangle and Front Range for this period. The data showed the petitioner's ancestors appeared as witnesses in many baptisms and marriages for close family members. Generally, the witnessing occurred at St. Peter's Mission on the edge of the Front Range, but some took place in the Triangle. This witnessing evidence did not provide good evidence of social interaction for the petitioner's ancestors because it occurred mainly among extended families rather than within a social group. Rarely did the witnessing involve individuals who were not closely related to each other.

In addition, the witnessing took place during part of the heaviest period of migration for the petitioner's ancestors. During these years, the petitioner's ancestors not only migrated to numerous settlements in Montana, but they also did the same in areas in Saskatchewan, Alberta, Manitoba, and North Dakota. Yet the petitioner provided no witnessing data for their ancestors in these settlements. Thus, the witnessing data was incomplete and involved only a portion of the petitioner's ancestors. It did not provide evidence of interaction among a predominant portion of a group of individuals that comprised a distinct community. For further information see Appendix VI on witnessing data.

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In summary, the available evidence for the FD showed the migration of the petitioner's ancestors was not part of a group migration but a gradual, individualistic process that led to a dispersed settlement pattern in a very wide area that covered most of the northern plains in the United States and Canada. The evidence did not indicate the petitioner's ancestors retained ties to previous settlements while migrating. Upon arrival in Montana, they settled among the general population and they did not constitute a distinct social group or groups. Available evidence did not show significant group interaction between these various settlements. Overall, the evidence did not demonstrate that the petitioner's ancestors were a continuously existing community before or during their migration from the Red River Métis settlements or during their settlement throughout northern Montana and elsewhere.

### 1900-1930: Settlement of the Group's Ancestors in Rural Areas of Montana

The PF requested that the petitioner provide evidence describing the location and settlement patterns of a larger portion of the petitioner's ancestors in Montana than was presented in the original finding (Little Shell PF 2000, Summary, 13). The OFA recommendation also questioned the degree the petitioner's ancestors comprised local settlements made up substantially or exclusively of its ancestors (OFA 2000, 36). As the petitioner relied heavily on marriage data as evidence of community for this period, the OFA recommendation asked the petitioner to demonstrate the extent to which marriage ties connected the group's members within and across regions. It also requested that the petitioner describe the social and economic contexts for marriage as well as a more complete portrait of the historical community in Montana.

In its comments on the PF for this period, the petitioner submitted information on residence in the form of "cluster" analyses, marriage data and analyses, and information on social interactions including witnessing and visiting. These data and analyses will be discussed below as well as in Appendices XIII-XV.

### **Evaluation of the Petitioner's Residential "Cluster" Analyses**

In response to these questions, the petitioner claimed that its ancestral population settled and lived clustered in groups in rural areas in the Front Range and Triangle Regions of Montana. The petitioner attempted to demonstrate this clustering pattern in different ways using homestead, Federal censuses, and later "enclave" data. The petitioner's definition of "clustering" varied based on the data set it employed. For example, homestead clusters were based on two or more of the petitioner's ancestors who purchased homesteads patents contiguous to each other while the petitioner's "clusters" in its Federal census analysis were based on sets of two to three families living in relative proximity to each other (Little Shell Federal Census Clusters Report 2005, 1-2; Little Shell Comments on the PF, B & C 20th, 6-8).

The petitioner's "cluster" analyses did not provide evidence for community for the following reasons. First, the size of the petitioner's homestead and Federal census "clusters" were too small to comprise a community or sub-community. Second, the petitioner aggregated the various "clusters" assuming a connection between them without providing evidence of such a

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connection. Third, the petitioner did not provide sociocultural or economic information adequately describing why certain family groups potentially would be living near each other, or how they might have been distinguished from other people living nearby. And fourth, the petitioner did not provide a description of how its ancestors in the homestead and census clusters were tied together at different points in time.

In addition to this demographic data, the petitioner also submitted new and reanalyzed interview data that it suggested indicated social knowledge among its ancestral population living in homesteads. The petitioner suggested that this information provided evidence of social interaction among the ancestral population in Montana. In its evaluation of this data, the OFA found that individuals had knowledge of their relatives and neighbors in the vicinity but were not generally knowledgeable of ancestors in other areas of Montana. In addition, none of the interviewees ever mentioned or described a Little Shell ancestral group or community in either region.

### **Evaluation of the Petitioner's Homestead "Cluster" Data and Analysis**

In its submission for the PF, the petitioner claimed that from the 1880's through the 1920's the petitioner's ancestors lived clustered together in rural homesteads (Franklin and Bunte 1994, 57). Relying primarily on interview data, the petitioner identified the most important areas of settlement in the Triangle region as the Bear Paw Mountains; Lewistown, and areas to the north and east of Lewistown; the area east and or south of Ft. Belknap; and sites along the Milk River from Glasgow to Ft. Peck (Franklin and Bunte 1994, 58). The petitioner gave only one example of a homestead settlement on the Front Range, that of the Bushie and Salois families that lived contiguously in the Dupuyer area (Franklin and Bunte 1994, 59).

The PF requested that the petitioner, in general, provide a more comprehensive analysis of the group's ancestral population and settlement patterns in Montana from 1900 through 1930. In response, the petitioner submitted additional information on Little Shell ancestors living in homesteads of the Front Range and Triangle regions including the identification and location of ancestral homestead patents copied and submitted from the U. S. Department of the Interior, Bureau of Land Management, General Land Records website ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)), maps of regions they were located in, and new data from interviews conducted from 1998 to 2003. Using this combined data the petitioner suggested that its ancestral population living in Montana from 1882 to the 1930's lived "clustered in groups" along the Front Range and within areas of the Triangle region. According to the petitioner, this claimed pattern of clustering satisfied criterion 83.7(b), in part, by providing evidence of social interactions and social relationships, which the group assumed occurred based on residential proximity.

The petitioner's researchers' strategy for analyzing ancestral homesteads was as follows. First, they looked at each county in Montana where there were known concentrations of Little Shell in the late 1800's and early 1900's. Next, they constructed a list of all homesteads for each of these counties identifying any patent holders who looked liked they might belong to the petitioner's ancestors. The petitioner's researchers then correlated these individuals with names in their genealogical database. The petitioner's researchers noted that individuals with homestead records had other records as well verifying that they were living in the area. They also had

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relatives in the general area with homesteads (Little Shell Comments on the PF, B & C 20th, 6-8).

The petitioner defined high, medium, and “relevant” density homestead clusters. High clusters were defined as having between seven to eleven homesteads within one township. The petitioner identified three high density “homestead clusters” in Dupuyer (Front Range), with 7-11, Lewistown with 7-11, and near Flatwillow with 7-11. The petitioner also defined one high density “homestead cluster” near Lewistown with 12-15 homesteads. Medium density “clusters” contained from three to six homesteads. The petitioner’s researchers described 1-2 homesteads per township appearing across Montana to be “relevant.” They did not give the names or locations of these “relevant” levels of clustering, even though there were many more relevant clusters than medium- or high-density ones. Based on the new combined homestead data and analysis, the petitioner again claimed that its ancestors were living in “community clusters” (Little Shell Comments on the PF 2005, B & C 20th, 6-8).

In order to verify the petitioner’s claims, the OFA chose a sample of two “high density” homesteads “clusters,” Dupuyer on the Front Range and Lewistown in the Judith Basin, and one medium density homestead cluster in the Roy area. For each of these samples the OFA conducted the following analyses. First, using the U.S. Department of the Interior, Bureau of Land Management, General Land Records patent Internet site ([www.gloreCORDS.blm.gov](http://www.gloreCORDS.blm.gov)), the OFA looked up the names of individuals the petitioner listed as holding homestead patents in order to verify the patent and its location.<sup>37</sup> Second, the OFA verified that individuals identified by the petitioner as being part of a “homestead cluster” were of Pembina Band descent, and or, were married to Pembina descendants. Third, the OFA analyzed the kinship composition of the petitioner’s homestead “clusters” to see how potential group relationships were structured. Fourth, the OFA reviewed interview data to see how social relationships and interactions potentially tied homesteaders together. Interview data included the petitioner’s interviews as well as those conducted by the OFA during its 2007 site visit.<sup>38</sup>

### *The Dupuyer “Homestead Cluster”*

Dupuyer is a town located in present day Pondera County in the north area of the Front Range. It is located in the general vicinity of Heart Butte, Cut Bank, Shelby and Conrad, all north of Great Falls. The petitioner identified Dupuyer as containing a “high density” homestead cluster. According to the petitioner this homestead cluster consisted of 13 Little Shell ancestors with homesteads. These individuals included those with the surnames of Bushman, Feller, and Salois

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<sup>37</sup> The OFA also looked at adjacent townships next to those in the petitioner’s sample as well as alphabetical lists of patent holders within each township. The OFA did not find evidence of the petitioner’s ancestors residing next to, or outside of the petitioner’s “homestead cluster” samples.

<sup>38</sup> In its 2007 site visit the OFA conducted additional interviews in order to verify data submitted since the PF as well as provide an update of current community and political activities. During the course of the site visit 71 individuals were interviewed during 56 interview sessions. The sample included: the petitioner’s main researcher; a scholar on Métis history; Little Shell group members; tribal members of the Turtle Mountain, Blackfeet, Belknap, and Flathead reservations; members of the petitioning group #172 “Rocky Boy Objjway Band”; and, non-group members.

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(Little Shell Comments on the PF 2005, B &C 20th, 12-15).

In analyzing the Dupuyer homestead “cluster,” the OFA found the petitioner’s data to be accurate with the exception of the following cases. First, a 1917 land patent listed for Solomon Salois that was not a homestead but a Desert Land Act patent. The OFA confirmed a second 1920 homestead for Solomon Salois and identified a third homestead he obtained 20 years later in 1941. In addition, Adoph Bushman obtained more than one patent. In his case an original homestead in 1892, and a patent for a cash sale for cattle raising property in a different township.

The OFA confirmed the location of the Dupuyer ancestral homesteads as being located in five townships. Township 28 North, 8 West contained the highest number of petitioner’s ancestors including members of the Fellers and Salois extended families.

An evaluation of the social composition of the petitioner’s Dupuyer homestead “cluster” indicated that 8 of the 13 homesteaders were comprised of a father and his children (Toussaint Salois, and his seven children). The ninth individual, Henry M. Salois was a nephew of Toussaint. Adolf Bushman was an affine of Ellen Salois who was a niece of Toussaint Salois. Therefore, 10 out of 13 of the homesteaders in the petitioner’s Dupuyer cluster comprised one extended family. The remaining three individuals, Louis and Jullian Fellers and Ada E. Fellers were a second extended family. Louis and Jullian were brothers and Ada Embody was the wife of Jullian. Information on the social structural composition of the petitioner’s Dupuyer homestead “cluster” indicated two extended families. None of the individuals in the Dupuyer homestead “cluster” traced to a Pembina Band ancestor. Nor did the 13 individuals in the Dupuyer “cluster” have affines who traced to Pembina ancestors.

The interview data related to homesteads for the Dupuyer area did not indicate the presence of an ancestral Little Shell community or sub-community. Interviewees cited by the petitioner either referred to their own relatives’ homesteads (Little Shell Comments on the PF 2005, B &C 20th, 13; Chane Salois Interview 5/9/1998; Al Wiseman Interview 5/8/1998, 2007) or homesteaders in general (Little Shell Comments on the PF 2005, B &C 20th, 13; Al Wiseman 5/8/1998, 2007). While interviewees, including one non-Little Shell, reported knowing of the Salois family homesteads (Little Shell Comments on the PF 2005, B &C 20th, 13; Bob Linn Interview 7/21/2001; Alfred Wiseman Interview 5/8/1998), they gave no data of social interactions or social relationships among Little Shell ancestral homesteaders as a community.

In the 2005 report the petitioner’s researchers also suggested that ancestral homesteads which were bought next to each other, sharing boundaries, provided evidence of community cohesion. In discussing his grandparents’ Front Range homestead near the Dearborn River, one interviewee suggested that Métis people were encouraged to acquire contiguous patents for the benefit of ranchers:

I’ll tell ya, they had a homestead, but these big ranchers would have ‘em buy homesteads and joining, you know. The rancher could only file for so much, you know. He had these Métis, half-breeds sign, joining, 168 acres or whatever they was allowed and then they would buy ‘em for so much.” (Little Shell Comments on the PF 2005, B &C 20th, 14; Robert Sangray Interview 7/30/2001)

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This interview suggests that Little Shell ancestors purchased homesteads near each other for profit rather than because they were a community. In summary, the OFA found that the “high density homestead cluster” in Dupuyer was composed of two extended families without documented Pembina Band descent and who were non-members located primarily in one township (28N/8W). This example does not represent or reflect an ancestral community. In addition, the petitioner’s researchers lumped homestead clusters into the same time period as in the case of Solomon Salois mentioned above who had two homesteads, one in 1920 and another in 1941. The petitioner has not provided information indicating which other group members were living near him at these different times. In addition, the petitioner has not provided data indicating if and how the homesteaders in the Front Range were connected to homesteaders of the Triangle area. There is no evidence of either intra- or inter-regional community connections between homesteaders.

### *The Lewistown “Homestead Cluster”*

The petitioner identified 35 individuals whom it claimed had homesteads in the Lewistown area, with some individuals having more than one (Little Shell Comments on the PF 2005, B & C 20th, 18-19). In verifying these land patents the OFA found that of the 39 homesteads listed by the petitioner, 11 were not homestead patents but were cash sale patents or non-coal land patents.<sup>39</sup> In addition, two homestead patents for Ben Kline in 1909 and Raphael Laroque in 1911 could not be found. The OFA also identified an additional patent for Sarah Doney in Fergus County.

The petitioner’s Lewistown homestead map showed Little Shell homesteads distributed throughout nine townships with the majority of group members concentrated in two townships 15N/18E and 15N/19E. However, the nearness of homestead patents did not indicate in and of itself residential proximity as some individuals acquired more than one homestead at different points in time and in different places. For example, Sarah Doney had three patents that included a 1903 cash sale at township 16N, 21E in Fergus County, a 1911 homestead at 18N, 21 E in Fergus County, and a 1926 homestead in 25N, 22E to the north in Blaine County.

The petitioner’s researchers did not compare the movement of individuals from one “cluster” location to another during different periods. The OFA noted that some individuals within the Triangle region acquired homestead patents during the same periods in the same locations. For example, Sarah Doney and Eli Gardipee both had land patents in Lewistown around the same time. Doney had a cash sale in 1903 and a homestead in Fergus County in 1911, while Gardipee had a homestead in Fergus County in 1908. Both later had homesteads to the north in Blaine County in 1926. However, while individuals on the petitioner’s list of homesteaders sometimes acquired patents in the same areas, not all of them had Pembina Band ancestors or affines of Pembina ancestors. For example, Sarah Doney was a Pembina ancestor while Eli Gardipee was not. Again, it can be assumed that individuals, in part, acquired homestead patents based on economic opportunity rather than on a community organization. Interview data indicated that some of the petitioners left their homesteads for a variety of reasons including not being able to pay the taxes (Edna Teske Interview 5/12/1998; Little Shell Comments on the PF 2005, B & C

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<sup>39</sup> While a declaration that one intended to reside on the land was required to obtain a homestead patent, there was no similar requirement for the others. OFA does not assume such residence under the other patents unless there is corroborating evidence.

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20th, 20); or in some cases due to perceived discrimination (Lloyd Paul Interview 9/23/2001).

In the Lewistown area out of the 35 individuals in the petitioner's list, the OFA found that 27 traced back to a documented Pembina Band ancestor. Five of the non-Pembina were married to Pembina ancestors. The OFA considered these affines in the sample as potential community members. The remaining three homesteaders had no connection to Pembina ancestors nor were they part of a potential community.

As the petitioner's Lewistown sample had the highest number of homesteaders with Pembina Band ancestry the OFA conducted an analysis in which it reviewed genealogical information provided by the petitioner as well as Federal census records from 1880-1930, to determine the extent to which this subset of homesteaders comprised a community socially and geographically. The OFA found that intermarriage among the homesteaders of Fergus County in the petitioner's families was very high from the original pioneers into the area until after 1920. A sample of five families: the Isadore Bergers, Baptiste Janeauxs, Benjamin Klynes, Edward Wells, and Ellen Latray Lefferts indicated that in three generations, the individuals who received land patents in Fergus County were all cousins in some fashion.

Francois Avila Janeaux, born c. 1840, son of Baptiste and Angelique Durand, married Virginia Laverdure daughter of Pierre Laverduere and Catherine Charette. Their children married into the Paul, LaPlante, Laverdure and Desy families. Based on the petitioner's information it would appear this family did not migrate to other counties until after 1910.

Pierre Berger born abt. 1820 married Judith Wilkie, daughter of Jean Wilkie and Amable Azure. Their family intermarried with the Laframboise, Swan, Gourneau, Delorme, Turcotte, Laverdure, Cadotte, Kipling, Gourneau, Ouellette, Bottineau, Lafontaine, LaProse, Azure, Graveline, Rocheleau, Carrier, Wells, Langevin, Tivies, Lapierre, Deschenaux, Belgarde, Klyne, Doney, Fleury, and Parenteau families. Some of this family migrated to Hays, Montana. Some of the Turcotte family migrated from Harlem and Philips County to Fergus County.

Benjamin Klyne married Angelic Ayimatch St. Pierre, daughter of Francois St. Pierre and Marie Laverdure. His family intermarried with the Laroque, Fagnant, Hamelin, Berger, Charette Doney, Gardipee, Laverdure, Fleury, Laframboise, Turcotte, and Beauchman families. Benjamin Klyne, born about 1868, is buried in Phillips County. His son Joseph Albert Klyne married there in 1925. Angelique Klyne married to Charles Laroque are in Blaine County in 1910. The rest of their issue was born in Fergus County. Patrick Laroque married Rose Laverdure and was born October 1910 in Landusky, Phillips County. Their children were born in Blaine County. In the Benjamin Klyne family only four couples could be determined as marrying an Indian in the third generation.

The descendants of Edward Wells, son of Edouard Wells and Isabelle McGillis, intermarried with the Laverdure, Charette, Fleury, Wilkie, Tivies, Ouellette, Belgarde, Larance, LaFountain, Laframboise, Doney, Sangray, and Short families. Louis Laverdure's wife died in Lewis and Clark County after 1936. Some of their children migrated to other counties. Ellen Lefferts was related to the Charette and Doney families. She was also related to other families through the Latray family.

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From the limited information supplied on the grandchildren of these pioneer families it is difficult to determine if intermarriage continued on a significant scale. Based on the limited sample submitted it would appear most marriages occurring after 1905 were to non-Indian spouses.

In addition to its marriage analysis, the OFA verified residence of the homestead sample from Lewistown by noting if each individual in the sample owned their own land for the census years from 1900-1930 (see Appendix XI). The results of this analysis indicated that a significant number of the petitioner's sample of ancestral homesteaders in Lewistown owned their land and remained in the area through the 1920's.

The OFA's analysis indicates that Little Shell homesteaders in the Lewistown area were connected through marriage and also geographic proximity within the area from the 1880's up until 1920. Around 1920 members dispersed from in and around the Lewiston area moving to other locations outside of Fergus County. This movement was not as a group but rather on an individual basis.

While these Little Shell ancestral homesteaders were tied through marriage, interview data did not provide evidence that these families were anything more than large extended families with Indian blood. In discussing social relationships and social interactions of Lewistown homesteaders, the petitioner's researchers used examples of homesteaders Joseph Swan and his wife Veronique LaPlante, who were not connected to the Pembina Band through either descent or marriage:

Joe Swan [1281], an individual homesteader who is not a member of the LSCG, married Veronique LaPlante [9307], also not a member of the LSCG. However, they appear to have a Little Shell residence pattern, living in the Augusta Dearborn area in the early 1900's and then moving to Lewistown. They had several of their children baptized at St. Leo's Catholic Church in Lewistown, and are both buried at St. Leo's Mount Calvary Cemetery. Four of their children married spouses with Little Shell surnames, as well. These facts about Joe Swan and his family document that even the non-LSCG individual homesteading at Lewistown was actively involved in the Little Shell community along with the other thirty-four homesteaders. (Little Shell Comments on the PF 2005, B & C 20th, 18)

The Department does not consider examples of non-Little Shell ancestors to provide an adequate example of Little Shell "community participation." In addition, as mentioned above in the discussion of the "Little Shell Community Group" model, the petitioner included individuals as part of the group who were not married into the group at this time.

Interview data provided by the petitioner for Lewistown indicated that descendants of homesteaders had knowledge of their relative's homesteads as well as other members descendant's homesteads nearby in the Triangle Region (Lloyd Paul Interview 9/23/2001; Victor Wells Interview 7/21/2001). The petitioner has not presented data of social interaction that distinguished them as a community. Interviewees did not identify their ancestors as being

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distinct from other non-member homesteaders around them.

In summary, data on Lewistown homesteaders supplied by the petitioner did not provide evidence of a pattern of community “clustering” in part because the nearness of the patents did not indicate, in and of itself, residential proximity. In addition, individuals with patents during different time periods were lumped together. Based on the petitioner’s interview data, in conjunction with other evidence in the record, there is not enough evidence to conclude that the interconnected families of Lewistown were more than a group of extended families with Indian ancestry. The petitioner provided no data demonstrating any distinct community organization around the homesteads; nor did it demonstrate how the Lewistown group was connected with other Little Shell ancestors within and across regions.

### *The Roy “Homestead Cluster”*

The petitioner’s Roy homestead “cluster” included 9 individuals with 13 patents. In verifying the years of homestead patents listed by the petitioner, as with the cases above, the OFA found that some of the patents were not homesteads but were other types of patents. For example, the petitioner lists James Doney as having a homestead patent in 1911 and 1916. The OFA confirmed that Doney had a homestead patent in 1911, but that the 1916 patent was a supplemental non-coal patent. While the petitioner listed Eli Gardipee as having two homesteads in 1908 and 1910, the OFA confirmed that Gardipee actually had homestead patents, one in Fergus in 1908, and the second in Blaine county in 1926. This second homestead is listed in the petitioner’s Zortman-Hays cluster. The petitioner lists Joseph Laroque as having two homestead patents, one in 1903 and the other in 1913. The OFA confirmed that Laroque had four patents, a 1903 homestead in Fergus County, a 1913 cash sale entry in Fergus, a 1919 homestead patent in McCone County, and a 1929 homestead stock-raising patent in Blaine County. In addition, the petitioner listed Ralph Laroque as having two homesteads in the Roy area in 1911 and 1915. The OFA found only one homestead patent in 1915. The petitioner lists Sarah Doney as having two homesteads near Roy, one in 1903 and one in 1916. Using the U. S. Department of the Interior, Bureau of Land Management, General Land Records website ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)), the OFA confirmed that Doney’s 1903 patent was a cash sale. The 1916 patent was a supplemental non-coal patent. Doney did have a homestead patent in Fergus in 1911. In addition, she had two subsequent homestead patents in 1926 and 1928 both in Blaine County at which time she would probably been closer to Eli Gardipee who was listed in the Zortman-Hays cluster. William Lefferts has two patents, one in 1915 and one in 1916, both of which are cash sales.

Out of the nine homesteaders listed by the petitioner in its Roy homestead cluster, only three were of Pembina Band descent. These included the siblings James and Sarah Doney. Four others out of nine were married to Pembina descendants at the time. These included Mary Gardipee married to Joseph Lee Laroque, Charles Laroque married to an Angelique Klyne, and Joseph Laroque married to Mary Klyne, and Raphael Laroque married to Isabel Thomas. Two individuals had no community connection. They were Gabriel Fagnant and Eli Gardipee.

These individuals in the petitioner’s Roy homestead “cluster” consisted of a pair of siblings (the Doney’s); three sons from the Laroque family, who were not Pembina Band descendants but

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married to Pembina descendants, and a niece of the Joseph Laroque through marriage to Eli Gardipee. While the Klyne, Thomas, Gardipee, and Laroque families were interconnected through marriage in this sample, the number of individuals in the sample who were connected to a possible Little Shell group was small.

The petitioner has provided no interview data that identified Little Shell ancestral homesteads in the Roy area as a distinct community or part of a larger one. As with the Front Range, interviewees from the general Triangle Region were able to identify the location of some of the homesteaders in the area including Turtle Mountain enrollees, Little Shell ancestors, and their own relatives (Little Shell Comments on the PF 2005, B & C 20th, 20-21; see for example Darrel Koke Interview 5/7/98; John Gilbert Interview 5/14/1998; Mary McGillis Interview 9/29/2002; and Steve Doney Interview 5/12/1998). None of the interviews for the Roy or surrounding area provided evidence of a distinct Little Shell community within the area or across the two major regions of Montana. The evidence concerning the Roy “cluster,” when combined with the other evidence in the record, did not show it to be part of an interconnected community of petitioner’s ancestors.

### *Witnessing Events for High and Medium Homestead “Clusters”*

In its analysis of the petitioner’s witnessing data, the OFA looked at witnessing events specifically for ancestors who had homesteads in the petitioner’s high and medium density “homestead clusters.” These homesteads were in Zortman-Hays, Roy, Brown/Dupuyer, Flatwillow, and Lewistown. The OFA found that there were a total of 42 people witnessing: 15 in Lewistown; 13 in Flatwillow; 8 in Zortman/Hays; 5 in Roy; and 1 in Dupuyer. The OFA calculated the following:

Total witnessing events in all areas: 123

Total events verified: 115

Range of dates: 1877-1942 (only one occurred after 1927)

1877-1899: 33 verified events

1900-1942: 82 verified events

Average number of verified yearly witnessing events from 1877 to 1927: 2.3

Only 19 of the 115 verified events were with a person who did not have a direct relationship within an extended family. This analysis indicated that even among one of the more important segments of the petitioner’s ancestors, homesteaders living in relative proximity, witnessing events were small in number and geographic extent, and limited to some extended families. Thus, the witnessing data, although it provided limited information about interaction between some extended families representing the petitioner’s ancestors, when combined with the other evidence presented, did not provide evidence of social interaction among a predominate portion of a distinct social group.

### *Summary of the Petitioner’s Homestead “Cluster” Analysis*

The petitioner’s homestead “cluster” analysis did not provide evidence of community either within or between the two major regions of the Front Range and the Highline during this period.

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Problems with the petitioner's analysis included the following. First, the petitioner's homestead data had errors often labeling different kinds of patents as homestead patents. However, while not all types of patents require an individual to be living on their property for a set period of time, the OFA did consider a land patent to be indicative of the individual's presence in the area.

Second the petitioner's "cluster" analysis combined anyone who had a patent in one area at the same time without regard to that person's residence when possessing more than one patent. Some individuals were listed in more than one cluster which inflated the overall number of Little Shell ancestors living in homestead "clusters." Along those lines, the percentage of individuals living out of the medium and high density clusters was large in comparison to those living in them, thus limiting the value of this analysis as representative of the whole.

Third, an analysis of the social structural relationships among individuals in the homestead "clusters" indicated that individuals in the "clusters" comprised nuclear or extended families. The case of Lewistown was the exception with numerous intermarried Pembina families obtaining homestead patents in the area. A separate analysis conducted by the OFA indicated that Little Shell ancestors of Lewistown also remained in the general area up through 1920, although the marriage data indicated that since 1905, most marriages were to a non-Indian spouse. The greater diversity in families with homesteads in Lewistown and the duration to 1920, however, is of limited evidentiary value because of its limited size and because the evidence did not demonstrate how the Lewistown group was connected with other LS ancestors within and across the region. Nor was it representative of the whole, as shown by the evaluation of the other clusters.

Fourth, with the exception of Lewistown, the OFA found that not all of the individuals listed in the "clusters" were Pembina Band descendants or affiliated to Pembina descendants through marriage. This was especially the case in the petitioner's Front Range sample in Dupuyer where none of the individuals in the sample was of Pembina descent.

Fifth, the petitioner's interview data regarding homesteads did not indicate that ancestors of current members with homesteads comprised a distinct community from the late 1880's to the 1930's. Homesteaders knew of others in the area. In the majority of the interviews, this knowledge concerned other family members, both immediate and extended. None of the interviewees acknowledged the presence of either local or cross-regional distinct ancestral Little Shell communities. With the exception of Lewistown where Little Shell ancestors were connected through marriage, there is no interview data that indicates ancestral homesteaders comprised a distinct Little Shell community. The evidence regarding Lewistown is too limited to be representative of the whole, and is not replicated in the other clusters. While Little Shell ancestors living on homesteads held New Year's celebrations and dances, these events were open to denizens in the areas where they were held (Philomene Doney Holly 2007). The petitioner has not demonstrated how these events have distinguished Little Shell ancestors from other Métis in general.

In 2007, the OFA found some interviewees mentioned the fact that sharing and balanced reciprocity occurred among Little Shell homesteaders (Philomene Doney Holly 2007; Shirlee Gardipee interview 2007). However, these individuals also indicated that these forms of social

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interaction occurred among all residents in the area as well as including non-Indians, and thus is not evidence of a distinct LS community.

### **Petitioner's Federal Census "Clustering" Analysis**

In response to the PF's request for information on the location and settlements of Little Shell group ancestors during the 1900-1930's, the petitioner submitted an analysis of the Federal census records which aimed at identifying "clusters" of ancestral members residing in the Front Range and Triangle Regions of Montana. The petitioner's analysis covered the period from 1880 through 1930. Unlike the petitioner's homestead analysis that identified and counted the number of ancestral land patent holders living in proximity, this analysis measured the number of individuals living in what the petitioner described as Little Shell families living in "pairs" and "clusters" (Little Shell Comments on the PF 2005, Appendix II, 1-2). According to the petitioner, a pair consisted of "two Little Shell families living in two dwellings in close proximity," while a "cluster" consisted of "three or more Little Shell ancestral families living in three or more dwellings in close proximity" (Little Shell Comments on the PF 2005, Appendix II, 1).

In its analysis of the Federal census records from 1880-1930, the petitioner identified 4,904 individuals who it claimed were part of the claimed "Little Shell Community Group" in 12 counties of Montana. Out of these individuals it states that 2,902 of them were living in "clusters of families" while 828 were living in "pairs of families" (Little Shell Comments on the PF 2005, Appendix II, 99).

The Department did not find that this analysis provided evidence of community for the decades from 1900 through 1930 for the following reasons.<sup>40</sup> First, the units of analysis (pairs and clusters) chosen by the petitioner did not comprise community or sub-community units. In many cases, "families" identified by the petitioner consisted of a few individuals who were part of a nuclear family, and or with lodgers. Second, individuals identified in the Federal census as being part of Little Shell families were chosen based on whether they were found in the petitioner's genealogical database not on whether those individuals were a social group that has been identified and existed in a particular county or region at a specific time period. The petitioner's database consists of individuals who are a combination of Pembina Band ancestors, as well as non-Pembina ancestors who could potentially be part of a community through marriage, and non-members who are neither Pembina ancestors nor married to one. Third, the Department found that many individuals not of Pembina ancestry were included as part of the petitioner's "Little Shell Community Group" before, sometimes decades before, they or their children married a Pembina descendant. This counting of individuals had the effect of inflating the number of potential group members at times before the actual marriage took place. Fourth, in its evaluation of the Federal census records, OFA found that the petitioner's "family clusters" and "family pairs" were actually scattered through a larger population of individuals who were not Little Shell ancestors.

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<sup>40</sup> The OFA also checked census information outside of the petitioner's sample and did not find residential clustering of the petitioner's ancestors.

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*The Department's Little Shell Federal Census Residence Analysis*

In order to further test the petitioner's claim that its ancestral population was living clustered in groups, the OFA conducted an additional residential analysis. Using the petitioner's FTM database, OFA researchers created a report listing individuals for whom the petitioner provided census enumeration information. OFA researchers then verified the enumeration residence locations and compiled additional residence history from the 1900, 1910, 1920, and 1930 Federal censuses. Most individuals in the petitioner's FTM were enumerated in only two Federal census reports. However, the OFA identified six families who were found to be enumerated on all four censuses (see table below). OFA researchers plotted the census residence locations for each household on base map overlays and compared the movements of each family with those of the others. This sample analysis revealed that none of the families resided or moved together throughout the 30-year period. Although two families would reside in the same vicinity during one or even two censuses (more than 10 years but less than 20 years), they nevertheless moved there from different previous locations or moved away and re-settled in different locations. Two families (Doney and Fagnant) were enumerated in Gilt Edge in 1900 and then in 1910 both families in Wilder. However, by 1920, these families were living in different counties. Although this sample analysis examined only six family lines, none were found to be "moving through time together" consistently between 1900 and 1930. This analysis supported OFA's conclusions that the pairs and cluster census analysis was not evidence of distinct community.

Table of Census Data Used for Sample Relocation Analysis

<b>Head of Household</b>	<b>1900 Census Location</b>	<b>1910 Census Location</b>	<b>1920 Census Location</b>	<b>1930 Census Location</b>
Abbott, George & Frank	Poplar, Ft. Peck, Valley Co. MT	Poplar, Ft. Peck, Valley Co. MT	Poplar, Ft. Peck, Roosevelt Co. MT	Poplar, Ft. Peck, Roosevelt Co. MT
Courchene, James Sr. & James Jr.	Ft. Benton, Chouteau Co. MT	Cascade, Cascade Co. MT	Rocky Boy, Hill Co. MT	Havre, Rocky Boy, Hill Co. MT
Doney, John Marie	Giltedge, Fergus Co. MT	Wilder, Fergus Co. MT	Chinook, Blaine Co. MT	Cleveland, Blaine Co. MT
Fagnant, Gabriel	Giltedge, Fergus Co. MT	Wilder, Fergus Co. MT	Grouse Gulch, Phillips Co. MT	Grouse Gulch, Phillips Co. MT
Laframboise, Isadore Napoleon	Ft. Shaw, Cascade Co. MT ?	Box Elder, Choteau Co. MT	Tyler, Fergus Co. MT	Tyler, Fergus Co. MT
Werk, Robert A.	Havre, Big Sandy, Chouteau Co. MT	Cleveland, Chouteau Co. MT	Chinook, Blaine Co. MT	Cleveland, Blaine Co. MT

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### **Evaluation of the Petitioner's Marriage Data and Analyses**

For the PF, the petitioner claimed to have provided evidence under 83.7(b)(2)(ii) for this period based on a 50 percent rate of in-group marriage, which it claimed extended through 1880 (Franklin 1994, 40). As mentioned above, technical assistance provided by the OFA indicated a number of problems with the petitioner's analysis. First, the petitioner did not measure in-group marriages but rather marriages between ethnic Métis, although the ethnic Métis is not the ancestral group of the petitioner. Second, OFA's March 2000 recommendation noted that the petitioner calculated the percent of married individuals rather than counting married couples (STN RFD 2005, 9-14). This error resulted in an inflated rate of in-group marriages (OFA 2000, 30).<sup>41</sup> However, as mentioned above, more problematic is the fact that the petitioner did not establish a base population and community at any point in time. Without a baseline number, it is not possible to determine rates through time.

In its submissions for the PF, the petitioner also provided social structural data indicating that portions of its ancestral population's families were united within the two regions through marriage ties. The PF requested that the petitioner provide further data and analysis demonstrating the extent of these connections within as well across regions. In addition, the PF requested that the petitioner submit information on the social and economic contexts underlying these marriages in order to define the group distinct from the general Métis and Indian population in the area. In its comments on the PF, the petitioner continued to claim that kinship is an important base for social interactions among group members. However the petitioner provided no new social structural data indicating how the group or sub-groups within it were tied together by kinship. Nor has the petitioner demonstrated how marriages between different Métis and reservation Indian families throughout Montana provide evidence of a distinct Little Shell group with social cohesion. In its comments on the PF, the petitioner did not provide social and or economic information demonstrating the group context of marriage. Interviewees generally discussed kinship in the context of nuclear or extended family social knowledge and interactions, not in terms of a Little Shell group or community.

Again, while many Little Shell members have extensive family connections, the petitioner has not demonstrated a community network. The petitioner has aggregated the data by inferring community connections between extended families without showing how these families were socially connected to each other within and across regions. The marriage data does not define the boundaries of a LS community.

In its comments on the PF, the petitioner submitted an analysis that it claimed measured "patterned in-marriages within and between the social core areas" (see LS Comments on the PF, Supporting 20th-century Documents, Marriages within Core; and Appendices V and XIV). The Department did not find this analysis provided evidence for social interaction during this time period for the following reasons. First, the petitioner did not successfully establish that "social core areas" existed within the petitioning group. As noted above, in its analyses of the group's migration and settlement patterns from the late 1880's to the 1930's, the Department did not find

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<sup>41</sup> The petitioner also discussed patterned out-marriage as a category. The Department did not find that the petitioner's concept of patterned out-marriage conformed to the definition in the regulations because the petitioner has never defined a distinct community.

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evidence that the group's ancestral members moved and settled together in core areas. Rather, ancestors of current members moved as individual family and extended family units to a variety of locations. Second, the petitioner has not established the composition of the social group for this time. As was mentioned in the previous analysis of in-group marriage rates, without a baseline population, it is not possible to establish valid rates and percentages.

As part of its marriage analysis the petitioner also described patterned out-marriages between members and Métis who are non-members (Little Shell Comments on the PF 2005, 120-121). However the petitioner's definition of a patterned out-marriage does not conform to the regulations because the petitioner has never defined a distinct community that members would potentially marry out of. The petitioner's marriage data and analyses are not adequate to provide evidence for community for this time period from 1900-1930.

### **Evaluation of the Petitioner's Data of Informal Social Interactions**

In its comments on the PF, the petitioner submitted data on witnessing events, some limited information on visiting during this period, and data on "work crews" that it claims provided evidence of social interactions between group members within and across regions during this time period from 1900-1930.

The majority of witnessing events occurred within this period from the 1890's through the 1920's and included events such as baptisms and marriages. See Appendix VI. As noted in this analysis, the petitioner's evidence of witnessing indicated that individuals were witnessing for nuclear and extended family members. In addition, the petitioner has not supplied evidence of social and or economic contexts that would draw the petitioner's members together for these witnessing events beyond the nuclear or extended family levels. The petitioner's witnessing data did not provide evidence of community for this period.

In its comments on the PF, the petitioner submitted a limited number of cases of "visiting" among members and ancestors from the 1910's through the 1980's (Little Shell Comments on the PF 2005, B & C 20th, 82). Of the interview cases they presented, only one applied to this period (Victor Wells Interview 2001). According to the petitioner, this interviewee "remembered going to Hill 57 in Great Falls with a Damon family to visit other Little Shell members as a child" (Little Shell Comments on the PF 2005, B & C 20th, 82). The Department did not find evidence for this in the interview. On the contrary, the interviewee had heard of another member living at Hill 57 and knew of one other individual (Victor Wells Interview 7/22/2001; Little Shell Comments on the PF 2005, B & C 20th, 82). No mention was made of other LS ancestors here that would indicate knowledge of a group or community of ancestors.

In addition, the petitioner claimed that during this period, regional as well as interregional community connections were reinforced through the economic activities of Little Shell "job brokers" and group members who worked for them on their crews. In the submission for the PF the petitioner claimed that from the early 1900's through the 1950's ancestors of Little Shell members functioned in the capacity of "job brokers" in both regions of the Front Range and the Highline. According to the petitioner, these individuals obtained work contracts for jobs such as fencing, shearing sheep and/or haying at local ranches throughout Montana. It claimed that once

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a “job broker” obtained a contract he hired other ancestors of current members to work on the job. During the 2007 site visit, the OFA did not find evidence supporting the existence of job brokers among the group’s ancestors at this time. Nor did it find evidence for the existence of work crews throughout the state that were comprised of Little Shell ancestors. As the phenomenon of “job brokers” was used by the petitioner primarily as evidence for political leadership during this period it will be analyzed more thoroughly under criterion 83.7(c) below. The Department does not concur with the petitioner that the group’s migrant wage labor activities contributed to social interactions across regions that indicated that the group comprised a distinct community or sub-communities.

### 1930-1950: Settlement in Towns and Urbanization

Beginning in the late 1920’s, some of the petitioner’s ancestors moved from rural areas of Montana to the segregated Métis/Indian neighborhoods on the edges of towns. Towards the end of this period, many moved to urban centers such as Great Falls, Helena, and cities out of the state. OFA’s recommendation noted that during the early part of this period the petitioner provided substantial evidence of social interaction among portions of the group based on residence in segregated Indian-Métis neighborhoods, substantial ties to each other through intermarriage, a distinct culture, and social discrimination (OFA 2000, 37). However the extent to which the petitioner’s ancestors were distinct from their non-Little Shell Métis and reservation Indian neighbors in terms of residence, marriage, culture, and discrimination was not documented.

The PF requested that the group provide a fuller accounting of the ancestral population within these segregated neighborhoods of the Front Range and Triangle. In addition it requested that the petitioner demonstrate if and how these sub-groups or portions of the petitioner’s population comprised a distinct community both within and across regions.

In its comments on the PF, the petitioner submitted new interviews and Federal census and school census data. Using this data, it claimed to have more fully identified its ancestral and current members living in “ethnic enclaves.” It also claimed two have identified a new “enclave in Lewistown.

In order to verify the petitioners assertion that its members resided in “enclaves” during this period, the OFA conducted an analysis of the 1920 and 1930 Federal census records for the towns of Choteau, Helena, Chinook, and Harlem. These towns were chosen as a sample population for the following reasons. First, they were towns historically associated with the group in the Highline and Front Range regions with Helena also representing one of the two main urban centers. Second, all of these towns have been described by the petitioner as containing “ethnic enclaves” where the group’s ancestors were living together. And third, the OFA selected towns where it was able to verify information during the site visit interviews.

Based on its analysis, the OFA found that some of the petitioner’s ancestors resided in the towns where “ethnic enclaves” were claimed to have existed by the petitioner. For example, in the 1930 Federal census for the City of Helena, Ward 6, Enumeration District 25-10, there was one

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ancestral nuclear family (Pocha, dwelling # 123) living next to an extended family (Belgrade, dwelling #125). Together the two Little Shell ancestral family dwellings consisted of 13 people. These two families were separated by a non-Little Shell household (U. S. Census 1930, Montana, Lewis and Clark County, Helena City, Enumeration District 25-10, Sheet No. 5B). Nine dwellings away was a nuclear family in dwelling #135 comprised of three individuals. Five households further along was a final Little Shell ancestral nuclear family comprised of three individuals (U. S. Census, 1930, Montana, Lewis and Clark County, Helena City, Enumeration District 25-10, Sheet No. 6B). These census data did not support the petitioner's claim of an enclave comprised of significant numbers of Little Shell ancestral members. In addition, many residents who were neighbors of Little Shell group ancestors were from Germany, Portugal, Russia, and England (U. S. Census, 1930, Montana, Lewis and Clark County, Helena City, Enumeration District 25-10, Sheet No. 5B).

In Ward 6, Enumeration District 25-11 of the 1930, U. S. Census for the City of Helena, there were Little Shell ancestors living in six dwellings. The first dwelling contained the Ford and Champagne nuclear families living in dwelling #27 (U. S. Census, 1930, Montana, Lewis and Clark County, Helena City, Enumeration District 25-11, Sheet No. 2A). These two ancestral families were comprised of six individuals. Twenty-nine dwellings away was an ancestral family made up of six individuals (Dwelling #156). One hundred and three dwellings further along were two dwellings comprised of two extended families (Dwellings #169 and #170). The total number of individuals in these dwellings was 16 (U. S. Census, 1930, Montana, Lewis and Clark County, Helena City, Enumeration District 25-11, Sheet No. 7A). Surrounding these residents were individuals from Norway, Scotland, Sweden, Alabama, Kansas, and Germany. This data on Helena did not indicate that ancestors of current members comprised a residential community. On the contrary, census information showed them to be living scattered throughout the city of Helena at this time.

In the 1930 Federal census data for the town of Harlem (U. S. Census 1930, Montana, Enumeration District No. 3-14) the only significant grouping of Little Shell ancestors consisted of three dwellings containing a total of 11 people who were Little Shell group ancestors (U. S. Census 1930, Montana, Blaine County, School District 12, Harlem, Enumeration District No. 3-14, Sheet No. 4A). Another ancestral nuclear family lived three households away (U. S. Census 1930, Montana, Enumeration District No. 3-14, Sheet No. 4B). A few additional ancestors of current members lived scattered throughout the town but not in close proximity to each other. These small numbers did not comprise a residential community group. The school census data submitted by the petitioner in support of this analysis did provide additional names of Little Shell members living in traditional towns; however, most of the school censuses provided only limited information on the exact residential location of only a small portion of the membership. Only one case, the town of Chinook in the 1930 Federal census provided evidence of significant numbers of Little Shell ancestors living together in residential proximity. This case comprised 16 individuals living next to each other in six dwellings (U. S. Census 1930, Montana, Blaine County, Chinook Town, Enumeration District No. 3-10, Sheet No. 1A). According to the petitioner's interview data, this group of Little Shell residents made up the "South Moccasin Flats" in Chinook (Franklin 1974, 69). This residential group included the Trotchie and Sinclair families frequently cited in interviews for the leadership activities within the group. The Department does not consider this one case to be sufficient evidence of community. In addition

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to the census data, the petitioner also submitted interviews that showed some of the petitioner's members living in small towns had social knowledge of family and neighbors in those towns. These interviews did not mention the existence of a LS group and did not provide evidence of a socially interacting group.

### **Analysis of the Petitioner's Marriage Data**

The Department did not find evidence for significant rates of in-group marriage for this time period, 1930-1950. As stated above, as the petitioner did not describe the group's composition for any point in time, it is not possible to calculate rates of in-group marriage. Neither can the petitioner's cross-regional marriage analysis be applied to this time period. See the above discussions and Appendices IV, V, and XIV.

### **Evaluation of the Petitioner's Data on Social Interactions and Social Relationships**

In its comments on the PF, the petitioner claimed that it met criterion 83.7(b) in part based on various forms of social interaction including "visits," "New Year's Celebrations" and "other gatherings," knowledge of other members, cemeteries, visiting at bars, and attendance at funerals. For this period the petitioner discussed only four cases of "visiting" in interviews (Little Shell Comments on the PF 2005, B & C 20th, 82-85: Connie Spurlock Mayor Interview 1998; Jimmie Brewster Interview 1998; and Helen Doney Vogel Interview 2001). These cases did not provide evidence of social interaction within a group, but rather were examples of individuals visiting other family members or friends, and in one case visiting Joe Dussome (Robert Bremer Interview 1998). In none of these cases was there evidence or mention of a Little Shell community.

In addition to "visiting", the petitioner also cited five interviews where Métis New Year's Celebrations were discussed (Little Shell Comments on the PF 2005, B & C 20th, 85-88, Pearl St. Clair Interview 3/3/2001; David Parenteau Interview 5/6/1998; Avina Allen Interview 5/6/1998; Gordon La Fournaise Interview 7/20/2001; and Victor Wells Interview 7/22/2001). These interviews did discuss group member's participation in local celebrations within the Triangle Region and Great Falls. However the number of cases was not representative of the group at large and did not show connections between regions. Likewise the petitioner has presented only one interviewee discussing "other gatherings" (Little Shell Comments on the PF 2005, B & C 20th, 87-88, Jean LaPier Dahlsman Interview 5/16/2001). These celebrations were not limited to LS members and have limited value as evidence of a LS community.

In its comments on the PF, the petitioner also cited nine interviews claiming that group members had "social knowledge" of each other. The limited number of interviews that exist for this period did not demonstrate the existence of a social group of the petitioner's ancestors, rather interviewees discussed other members as being "Indian" (David Parenteau Interview 5/6/1998, Little Shell Comments on the PF 2005, B & C 20th, 88), or talked about knowledge of other individuals (Henry Anderson Interview 5/17/1998; Melvin Swan Interview 5/10/1998; Dan Jarvey Interview 9/28/2002; Little Shell Comments on the PF 2005, B & C 20th, 88-91). When combined with the other evidence in the record, these cases did not provide evidence for a distinct Little Shell community during this period.

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In its submission for the PF, the petitioner claimed that the care and on-going use of cemeteries provided evidence for community. The petitioner specifically discussed a local cemetery in Heart Butte on the Northern Front Range and a Teton Canyon Cemetery near Choteau in the Central Front Range. The petitioner described “Métis” sections of the Heart Butte cemetery containing Little Shell ancestors and other Métis individuals. Of the Little Shell ancestors buried there, not all traced to Pembina Band ancestors. For example, many of the Salois family who had homesteads in the area (Toussaint and Solomon Salois) were not Pembina descendants nor were they married to Pembina descendants. The Teton Canyon cemetery did not provide evidence for community as it consisted of graves of an extended family. The petitioner also submitted notes regarding the St. Paul’s Mission Cemetery near the Hays area (Franklin 1993). This cemetery contained graves of individuals of Turtle Mountain descent along with Pembina descendants, specifically the Doney family, as well as non-Pembina Métis ancestors such as the Gardipees. The notes for this cemetery did not provide evidence for community but rather described a local cemetery with members of several extended families living in the area, some of whom could traced to Pembina ancestors and some who were not Pembina descendants.

In addition, the petitioner provided identifications of individuals buried at the Augusta Cemetery, as well as the Mount Calvary Cemetery in Lewistown. One interviewee also described family graves in a cemetery in Glasgow. Along with its analysis the petitioner submitted maps and lists of individuals buried at an Augusta cemetery. The petitioner’s combined record of cemetery information did not provide significant evidence for community for the following reasons. First, in interviews discussing cemeteries, individuals referred to nuclear or extended family members and not in the context of a Little Shell group (Leona Moran Hueth, Merle Doney, and Bonnie Berger Interview 2001; Little Shell Comments on the PF 2005, B & C 20th, 96). Second, there were no group functions that ancestral and current members carried out in regards to the upkeep of the cemeteries. And, third, the interviewee’s discussed cemeteries included other Métis and non-members and those associated with the petitioner were not separate or distinct from the others. The evidence did not indicate group involvement or association.

In its comments on the PF, the petitioner provided information from four interviews where interviewees talked about bars as a place where members met to socialize (see David Parenteau Interview 9/27/2002; Vic Wells Interview 7/22/2001; Roger Salois Interview 2/27/2002; and Lillian Carrier Interview 2002). In none of these limited cases did the interviewees refer to a distinct Little Shell community. Rather they referred to these locations as a place for relatives and friends to meet (Little Shell Comments on the PF 2005, B & C 20th, 91-94). However these individuals were not necessarily associated with a Little Shell community.

The petitioner also restated its position that funerals were an activity where members meet to socialize. However the petitioner’s record contains no documentation on funeral or wake attendance for this period.

### 1950-1992: Urbanization and Acculturation

Beginning in the 1950’s, a large number of group members began moving to urban centers such

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as Great Falls and Helena, as well as to urban cities outside of the state of Montana.<sup>42</sup> The OFA recommendation noted that while interviewees had substantial social knowledge of other Little Shell members who were not close relatives (OFA 2000, 25), the petitioner had not demonstrated how group members were socially connected within and across regions, the degree to which members in Great Falls comprised a community and the extent to which outside members returned home to participate in community events or held community events in their out of state locations (OFA 2000, 37-38).<sup>43</sup> Since 1990 the group has held its own annual Joe Dussome Day event (Little Shell PF 2000, TR, 195-196). The PF also requested, in general, that the petitioner submit information demonstrating that attendance at this event encompassed a significant portion of its members (Little Shell PF 2000, Summary, 19).

In its comments on the PF, the petitioner did not submit new information indicating how group members were socially connected across regions within the state of Montana for this specific time period.<sup>44</sup> Neither did the petitioner submit further information indicating the extent to which the members living in Great Falls and other urban centers of Montana comprised a community, nor that such community connected socially with another LS grouping. The petitioner did not provide data that indicated the extent to which members living outside of Montana remained in contact with Little Shell members for this specific time period. Nor did it provide evidence that members living outside of the state comprised communities or that such communities connected with other LS communities. The petitioner's record for this period already contained documentation of attendance at the group's annual Joe Dussome Day event for the years of 1991 and 1992. The Department found membership attendance at these events to be limited (Little Shell PF 2000, TR, 195-196). No new data was submitted for the Joe Dussome Day event for this period.

### **Discrimination and or Social Distinctions**

The PF found that among the group's members strong patterns of distinctions from the non-Indian population existed because of their Métis ancestry in the form of economic discrimination, limited access to jobs, partial school segregation, and partial residential segregation existed before 1950, but were greatly diminished afterwards (Little Shell PF 2000, Summary, 18).

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<sup>42</sup> Since the 1950's Little Shell members and their ancestors have increasingly been moving out of the Métis rural areas of Montana into the cities of Great Falls, Helena and to locations out of state. For example, in 1991, out of 3,893 members, 1,121, about 29 percent, lived in traditional areas of the Front Range and the Triangle Regions. Another 1,146 or about 30 percent lived in urban areas of the state with the highest numbers (660) living in the city of Great Falls. Eleven percent lived elsewhere in Montana. And, roughly 30 percent of the group's members lived out of state with the highest number (400) living in Washington State (Appendix XVI). As discussed above, there is no distinct LS residential area, nor concentration of more than a handful of families interspersed with non-member families.

<sup>43</sup> The OFA recommendation noted that social connections during this period were based on residence in exclusive Métis-Indian neighborhoods and through marriage ties. However these connections did not extend across the geographic areas of settlement uniting the petitioner as a single social entity or community (OFA 2000, 37).

<sup>44</sup> The petitioner submitted analyses and models using new or reanalyzed data in the Contemporary Little Shell Community Section. These models are not chronologically specific and will be discussed in the period from 1993-2007 as well as in Appendices XIII-XV.

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In its submissions for the PF, the petitioner asserted that while prejudice and discrimination against the Little Shell was less severe during this period, strong patterns of discrimination and other social distinctions existed historically and still exist at present (Little Shell PF 2000, TR, 200-201). To support this earlier argument, the petitioner provided examples of 17 interview excerpts in its comments on the PF. Of these excerpts, 12 were reports from individuals born between 1906 and 1940. These reports of discrimination, however, occurred before this period. In addition, the descriptions of discrimination from these individuals indicated that they were being discriminated against for being Indians or Métis. The petitioner's information did not indicate that Little Shell ancestors were being distinguished as being different from other Indians or Métis.

The remaining five excerpts were reported by individuals who were born between 1940 and 1955. While the excerpts occurred during this period, they did not indicate discrimination against the individuals as Little Shell. In four of the interviews, individuals were negatively distinguished for being Indian (Little Shell Comments on the PF 2005, B & C 20th, 109-112, Viola Berger Interview 5/10/1993; Arthur Villarreal Interview 1979; Bonnie LaFramboise Interview 5/9/2001; and Gloria Wells Interview 2001). In the fifth interview, the individual discussed alleged denial of jobs for Little Shell on the Fort Belknap Indian reservation (Little Shell Comments on the PF 2005, B & C 20th, 111; Debbie Fanning Swanson Interview 5/13/1998). This interview provided some limited evidence of social distinction. None of these interviews indicated that Little Shell members comprised a distinct community based on negative social distinctions or discrimination. In fact they confirmed the petitioner's assertion that Little Shell group members and ancestors experienced negative social distinctions and alleged discrimination for either being Indian or for not being Indian enough (Little Shell Comments on the PF 2005, B & C 20th, 101-112).

During the 2007 site visit, the OFA conducted five interviews in which the topic of discrimination was discussed for this time period. In the first, the interviewee mentioned that he experienced job discrimination on the Fort Belknap Reservation because he was not a member of a federally-recognized Indian tribe (Steve Doney Interview 2007). The second interviewee felt that while growing up she was not discriminated against for being Indian or Little Shell, but rather for being poor (Darrell Rummel Interview 2007). The third interviewee discussed being discriminated against while growing up in Great Falls for being both Indian and a "half breed" (Russell Boham Interview 2007). The fourth and fifth interviewees discussed being discriminated against for being Indian (Terry Salois Interview 2007 and Bonnie Doney Interview 2007), and for not being Indian enough on the reservation (Terry Salois Interview 2007).

According to interview reports, group members perceive that they have experienced some discrimination and negative social distinctions. These interviews provided some evidence of discrimination against petitioners members as LS. The combined evidence for this period does not indicate that the Little Shell group members comprised a distinct community based on evidence of negative social distinctions and or discrimination. Nor does it indicate that they perceived of themselves, as being socially distinct from Indians and non-Indians as well. While some interviewees have noted their in-between status as Métis (Terry Salois 2007), others more strongly identify with being Indian rather than being Métis (Henry Anderson Interview 2007).

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### **Annual Group Events**

Little Shell group members also attended two annual events in Montana as well as regional powwows. The first annual event is the Joe Dussome Day celebration which is held in November and is the only social event particular to the Little Shell group. The second is the annual Métis Celebration which is held in the spring and includes Little Shell members but also other Métis and Indian groups. The Little Shell group holds council meetings at both of these events. Some group members participated in the Montana powwow circuit (McGillis Interview 2007).

As the annual Joe Dussome Day event is exclusive to the Little Shell petitioner, the PF requested additional information on attendance at this event (Little Shell PF 2000, Summary, 19). The petitioner's record indicated that the event was attended by 94 guests in 1991 (Franklin and Bunte 1995b, 171); and 113 guests in 1992 (Franklin and Bunte 1994, 152). The PF suggested that the petitioner could strengthen the proposed finding by demonstrating that a significant portion of its members attended this event (Little Shell PF 2000, Summary, 19). No new data was added to the petitioner's record for this period. This limited attendance does not indicate that a significant portion of the LS participated in the annual Joe Dussome Day event. Please see the 1993 to 2007 period below for further submissions on this event.

### 1993-2007: Contemporary Community Update

As the largest concentration of the group's members live in Great Falls, the PF requested that for the contemporary period the petitioner provide information on the extent to which members living in Great Falls comprised a community. In addition it requested that the petitioner indicate the extent to which members living throughout the state, and in locations outside of the state, remained connected to the group at large. As the petitioner has claimed that kinship events such as family reunions and funerals are important community events, the OFA also requested evidence of attendance at these events. In addition, the PF generally requested further information demonstrating the proportion of the group's members that attend the annual Joe Dussome Day event (Little Shell PF 2000, Summary, 19).

### **Urban and Out of State Connections**

Based on interviews conducted in 2007, the OFA did not find evidence that members of the Little Shell petitioner interacted in Great Falls on a regular basis or at a regular place. The petitioner has consistently claimed that members living in Great Falls socially interact with each other at the Native American Center (Little Shell Comments on PF 2005, B & C 20th, 81). During the 2007 site visit, the OFA noted the Native American Center had closed. And while some members claimed to now be meeting at a local Little Shell owned restaurant in Great Falls named Lippi's (James Parker Shield Interview 2007), the petitioner has not provided evidence demonstrating that Little Shell group members meet or gather there.

During the 2007 site visit, the OFA confirmed that Little Shell members living outside of the state do come back to visit relatives in Great Falls as well as in Front Range and Highline towns (see reunion section below). These visits, often occur during family reunions or other kinship

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events, are family based, and do not constitute community events. When large numbers of members do attend events such as funerals, the number of Little Shell is smaller than the number of non-members that are attending. See the section below on funerals.

In its comments on the PF, the petitioner submitted an analysis in which it suggested that current members living in one area of Montana have knowledge of other members living in other areas (Little Shell Comments on the PF 2005, B & C 20th, 126-133). In discussing this claimed social knowledge that members have of each other the petitioner also noted the nature of the social interaction being discussed such as visits, phone calls, attendance, and participation at funerals, weddings, and other celebrations. Using a coding system the petitioner noted the percentage of times different types of events were mentioned in interviews (Little Shell Comments on PF 2005, Appendix 3). The Department did not find that this type of analysis provided evidence for community for this period or any other. Please see Appendix XV for a discussion of the petitioner's analyses.

### **Kinship Reunions**

#### *Family Reunions*

In its submission for the PF, the petitioner's record contained no evidence of family reunions for this period. (The petitioner's record did contain two cases of funerals which will be discussed separately below.) In comments on the PF, the petitioner did not submit new data that could be applied to this time period. However 22 cases applicable to this time period were collected by the OFA during a 2007 site visit. The evidence was based on photographs of events submitted along with lists of attendees.

Of the 22 cases, 5 were of Little Shell meetings that already existed in the record. A sixth case was of a rummage sale held in 1988 in the Triangle. This event was attended by eight individuals, six of whom were members. A seventh case was of a family wedding with four members of one family who are Little Shell members and five individuals who were non-members. The OFA does not consider these seven cases to be valid examples of family reunions or similar kinship reunions because of the limited number of LS in attendance.

In evaluating the remaining 15 cases, the OFA examined the kinship and geographic connections among individuals as well as the percentage of Little Shell members in attendance. Under precedent, affines of members are considered to be part of a potential community. Of the 15 cases of family reunions that apply to this time period, 9 were submitted by one individual. These events were all held in the town of Choteau and were attended by many of the same people each year. In analyzing the social structural relationships between attendees at these events the OFA found that Little Shell members from different families were strongly connected to each other through cousin and sibling pair marriages. For example, at an event held on July 7, 2003, there were four instances of cousin marriage among attendees who were Little Shell members. These marriages were between 2nd cousins, 2nd cousins once removed, and 3rd cousins once removed. In addition there was one case of a marriage between a sibling pair (where one set of siblings marries another set of siblings who are not related to them). This pattern was consistent throughout the nine cases from the Choteau area.

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Of these nine cases, the majority of attendees were from Choteau. Data on current residence indicated that younger individuals who lived outside of the Front Range area and or out of the state were returning home for family reunions.

In calculating the number of members to non-members at the nine events, the OFA found that 50 percent of the time there were more members to non-members. In some cases the non-members were affines of members and, while not descendants, are considered as potential group members. However in some cases, individuals who have the same last name as members were not part of the membership. The average number of people attending these events was 53. This number is at the lower end of that reported by the petitioner's researchers for family reunion attendance but still indicates a significant number of people (Franklin and Bunte 1994, 83-86)

Out of the 15 cases collected by the OFA during the 2007 site visit, 3 were sent by an individual from Great Falls. One of these events was comprised almost entirely of nuclear family members. The other two showed connections between Little Shell individuals from different families. Members at these events were born in Great Falls and the Front Range. A few individuals were visiting from other parts of Montana or from out of state. The third event was attended by Little Shell members of different extended families who lived in different cities of Montana. While the majority of attendees at these events were members, the numbers of guests were not large enough to demonstrate community interaction. For example, the first event included 12 guests, 2 of whom were non-members. The second of these cases included a total of 14 individuals, with 4 non-members. The third case had only 11 guests with 2 non-members. While these cases demonstrated interconnections between members of different families and from different parts of Montana, they were no more than nuclear and extended family events without interaction among a significant number of Little Shell members.

In the second to last case, a member interviewed by the OFA in Great Falls submitted documentation of a family reunion comprised of 9 members and 42 non-members. It is assumed that the individual collecting the data was distantly related to members at the reunion. This case does not provide evidence for community.

Of the 15 cases, the remaining case was labeled by the petitioner as a "fun night" event that occurred in 2007. This event does not mention the location where it was held. However based on the current location of the petitioner's office as well as the current residence of the guests, the OFA assumes that it occurred in Great Falls. Little Shell members attending this event came from at least 10 different families. Based on its own analysis the OFA found that Little Shell members attending the event were all related to each other through extended family connections. Many were 1st, 2nd, 3rd, and 4th cousins to each other. Members attending this event were born in numerous towns in the Triangle Region including Havre, Harlem, and Wolf Point along the Highline to Zortman and Lewistown, the latter located in the Judith Basin. While the current residence of individuals was mainly Great Falls, some members also came from Hobson, Dodson, Missoula, and elsewhere. This event provided evidence of significant participation based both on kinship and geographic distribution of members across the state. Of the 55 members attending, 22 were Little Shell members. It is not clear how many of the non-members were affines

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### *Summary of Conclusions for Family Reunion Data*

The available combined evidence in the petitioner's record on family reunions for this time period is based on data from a few individuals and is comprised mostly of members from the Front Range town of Choteau as well as Great Falls. The petitioner's data on family reunions provides some evidence of community but, even in conjunction with other available evidence is too limited to find evidence for community among Little Shell members. While the evidence shows a connection between members living in the Highline and the Front Range town of Choteau, absent is evidence of participation from members in areas of the Highline and Judith Basin. It is clear from the data that members living elsewhere in Montana as well as out of the state do come home for these events. However based on the percentage of non-members, it is not clear that these are anything more than family events rather than Little Shell events. The petitioner has not demonstrated how these events provide evidence of a Little Shell community. Nor has the petitioner provided additional evidence for this time period demonstrating significant social interactions or social relationships that unite the membership as a group.

### *Funerals and Wakes*

For this period from 1993 to 2007, the petitioner's record contains three cases consisting of two funerals and one wake. The Department's researcher collected information on two funerals that took place in the Highline in 1998 and a memorial service that was held in Great Falls in 2006. One of the Highline funerals was held as two separate events, first in Malta, and a few days later in Lewistown. The Malta event was attended by 101 individuals. Of those, 17 names (17 percent) were illegible. Of the remaining 84 guests, 57 were non-members and 27 were members. Of the members attending, most were currently residing in Highline towns such as Havre, Malta, Harlem, Zortman, Hays, and Dodson. A few members had come from the states of Washington and Nevada.

The event held for the same individual in Lewistown was attended by 151 individuals. Of these, 42 names (27 percent) were illegible. Of the remaining 109 guests, 94 were non-members, while 15 were members. The current residences were not available for many of these members. However some lived in the towns of the Triangle area such as Hays, Harlem, and Malta. Some members also came from Butte, Lewistown, and from out of state (Spokane, Washington). While the distribution is wide, the attendance of Little Shell members is comparatively low.

The funeral for the second individual was held in Malta in May 1998. This funeral was attended by a total of 125 guests. Of these, 37 names were illegible. Of the remaining 88 guests, 22 (25 percent) were Little Shell members. Little Shell guests came from the Highline towns of Malta, Havre, Harlem, and Hays. Others came from Butte and Laurel (near Billings), as well as from the state of Washington (1 member). As with the previous case, while members came primarily from the Highline, some members came from outside of the region. The numbers attending did not reflect strong Little Shell attendance by the membership in general.

The Department's researcher collected information about a memorial service held in Great Falls in 2006. The event was attended by 319 guests. Of these, 73 were Little Shell group members,

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while 241 non-members attended. The social relationship of non-members to members was not established in the Department's analysis. It is assumed that some non-Little Shell members could have been affines of members. The majority of guests came from Great Falls (42), followed by Browning (10), Choteau (5), Kalispell (3), Kellogg (2) Helena (1), and Babb (1). A few members came from the Highline towns of Havre and Harlem with one guest each coming from Lodge Pole and Denver. This case does not provide evidence of a distinct Little Shell community as the number of non-members far exceeds the number of members. As is mentioned by the petitioner, it does indicate that funerals in Great Falls appear to bring the entire Indian community together (Little Shell Comments on the PF 2005, B & C 20th, 82). It provides evidence of some social connections, but does not provide evidence of a distinct LS community.

### *Conclusions of Funeral and Wake Data*

Evidence on funerals and wakes does not demonstrate distinct community. The two cases of funerals from the Highline do not indicate that a substantial number of members attended. While the one case from Great Falls had a large number of members, many more of the attendees were not Little Shell members. Weighing this evidence in conjunction with the other evidence submitted is insufficient to show a predominate portion of the petitioner's members comprise a community.

### **Annual Group Events**

Some Little Shell group members attend the group's annual Joe Dussome Day event, the annual Métis Celebration, and regional powwows. In its submission for the PF, the petitioner described the Joe Dussome Day event held in 1993 in Havre, Montana, as being attended by over 225 individuals (Franklin and Bunte 1994, 86). The petitioner's record for this period also contained attendance documentation for the event held in 1996 at Black Eagle (around 200 guests), and a 1998 event held simultaneously in Harve and Billings with a combined total of 200 guests (Little Shell PF 2000, TR, 195-196). According to the PF, the combined attendance figures for this event indicated that approximately one-tenth or less of the petitioner's adult members were attending (Little Shell PF 2000, TR, 195-196).

In its comments on the PF, the petitioner submitted additional documentation of attendance at the group's annual Joe Dussome Day event for 1995, 1997, and 1999. The 1995 event was held in Black Eagle (Great Falls) and was attended by 120 guests, many of whom included Little Shell group members. The 1997 event was held in Havre with a sign-in sheet of 161 individuals. Most guests came from towns along the Highline, although members came from other parts of the state and from outside as well. In 1997 the event was held simultaneously in Billings to accommodate members who could not make the trip to the Highline. In addition to the 161 members in Havre, 36 members signed in as guests at the Billings event. Sign-in sheets were also provided for the November 20, 1999, event held in the Black Eagle neighborhood of Great Falls, Montana. Forty-seven people attended this event. While the petitioner's researcher observed the group's event in 2000, no documentation was provided of attendance for that year's event.

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In 2007 the group's Joe Dussome Day event was coordinated with the site visit of the Department's researcher in order to attract more members (Atchinson, personal communication 2006). Before the event, flyers were submitted and meetings were held to cover questions that might be asked of interviewees during the site visit. Meetings were held in the following towns, with numbers of attendees in parentheses: Helena (14); Butte (12); Great Falls (14); Browning (13); Billings (13); Havre (9). With the exception of 10 individuals, all attendees were members. The 2007 event was attended by 316 guests. The attendees came from towns in the Front Range, the Highline, Billings, Butte, and the urban cities of Great Falls and Helena. Members also attended from states such as Idaho and Washington. This data provides some evidence of social interaction.

The newly submitted data on Joe Dussome Day indicates that some members that do come are from the region in which the event is held, but also from other parts of the state and from out of state as well. Sign-in sheets indicate that from 41 to 316 members and guests attend this event. The music, art, and food combine both Indian and Métis traditions.

Little Shell group members also attend the Métis Celebration held every spring. While this is not an exclusively Little Shell event, the group did have its own area in 2007 where they held a council meeting. The attendance at these events cannot be verified; however, an attendance sheet at the 2000 event indicated the possible attendance of 64 members (Métis Celebration Attendance List 2000). This data does provide limited evidence of social interactions among some of the petitioner's members.

During the 2007 site visit, the OFA also collected information verifying that some Little Shell group members attend the Last Chance Community Powwow held in Helena, Montana, on an annual basis. The number of years it has been held and attended by members was not indicated by the petitioner. According to a member of the Confederated Salish and Kootenai Tribes who attends this event: "A lot of Little Shell would be there and they would have community meetings there" (Sandra Boham Interview 2007). A limited number of photos were submitted for this event during this time period. During the 2007 site visit, the OFA verified the attendance of Little Shell group participation at the Last Chance Community Powwow held annually in Helena, Montana.

While Little Shell group members attend numerous events throughout Montana, the percentage of members attending the annual Joe Dussome Day event are not a large portion of the group's overall population. It provides some evidence of social interaction, but as only an annual event, provides limited evidence. There is insufficient other evidence to show social cohesion. See Indiana Miami FD 1992, 12. Group members' attendance at the annual Métis Celebration as well as regional powwows indicates the group's involvement in Native American events in general in Montana but does not provide evidence of Little Shell as being a distinct community.

### **Discrimination and or Social Distinctions**

The PF noted that social discrimination steadily declined during the period from 1950-1992 (Little Shell PF 2000, Summary, 18). However, as noted in the previous section, the petitioner claimed that strong patterns of discrimination, and other social distinctions, against the group,

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existed historically and at present.

In comments on the PF the petitioner did not submit any new cases of discrimination for this period. However, in 2007 the OFA conducted 13 interviews in which individuals mentioned the topic of discrimination and/or social distinctions in relation to Little Shell group members for this period. Of the thirteen cases, two individuals claimed that at present little to no discrimination against Little Shell existed in the Havre and Great Falls areas (Randy Randolph Interview 2007; Edna Teske Interview 2007). Two individuals mentioned that they have experienced some negative distinctions for not being Indian enough by reservation Indians, although these distinctions were overcome (Bruce Laundry Interview 2007; Clyde Laundry Interview 2007). Negative and positive social distinctions (in terms of joking) by reservation Indians were noted as occurring at the Blackfeet Indian reservation (James Parker Shield Interview 2007; Gail Augere Interview 2007). During an interview in Great Falls a member of Petitioner #172 Ahon-to-ays Ojibwa Band (*aka* Rocky Boy Ojibway Band) expressed the point of view that Little Shell members have not maintained much Indian culture (Glen Gopher Interview 2007; Mike Gopher Interview 2007). In the majority of cases, interviewees were perceived as being discriminated against or negatively distinguished for being Indian (Bonnie Doney Interview 2007, James Parker Shield Interview 2007; Bill Anderson Interview 2007; Russell Boham Interview 2007; and Gail Augere Interview 2007).

While Little Shell group members have experienced negative social distinctions and, or, discrimination, these cases do not provide evidence that distinguishes the Little Shell members as part of a distinct group or community. Rather group members are distinguished for being an Indian, a non-reservation Indian, and, or, for being Métis, not for being part of a LS group. Because the petitioner has not demonstrated that it is distinct from other Métis people living in Canada and the U. S. at different points in time, the status of being Métis does not provide evidence that the Little Shell comprise a distinct community.

### Summary of Evidence for Criterion 83.7(b)

The PF concluded the Little Shell petitioner comprised a distinct community since historical times until the present, thus meeting the requirements of criterion 83.7(b), but did so by several proposed departures from regulatory requirements and precedent. It stated the petitioner developed as a community from a continuously existing historical community, or combined communities, which evolved from historical tribes (Little Shell PF 2000, Summary, 25). The petitioner's ancestors in Montana had formed a distinct community or communities, while the current membership living in the Front Line and the Triangle regions of Montana had demonstrated social cohesion (Little Shell PF 2000, Summary, 25). These members also maintained ties to other members living in the two major urban areas of settlement for the group in Montana. In addition, the PF determined that members living outside of these areas had maintained social ties with those living within them (Little Shell PF 2000, Summary, 25).

To come to this conclusion, the PF admitted several departures from precedent. First, it accepted "as a reasonable likelihood" that types of social relationships and political influence among Métis settlements in North Dakota and Canada during the mid-19th century continued among

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their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920 (Little Shell PF 2000, Summary, 6). The PF reached this conclusion despite admitting the available evidence actually did not show the petitioner's ancestors who were part of these numerous settlements migrated as a group or in a way that sustained former ties if any to places of origin (Little Shell PF 2000, Summary, 12-13). Second, the PF differed from previous findings by not requiring actual evidence of continuity of tribal existence substantially without interruption (Little Shell PF 2000, Summary, 6), which for the migration period was about fifty years (Little Shell PF 2000, Summary, 13). Finally, for the time since the 1930's, the PF allowed kinship ties and informal social contacts among only some of the petitioner's members to supply evidence of distinct social community rather than requiring that a "predominant portion" do so as required by the regulations. (Little Shell PF 2000, Summary, 19-20, 24-25).

The PF, however, invited public comment on these specific proposed departures from precedent, to determine their consistency with the regulations, and encouraged the petitioner and third parties to supply additional evidence and analyses on other departures from precedent. It indicated this new evidence could create a different record and factual basis for the FD, which could eliminate or reduce these contemplated departures from precedent (Little Shell PF 2000, Summary, 7).

As discussed above, this FD concludes that these departures from precedent were inconsistent with the language of the regulations, the standards of proof and intent of the regulations, which require a demonstration of continuous existence, meaning substantially without interruption, by a distinct community since historical times by a predominant portion of the petitioning group. The proposed departures were not ratified by subsequent decisions and were proven not to be warranted by the subsequent analysis and research. When interpreted under the intent of the regulations, all the available evidence for the FD was insufficient to conclude that a predominant portion of the petitioner had demonstrated community since historical times.

The evidence for this finding did not demonstrate the petitioner's ancestors or the group's claimed "Little Shell Community Group" formed a historical community which had evolved from a historical Indian tribe or tribes. The available evidence showed a large majority of the petitioner's current members have ancestry from the historical Pembina Band of Chippewa Indians of North Dakota. The available evidence, however, also showed the petitioner's earliest ancestors constituted only a portion of this group, and did not show that this portion evolved as a group from that tribe. At the same time, a much larger percentage of the petitioner's ancestors composed portions of multiple settlements along the Red River in Canada which were not part of Indian tribes, but populations of individuals descended from a variety of Indian-European marriages.

Before 1870, many of the petitioner's ancestors were part of the Métis populations along the Red River at the settlements of St. Francis Xavier, St. Boniface, and St. Norbert Parishes in Canada and at Pembina County in North Dakota. Many of the Métis in these settlements were not the petitioner's ancestors, or part of the group's claimed "Little Shell Community Group." It was not demonstrated the petitioner's ancestors were a distinct community or communities within these Métis populations. The term "Métis" refers to the descendants of non-Indian fathers,

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usually French-Canadian fur trappers or traders, and Indian mothers, usually Cree or Chippewa women. Contemporary observers described these Métis populations of the middle 19th century as socially and culturally distinct from both the European settlers and tribal Indians in the same area, but also as being related to and sometimes acting together with Indian tribes. These Métis may have had Chippewa, Cree, Assiniboine, and other tribal descent, not just Pembina Band of Chippewa descent. The available evidence did not demonstrate these Métis settlements evolved as groups from a historical Indian tribe or tribes, or that the LS ancestors in these settlements evolved as a group or groups that amalgamated into a LS community.

About 89 percent of the petitioner's members descend either from individuals who received treaty land scrip in the 1870's as "mixed-blood" relatives of the Pembina Band of Chippewa, or were identified as "mixed-blood" relatives of that band on various treaty scrip schedules, or who received treaty annuities as members of that band from 1865 to 1874, under the provisions of the and 1863 Pembina and Red Lake Bands treaty schedules.<sup>45</sup> The scrip evidence did not demonstrate these "mixed-blood" relatives were politically part of the Indian tribe at that time. The available evidence did not show the "mixed-blood" Pembina documented on scrip records formed a distinct community at the time of the treaties, or at the time they received or applied for the scrip, either as a part of a treaty tribe or as a separate community.

Some of the petitioner's ancestors who received annuities, however, were a portion of the Pembina Band of Chippewa Indians at the time of their receipt. Yet the available evidence also showed these ancestors and their children dispersed widely soon after they received annuities. After the 1870's, some became part of the Turtle Mountain Band of Chippewa in North Dakota, where they maintained social and political affiliation with that group rather than any claimed historical group of the petitioner's ancestors that migrated to Montana. Others migrated gradually to settlements in Saskatchewan, Alberta, Manitoba, and northern Montana where they lost any possible social and political cohesion. A similar dispersal process took place among the petitioner's ancestors who received for or were identified as having Pembina Chippewa ancestry on treaty scrip and there was no available evidence that showed these two groups of ancestors ever combined to form a distinct community during or after their migration.

In Montana, the petitioner's ancestors who came from the various settlements of Canada and North Dakota originally settled in two geographically separate areas, each of which covered a large expanse of territory. One settlement area was north-central Montana, including both the Highline and the Lewistown area, where ancestors of the petitioner's members began settling as early as the late 1860's and early 1870's, and continued into the 1920's, although the bulk apparently did so between 1880 and 1910. The other settlement area was the Front Range, which the petitioner's ancestors probably settled beginning in the late 1880's. Migration to this area also continued until the 1920's, with the bulk of it taking place before 1910.

The available evidence did not indicate that the petitioner's ancestors or the individuals the petitioner claimed as part of the "Little Shell Community Group" who migrated to Montana and elsewhere from Dakota or Canada moved together as a community or in a pattern that maintained any old community ties. That evidence did not show that individuals from the

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<sup>45</sup> In some cases, the 1854 Lake Superior Chippewa Treaty (La Pointe Treaty) was used to document the ancestry of some of the petitioner's ancestors. For more detail see criterion 83.7(e).

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petitioner's ancestral families at the Red River settlements in North Dakota or Manitoba, or those identified as being of Pembina Band ancestry through treaty scrip schedules or annuities, or those who appeared on a Turtle Mountain census, migrated to Montana, or elsewhere, at the same time or to the same location. Rather the evidence demonstrated the migration was individualistic, gradual, and dispersed widely in a manner that did not maintain social cohesion. The available information did not show the petitioner's ancestors who settled in Montana had previous social ties with each other and evolved, as communities, from predecessor communities. In sum, the available evidence for the FD did not demonstrate that the petitioner's ancestors comprised a distinct community from the middle of the 19th century to the early 20th century. Therefore, the petitioner does not meet the requirements of criterion 83.7(b) for this period.

The available evidence did not indicate that the petitioner's ancestors formed a distinct community or communities in the areas of Montana where they first settled. The PF requested that the petitioner provide evidence describing the location and settlement patterns of a larger percentage of its ancestors for this period. In response the petitioner submitted residential analyses based on homestead as well as Federal census "cluster" analyses. In its assessment of the petitioner's data the Department did not find evidence of residential proximity of the group's ancestors with the exception of those LS residents in Lewistown from 1900 through the 1920's. For the period from 1901 through 1930, the petitioner also provided marriage data and analysis in which it claimed the group sustained a rate of new in-group marriage that ranged from 41 in 1901 to 36 percent in 1930 (Little Shell Comments on the PF 2005, B & C 20th, 71). Under the regulations, these marriage rates would provide supporting evidence under 83.7(b)(1) for this period. However the Department found a number of errors in the petitioner's marriage analysis, the most fundamental being that the petitioner did not establish a baseline community for the group. Neither has the petitioner delineated the group's community for subsequent periods.

In addition, for the period from 1900-1930 the petitioner submitted limited interview data on social relationships and social interactions. The petitioner's information was mostly limited to interview data that described social interactions between family members within specific geographic areas. There were no interviews in which an individual mention a distinct community comprised of the ancestors of Little Shell group members or of interacting communities uniting LS members. The petitioner also claimed that social interactions occurred based on witnessing events during this time. The Department did not find evidence for community in this data since it only described witnessing events between family members. No sociocultural data was provided describing Little Shell community contexts for witnessing. The petitioner's data and analyses when combined do not provide sufficient evidence of community for this time period. Therefore, the petitioner does not meet criterion 83.7(b) for the period from 1900-1930.

From the 1930's through the 1950's, some ancestors of group members as well as some current members in Montana moved from rural areas into segregated Indian-Métis neighborhoods on the edges of towns. There they intermarried with Indian and Métis residents, participated in a culture distinct from non-Indians and endured negative social distinctions and discrimination from non-Indians in the area. However, the petitioner did not provide evidence demonstrating the extent to which the Little Shell group ancestors were distinct from other Indians and Métis

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residents. In addition, the petitioner did not indicate the extent to which group ancestors in these towns were linked to each other across regions.

The PF requested that the petitioner provide a fuller accounting of the ancestral population as well as information demonstrating how portions of the group's population were tied together as a whole. In response the petitioner submitted new interview data as well as Federal census and school census data identifying a greater number of its members residing in Montana during this time. Using this information the petitioner claimed that its ancestors were living primarily in Little Shell "enclaves" on the edges of towns. In its analysis of the petitioner's data the Department did not find evidence that the petitioner's ancestors were living in distinct segregated neighborhoods. Rather, the ancestors of current members were living interspersed with other individuals who were neither Indian nor Métis. In addition, the Department found that ancestors of group members were living in other locations outside of the segregated neighborhoods as well.

Supplementing the residential analyses, the petitioner supplied new interview data in which the informants discussed social interactions that occurred during this time period. Neither the petitioner's new interview data nor the petitioner and OFA interview data for the PF indicated a distinct Little Shell community. At no time did interviewees refer to a Little Shell group. Rather, most respondents talked about social interactions and knowledge of relatives, neighbors, and friends living in the immediate area in which they resided. No interview data provided evidence of community connections across regions. For this period, the petitioner also submitted data on social interactions in the form of witnessing. The Department did not find evidence of community in this data for the following reasons. First, as was mentioned above, the petitioner's witnessing data described witnessing events between individuals. Second, the numbers of events were insignificant for this time period. The evidence for this period did not show a community LS ancestors and did not show connections across regions.

While the petitioner presented information on marriage for the period from 1930-1950, its marriage analysis was not founded on the construction of a distinct Little Shell ancestral population, and thus was not useful in calculating rates of in-group marriage for this and or subsequent periods. For the period from 1930-1950 the petitioner has not provided sufficient evidence demonstrating a distinct community. Therefore the petitioner does not meet criterion 83.7(b) for this period.

From 1950-1992, a large number of the group's members began moving to urban centers, such as Great Falls and Helena, as well to cities outside of Montana. The PF noted that the petitioner had not demonstrated the extent to which the group's members living in Great Falls comprised a community. Nor did the evidence indicate the extent to which members living in traditional areas of the state were socially connected to members living in Great Falls and out of the state.

In comments on the PF, the petitioner did not submit new information for this specific period indicating how group members were socially connected within Great Falls and across regions within the state of Montana. Neither did the petitioner indicate the extent to which members living outside of the state maintained community interactions among themselves. In addition, no new data on member attendance was submitted regarding Joe Dussome Day for this period.

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In the PF, the Department noted that strong patterns of discrimination declined in the 1950's through the present. However, the petitioner claimed that strong patterns of discrimination against group members persisted into this period. In examining the petitioner's combined interview material for the period from 1950-1992, the Department did not find evidence of discrimination against Little Shell group members as Little Shell. Rather, cases in the petitioner's record indicated negative social distinctions against members by non-Indians for being Indian as well as for not being Indian enough by reservation Indians, and did not show the Little Shell to be distinct from the Métis or Indian populations as a whole. The petitioner has not provided sufficient evidence that a predominate portion of the petitioning group is a community for this period. Therefore the petitioner does not meet criterion 83.7(b) for the period from 1950-1992.

For the period from 1993 through 2007 the petitioner's ancestors continued to live in Great Falls as well as in locations throughout Montana and out of state. The PF requested further information demonstrating how the petitioner's members comprised a community within and across Montana and with members out of state. In addition, it asked the petitioner to demonstrate if and how members living out of state sustained social interactions with other group members.

In response, the petitioner did not present any new information on kinship reunions. A limited sample of data was collected by the Department for this time period on kinship reunions. This information indicated that kinship events such as family reunions, funerals, and wakes were not exclusively Little Shell events. They were mostly among nuclear and extended families and included non-Little Shell neighbors and friends. The one case of a funeral collected by the Department this time period showed some attendance by Little Shell members. However, the majority of attendees were reservation Indians and non-members. The petitioner submitted new data on Joe Dussome Day indicating participation from various parts of Montana. However, the numbers of Little Shell attendees were low in comparison to the overall size of the petitioner's group and, as an annual event, does not provide significant evidence of community.

In an attempt to show social interactions for modern community, the petitioner also submitted a number of analyses and models. These models did not provide evidence for distinct community for the following reasons. First, they were primarily based on statistical correlations between individuals without demonstrating actual community events and interactions. Second, they did not provide the social and economic contexts for these interactions and how they pertained to Little Shell events, issues, or activities. Third, without a clear description of the group's community over time it is not possible to calculate percentages of various social activities such as in-group marriage. Fourth, in each of its analyses the petitioner aggregated like units of analyses without proving connections. The petitioner has not provided sufficient evidence that a predominate portion of the petitioner's members interact as a community for this time period. Therefore the petitioner does not meet criterion 83.7(b) for the period from 1993-2007.

Overall, the available evidence shows Little Shell is an organization of individuals of shared ancestry from the Pembina Band of Chippewa. They share some cultural traditions and historical experiences as Métis. While the membership includes large extended families, the evidence does not show that these are or were in the past linked to each other by kinship or other

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social ties into one or several communities. The evidence also does not show that the current organization evolved from a historical community or communities. The large extended families in the 20th century are not and have not been connected by regular social interactions and obligations, community events, internal disputes, or by common issues that unite them as a group.

Many Little Shell ancestors, and some older current members, shared the experience of homesteading in Montana, and, subsequently, living in segregated neighborhoods on the edges of towns. In the past, many experienced negative social distinctions from non-Indians, as well as from reservation Indians, but the evidence does not show that this discrimination was because they were Little Shell as opposed to Métis. However, these common experiences do not demonstrate that there was social interaction and social relationships that bound them together into a community. Therefore, for the above reasons, the petitioner does not meet criterion 83.7(b) for any period.

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### Criterion 83.7(c) requires that

**The petitioner has maintained political influence and authority over its members as an autonomous entity from historical times until the present.**

#### Summary of the Proposed Finding and Departures from Precedent

The PF concluded that the petitioner had maintained political influence over its members as an autonomous entity since historical times while specifying several contemplated departures from acknowledgment precedent and requesting comment on whether such contemplated departures from precedent were consistent with the regulations. As with criterion 83.7(b), the PF accepted “as a reasonable likelihood that patterns of social relationships and political influence” among the petitioner’s ancestors in their “settlements in North Dakota and Canada during the mid-19th century persisted among their descendants who migrated to Montana and appeared on the Federal census records of Montana for 1910 and 1920” (Little Shell PF 2000, Summary, 6).

To reach this conclusion the PF adopted a “more flexible interpretation of the available documentation” before the 1930’s, which accepted that “evidence of some local leadership among a minority of the petitioner’s ancestors in the past” showed a “reasonable likelihood that patterns of political influence existed among many of the petitioner’s ancestors” (Little Shell PF 2000, Summary, 34). On this issue, the PF encouraged the petitioner to “provide additional evidence to more fully demonstrate its political influence or authority” from historical times to the 1930’s (Little Shell PF 2000, Summary, 34). For the time since the 1930’s, the PF stated, “some of the evidence described in section 83.7(c)(1)” existed “for portions of the petitioner’s members and ancestors for limited periods of time” (Little Shell PF 2000, Summary, 34-35).

The PF invited “public comment” on several of these departures from precedent, including their “consistency” with the regulations. It also encouraged the petitioner and third parties to supply additional evidence and analyses on other contemplated departures from precedent. This new evidence could create “a different record” and a more “factual basis” for the FD, and “eliminate or reduce” these contemplated departures from precedent (Little Shell PF 2000, Summary, 7).

This FD concludes, as stated earlier, that the PF’s proposed departures from precedent under criterion 83.7(c) were inconsistent with the language, the requirements, objectives, and intent of the regulations that require a demonstration that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. The proposed departures were not ratified by subsequent decisions and were proven not to be warranted by subsequent analysis and research. The petitioner’s response to the PF does not present any argument based on professional methodology in history or anthropology that would adequately justify the proposed finding’s departures from precedent. When considered against the plain language of the regulations, the intent of the regulations, regulatory standards of proof and precedent established in other findings, and the totality of the available evidence, the PF’s proposed departures from precedent cannot be justified.

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When interpreted under the language, intent, and regulatory standards of proof, the available evidence for the FD was insufficient to support the conclusion that the petitioner has demonstrated political influence over its members since historical times under this criterion. The petitioner did not demonstrate its political continuity as an entity, or entities that combined, from historical times until the present.

### CHRONOLOGICAL SURVEY

#### 1850 to 1880: Evidence of Political Activity in the Red River Regions of North Dakota and Canada

In its comments on the PF, the petitioner argued the leadership provided by its ancestors over the claimed “Little Shell Communities” evolved out of “Chippewa band structure.” This “system of tribal organization” involved a formal leadership with a “chief or leader” on the larger “tribal” level, complemented by the informal leadership of “small scale band activity” depending on the requirements of various events (Little Shell Comments on the PF 2005, B & C 20th, 3-4). To test this argument for the 19th century, the FD examined the named individuals the petitioner claimed as leaders to determine if their political activity took place within the context of a substantially continuous existing group of the petitioner’s ancestors, or groups that amalgamated. The available evidence indicated these individuals exercised only limited political influence over time within different, multiple local settlements which included only some of the petitioner’s ancestors, and that these settlements did not amalgamate into the petitioner. Political activity by these individuals within these settlements did not constitute evidence under criterion 83.7(c) for a group of the petitioner’s ancestors because it did not demonstrate that these settlements evolved as a political community out of the historical Pembina Band of Chippewa Indians and later relocated to Montana.

As stated before, the PF encouraged the petitioner to provide additional evidence to show “more fully” its political influence “over its members from historical times until the 1930’s” (Little Shell PF 2000, Summary, 34). In response, the petitioner submitted both arguments and new evidence.

Since the proposed finding, the petitioner submitted additional documentation that indicates that its ancestors were quite dispersed even before the treaty negotiations with the federally recognized Pembina Band between 1851 and 1863. Therefore, this FD reviews evidence submitted by the petitioner since 1850.

The available evidence is insufficient to show the petitioner exercised political influence or authority over its members from 1850 to 1880. The evidence did not reveal political continuity from a historical Indian tribe during this period. Most of the petitioner’s ancestors were parts of various Métis settlements along the Red River in Manitoba and North Dakota. The available evidence showed these Métis settlements had political leaders and systems separate from the historical Pembina Band of Chippewa Indians that inhabited the area. While some of the petitioner’s ancestors provided limited forms of leadership within some of these settlements, they did not demonstrate that they constituted a political group that evolved as a group or groups from

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the Pembina Band, or that they later amalgamated and evolved into the petitioner in Montana or elsewhere.

Some of the Métis residents of the Pembina and St. Joseph areas of North Dakota were related to, or allied or associated with the Pembina Band of Chippewa Indians. The evidence indicated that some of the petitioner's ancestors in these settlements were among those residents. For example, one of the group's Métis ancestors, Jean Baptiste Wilkie, signed the unratified 1851 treaty between the Pembina Band of Chippewa and the United States, as "President of the Council of Half Breeds" from the Pembina area. The treaty also included the names of 10 other individuals identified as the "Council and Principal Men of the Half-Breeds." Six of the 11 men were also the petitioner's ancestors. During the negotiations, however, Governor Ramsey, the representative of the United States stated he did not consider the mixed-blood, or "half-breed," relatives of the Pembina Band as part of the tribe. He also chose not to treat with them directly during the negotiations (Ross 1856, 411-412). This elected council provided leadership for a distinct Métis group that was autonomous of the leadership of the Pembina Band. The available evidence did not indicate that this council provided leadership for a distinct Métis group of the petitioner's ancestors that evolved as a group or groups from the Pembina Band, or that it provided leadership for the petitioner's ancestors who at the time constituted portions of several dispersed Métis settlements along the Red River in both Manitoba and North Dakota.

In the 1860's and 1870's, some of the petitioner's ancestors received annuities under the 1863 treaty as part of the Pembina Band of Chippewa Indians. The evidence, as described in detail in criterion 83.7(b), indicated, however, that this association with the Pembina Band was short-lived. Many of these annuitants and kin soon dispersed from the Pembina region and relocated to Saskatchewan, Alberta, Manitoba, and Montana where they became part of other settlements. In Montana, they usually became part of the general population. The available evidence did not demonstrate that these individuals or their descendants later provided substantially continuous leadership to a distinct group, or groups, of the petitioner's ancestors that evolved from the Pembina Band of Chippewa Indians, and that later amalgamated and eventually migrated to Montana. Still other annuitants migrated during the 1880's and 1890's to the Turtle Mountain Reservation where they remained politically affiliated with the Turtle Mountain Band of Chippewa Indians rather than a group of the petitioner's ancestors that later migrated to Montana.

In the 1860's and 1870's some of the petitioner's ancestors also received treaty scrip, after being described as being Pembina mixed-bloods on treaty schedules. The Government viewed these individuals as having Pembina ancestry, but not as members of the tribe. The evidence described in detail in criterion 83.7(b), indicated their association with the Pembina Band of Chippewa Indians was also brief. Many of these scrip recipients and their kin also dispersed widely from the Pembina region and relocated to Saskatchewan, Alberta, Manitoba, and Montana where they became part of other settlements. In Montana, they usually became part of the general population. The available evidence did not demonstrate these individuals or their descendants provided substantially continuous leadership to a distinct group or groups of the petitioner's ancestors that evolved from the Pembina Band of Chippewa Indians and later amalgamated and eventually migrated to Montana. Some of them also migrated during the 1880's and 1890's to the Turtle Mountain Reservation where they remained politically affiliated with the Turtle

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Mountain Band of Chippewa Indians rather than a group of the petitioner's ancestors that later migrated to Montana.

Thus, by the late 1870's and early 1880's, the available evidence showed the petitioner's ancestors were already dispersed widely in settlements of varying ethnicities in Saskatchewan, Alberta, North Dakota, and Montana. The evidence, however, did not indicate they joined these settlements as a group, or that they later left these settlements as groups that later amalgamated into the petitioner. The evidence for political influence involving the petitioner's ancestors between and 1850 and 1880 is discussed more fully below.

### **The 1851 Pembina Band of Chippewa Treaty Negotiations**

This 1851 Pembina Band of Chippewa unratified treaty provided an example of some of the petitioner's ancestors dealing with representatives of the Federal Government. As discussed in the section on previous unambiguous Federal acknowledgment, one of the group's ancestors, Jean Baptiste Wilkie, signed the 1851 treaty, as "President of the Council of Half Breeds" from the Pembina area. The treaty also included the names of 10 other individuals identified as the "Council and Principal Men of the Half-Breeds" (CIA 1851). An analysis of the names indicated 6 of the 11 men, including Wilkie, have descendants in the modern membership. Most of the individuals appeared on records that showed they resided in Métis settlements in the Pembina area from the 1850's to 1870's. The Government also identified Wilkie and the other five ancestors on treaty annuity rolls and scrip applications as being mixed-bloods of Pembina Band ancestry during the 1860's and 1870's.

Military officials knew of the existence of the mixed-blood council before the negotiations. In his November 10, 1849, report to the Adjutant General, Major Samuel Woods described one of his encounters with the "half-breeds" in the Pembina area two months before. He stated he found the "half breeds possessing a semblance of government. They had a council of five of their principals, in which was vested a jurisdiction relating to transactions among themselves." Thus, this document indicated Major Woods viewed this particular council as a political group separate from the Pembina Band of Chippewa Indians, one dedicated to the interests of the Métis ethnic group in the Pembina region (Woods 11/10/1849).

Woods next encouraged them to formalize their leadership to do business with the Federal Government by organizing "themselves into a band under a council or chiefs, invested with ample authority to act in their name, in all matters which might arise to affect their interests" (Crawford 3/19/1850, 28). According to Woods, they came back the next day with nine names of a committee "selected for their future government," led by Jean Baptiste Wilkie (Crawford 3/19/1850, 23-29).

Governor Ramsey also described the political influence of the council of "half-breed" leaders in July 1850, as stated in an October 1850 letter to the Commissioner of Indian Affairs. He described the then nine members of the council as "persons freely elected by the half-breeds of Pembina, as councilors or chiefs, to whom the general administration of the half-breeds residing upon the Red River of the North should be entrusted" (Ramsey 10/21/1850). Thus, the territorial Governor viewed this council as representing the Métis ethnic group in the Pembina region,

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separate from the Indian tribe.

When the 1851 treaty negotiations opened, about 250 full-blood Pembina Indians and several hundred Métis arrived to participate. In his November 1, 1851, report on the treaty negotiations, Governor Ramsey barred the “half-breeds,” whom he declared the “actual occupiers of the land,” from taking formal part in the negotiations (Treaty Journal 1851, 1-2, 6; see also Babcock 1962, 7-8). Nonetheless, Ramsey understood the Métis’ claim “for remuneration” to the land had “unusual force” because they had settled it and would be the main inhabitants of the land for quite some time (Ramsey 11/1/1851). Ramsey also needed their approval for the treaty provision setting aside \$30,000 for the Métis relatives of the full-bloods.

The 1851 treaty and accompanying evidence showed that some of the petitioner’s ancestors were part of a council representing the political interests of the Métis population from the Pembina area during the treaty negotiations. Available evidence indicated the American treaty negotiators viewed this council as separate from the leadership of the Pembina Band of Chippewa Indians. The petitioner’s ancestors only made up a portion of the Métis settlement in the Pembina area, and there was no available evidence of outsiders identifying them as a subgroup within it. At the same time, others of the petitioner’s ancestors were part of other Métis settlements on the Red River in Manitoba, which had their own forms of leadership, but it is not demonstrated that these settlements evolved as a group(s) from the Pembina Band. The genealogical evidence indicates that they arrived in these settlements in an individualistic manner. There was no available evidence the 1851 Métis council represented all the petitioner’s ancestors as a single group within the multiple Red River Valley settlements or as a subgroup just within the Pembina area, or that the other settlements were politically connected to that council, or later amalgamated with that council in the Pembina region to become the petitioner. Thus, the evidence available does not demonstrate political influence or authority under 83.7(c).

### **The 1863 Red Lake and Pembina Chippewa Treaty**

In the 1863 treaty negotiations, as in 1851, Governor Ramsey refused to negotiate directly with the Métis of the Pembina region as part of the Pembina Band. He also tried but failed once again to prevent them from attending the proceedings. But no Métis council was part of the 1863 treaty negotiations as in 1851 nor did any such council sign the final treaty (Ramsey 10/1863, 428; Ramsey and Morrill 9/4-10/2/1863). One of the petitioner’s ancestors, Joseph Gourneau (b. abt 1790), however, was one of the treaty signers on behalf of the Pembina Band.

There was evidence the Métis acted politically independently of the leadership of the Pembina Band to secure their demands in 1863 as in 1851. The treaty journal, for example, noted the “Pembina half-breeds made a strong effort to procure the insertion of a provision for the appropriation of an extravagant sum for their benefit.” This effort took place during “a session of three and half hours duration” on Friday, October 2, 1863, the very last day of the negotiations (Ramsey and Morrill 9/4-10/2/1863, 74). The Métis failed to obtain their request. Yet they continued to apply pressure for compensation because in his post-treaty report Ramsey informed the Commissioner he had received a written request from the Chiefs of the Pembina asking for \$23,000 dollars in payment for the Pembina Métis (Ramsey 10/1863).

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While the 1863 treaty and the accompanying negotiations did show evidence of a larger Métis population acting politically, they did not show the petitioner's ancestors exercising political influence as a group as part of the Pembina Band of Chippewa Indians. The evidence showed the petitioner's ancestors only made up a portion of the Métis settlement in the Pembina area, and there was no available evidence of outsiders identifying them as a subgroup within it. At the same time, the petitioner's ancestors were also part of other Métis settlements on the Red River in Manitoba, which had their own political processes. There was no available evidence that the Métis at the 1863 treaty represented all the petitioner's ancestors as a single group within the multiple Red River Valley settlements or as a subgroup just within the Pembina area, or that the various settlements, or groups from the various settlements were politically associated with this council and later amalgamated as the petitioner. Thus, the evidence available does not demonstrate political influence or authority under 83.7(c).

### 1880 to 1900: Evidence of Political Activity in Montana and North Dakota

The available evidence was insufficient to show the petitioner exercised political influence or authority over its members from 1880 to 1900. Over these years, the petitioner's ancestors began to migrate on a largely individual basis from the various Métis settlements along the Red River in Manitoba, Canada, and Pembina, North Dakota.<sup>46</sup>

By the late 1870's and early 1880's, some of the petitioner's ancestors had already migrated to the southern regions of Saskatchewan and Alberta or to northern Montana. Some were part of groups of extended families of Métis from the Red River settlements of Canada and North Dakota hunting buffalo on the Plains. These Métis occasionally encountered or interacted with U. S. Army officials, who sometimes left detailed descriptions of the families, among whom were some of the petitioner's ancestors. The OFA analyzed the documents regarding these groups of Métis for evidence of political influence for the petitioner's ancestors. While Army officials sometimes identified the leaders of these extended family groups, most of the encounters proved transitory. The Army usually gathered up the families and escorted them over the Canadian border or they migrated elsewhere of their own accord. The descriptions provided by the military officials indicated these were only extended families and not groups. The leadership provided was more that of a family head or family heads. Available evidence also indicated the individuals involved in these encounters soon dispersed widely throughout the northern plains after leaving. While some later returned to Montana, others resettled on an individual basis in Saskatchewan, Alberta, Manitoba, and even the Turtle Mountain Reservation. There was no available evidence they provided leadership for a substantially continuous group of the petitioner's ancestors while migrating or after resettling. For more evidence of these encounters see below.

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<sup>46</sup> Both the Little Shell and the OFA recommendation pointed out that there were memoirs recalling the Métis settlement of Lewistown, Montana, in 1879 implying that the traditional leadership practices of Métis buffalo-hunting expeditions were followed by these settlers (Little Shell PF 2000, 27; OFA 2000, 40). The recommendation expounded further that the available evidence did not show the persistence of such community leadership at Lewistown after 1879 (OFA 2000, 40). Comments on the PF provided no specific information on the persistence of such political leadership in Lewistown after 1879 and the FD found none. See criterion 837(b) and the appendices for more information on Lewistown.

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Census data and genealogical information also revealed the migration patterns of the petitioner's ancestors, who migrated from the Red River settlements of North Dakota and Canada. They migrated to and became part of multiple settlements in Saskatchewan, Alberta, and Montana. The available evidence, however, did not show the petitioner's ancestors migrated as a group to these settlements, or from these settlements to amalgamate as the petitioner. The available evidence did not show that the petitioner's ancestors constituted a substantially continuous group or sub-group in these settlements in which to exercise political influence. The evidence did not demonstrate any significant examples of group leadership for the petitioner's ancestors as they migrated to or settled in new areas. Generally, the petitioner's ancestors lived as members of extended families spread out over a wide expanse of territory. There was no available evidence that the petitioner's ancestors transplanted older forms of group leadership from previous areas of settlement or practiced a formal or informal type of politics that tied the ancestors in newer areas of settlement together in some fashion.

Some of the petitioner's ancestors were also part of the Turtle Mountain Band of North Dakota during this period. While some of the petitioner's ancestors provided limited forms of leadership within the Turtle Mountain Band, particularly in the early 1880's, the available evidence showed these individuals generally remained affiliated with the Turtle Mountain Band and did not provide leadership over an autonomous political group that later evolved into the petitioner in Montana. There was no available evidence that members of the Turtle Mountain Band recognized a political relationship with a group of the petitioner's ancestors or vice versa. Although the petitioner claimed its ancestors migrating to and living in Montana believed they were under the political control of the Turtle Mountain Band at the time, the available evidence provided no examples of them expressing such a belief or of the Turtle Mountain Band exercising political influence over these ancestors.

In sum, the available evidence did not demonstrate political influence within or for a group, or groups, of the petitioner's ancestors from 1880 to 1900. The evidence for this conclusion is discussed in detail below.

### **The Petitioner's Ancestors in Montana in the 1880's and 1890's**

As analyzed and described under the discussion in criterion 83.7(b), during the early 1880's groups of extended families of Métis hunting buffalo in Montana, which included some of the petitioner's ancestors, occasionally encountered U. S. Army officials. Army officials sometimes documented the individuals who were part of these buffalo hunting parties, calling some of them leaders. The available evidence, however, did not show these individuals provided leadership for an antecedent group of the petitioner's ancestors.

For example, one encounter occurred in the summer of 1880 when the Canadian Métis leader Louis Riel wrote a petition for the creation of a reservation in the United States to American military authorities. The petition included the names of 101 Métis, who with their families had been camped along the Musselshell River in Montana. Despite some initial support for the proposal, the Government turned down the request (Riel 8/20/1880; Miles 8/20/1880; Terry 9/24/1880).

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As described already in the discussion under criterion 83.7(b), the OFA analyzed data about the 101 individuals to discover their ancestry. The petitioner claimed that 61 of the signers were members of the “Little Shell Community Group.” An OFA analysis revealed that of the 85 signers for whom there was genealogical information, 41 were the petitioner’s ancestors. Sixty-six of the 85 signers had documented Pembina Band ancestry.

The OFA also analyzed the 101 individual names to discover their origins and migration patterns. Over half were born in Canada, in one of the Métis Red River Parishes, mainly St. Francis Xavier or St. Boniface. About a third had been born in North Dakota, mainly the Métis settlement of Pembina. Their longest place of residence before their 1880 appearance in Montana was mostly either the Métis settlement of Pembina, or a Métis Red River Parish in Canada, mainly St. Francis Xavier. There was no available evidence, however, that they were part of a “Little Shell Community Group,” or that the petitioner’s ancestors were a distinct subgroup among the signers or in the multiple Métis settlements from which they came, or that they later evolved as a group or amalgamated with other groups of petitioner’s ancestors into the petitioner (see also Flanagan 1985).

As explained before, these petition signers soon dispersed widely, throughout the northern plains, after the Government rejected their request. They eventually went to Montana, in seven different counties; North Dakota, including the Turtle Mountain Reservation and Pembina area; and Canada, including Saskatchewan, Alberta, and Manitoba. Twenty four went to unidentified places. So their sojourn in Montana in the 1880’s was short-lived. While some stayed in Montana, almost all dispersed widely, many to settlements in Canada, or to the Turtle Mountain Reservation in North Dakota. The petitioner’s ancestors among these signatories dispersed widely too, largely on an individual basis, forming small portions of much wider population groups. The evidence did not show them to be a continuing group with continuing leadership and influence. There was no available evidence these individuals provided leadership for a group of the petitioner’s ancestors or for a “Little Shell Community Group” in Montana.

The confrontation in 1882, described under 83.7(b), between the U.S. Army and a group of mixed-bloods along the Milk River, led the Army officer in charge to create a list of 20 individuals, identified as the “principal men of the settlement” (Healy 4/1882). Only 15 of the names were legible, and 10 of those listed individuals were the petitioner’s ancestors. The officer identified Alex Brien (Brillen), one of the petitioner’s ancestors, as the “chief” of the “half breed” settlement. An analysis of the 10 men showed they were mainly living in the Métis settlement of Pembina from 1840’s to the 1860’s. Genealogical information showed that most of them migrated into Montana from the late 1870’s to early 1880’s from wintering areas of Wood Mountain in Saskatchewan.

Four of these men and their families returned to Montana after the Army expelled them, and one of those applied for Canadian Métis scrip in 1885, suggesting he viewed himself as part of a much larger ethnic group. In six other instances, either they or close relatives were recorded on the Turtle Mountain Reservation censuses of North Dakota in the 1880’s and 1890’s, suggesting a later affiliation with that group rather than a “Little Shell Community Group” in Montana. Four of them remained in Canada, mainly in Saskatchewan, and two of those applied for Canadian Métis scrip. There was no available evidence that this small number of named

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individuals, who appeared to have had some family ties over a period of time, represented other ancestors at that time, or later provided leadership for a group of the petitioner's ancestors or a "Little Shell Community Group" in Montana or later evolved as a group with other groups of petitioner's ancestors, to become the petitioner.

The petitioner also claimed as evidence of political influence for this period a September 19, 1893, petition to the Indian Division by 52 Métis in the "Missouri/Milk River area," in which they made an ultimately unsuccessful request for a reservation. The petitioner claimed 27 of the 30 Métis names from this petition it was able to identify were either in the "Little Shell Community Group," or married to someone who was (Malatara et al, 9/19/1893).

As described in criterion 83.7(b), the OFA analyzed the 30 names in the database to determine their origins and settlement patterns. These individuals originated almost entirely from the Métis settlement of St. Francis in Manitoba, and except for a few instances, had little or no residential connection to the Métis settlement at Pembina, North Dakota, despite the fact that 20 of them had some evidence of Pembina Band ancestry. Most had spent considerable time in Saskatchewan or Manitoba before entering Montana. Thirteen of the signers have descendants in the modern membership. Following the denial of the petition, only 11 of them remained in Montana, mainly all along the Highline. In the other cases, evidence for the final place of residence usually indicated Saskatchewan or was unavailable.

This evidence also indicated that the 1893 petition signers were not part of a "Little Shell Community Group," but members of Little Bear's Cree group from Saskatchewan. It appeared they had little connection to Pembina or North Dakota during their lifetimes. There was no available evidence that these petition signers represented other ancestors at that time or later provided leadership for a group of the petitioner's ancestors or a "Little Shell Community Group" in Montana. There is no available evidence that as a group they amalgamated with any other group of petitioner's ancestors.

### **The Petitioner's Ancestors and the Turtle Mountain Reservation, 1880 to 1900**

For this period, the petitioner argued that some of its ancestors and the members of the claimed "Little Shell Community group" were part of the Turtle Mountain Band during this period. The petitioner also asserted that the Turtle Mountain Band exercised political authority over its ancestors and members of the claimed "Little Shell Community Group" living in Montana who were not part of the Band.<sup>47</sup> Available evidence did not demonstrate either of these claims.

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<sup>47</sup> In its documented petition for the PF, the petitioner made similar claims regarding its ancestors and their relationship with the Turtle Mountain Band, with one slight variation. The petitioner at that time also argued that it evolved from the band of Chief Little Shell, whose followers, the petitioner claimed were removed from the Turtle Mountain rolls in 1892 and then migrated to Montana. The Little Shell PF made little comment on this claim except to state that the available evidence showed that "some of the petitioner's ancestors had been part of the of Little Shell's Band until 1892" (Little Shell PF 2000, Summary, 34). The OFA recommendation found that the available evidence did not demonstrate that Chief Little Shell had led his followers to Montana after 1892, but showed that he remained at the Turtle Mountain Reservation. The evidence, at that time, indicated that only a minority of the petitioner's members trace their ancestry back to a member of the Turtle Mountain Band before 1892, and did not show the petitioner's members descended from Little Shell's followers. Thus, the evidence for the PF did not substantiate the petitioner's claim to be the successor to Little Shell's Band (OFA 2000, 40). In its comments on the

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As early as 1878, members of the Turtle Mountain Band of Chippewa Indians had written a letter to the Commissioner of Indian Affairs requesting a treaty to exchange land for a reservation. They made this request because growing numbers of white settlers were encroaching on their lands in the Turtle Mountain area. Two full-bloods (Little Bull and Ka-wa sa-wi-nim) and 11 Métis signed the letter (Little Bull et al., 1/9/1878). The petitioner claimed 6 of the 11 men belonged to the “Little Shell Community group,” although it provided no evidence to demonstrate the existence of such a community within the Turtle Mountain Band at that time.

An OFA analysis showed three of these six Métis have descendants in the petitioner’s modern membership.<sup>48</sup> That analysis also showed that these six men remained in North Dakota, either at the Turtle Mountain Reservation or the Pembina/St. Joseph area. They did not migrate to Montana or later provide political leadership for a group of the petitioner’s ancestors in Montana. Then in October 1880, a group of 37 full- and mixed-blood Indians calling themselves the Turtle Mountain Band of Chippewa Indians, petitioned the Indian Office to establish a reservation for them in the Turtle Mountain region of North Dakota (Wilkie et al., 10/23/1880). The petition listed 27 of the requesters as mixed-blood Indians. Of the 27, the petitioner argued 11 were members of its claimed “Little Shell Community Group,” although the available evidence did not show the existence of such an entity within the Turtle Mountain Band at the time or of any such entity that later separated from the tribe.

Using available genealogical data, the OFA identified 4 of these 11 men as having descendants in the modern membership. Ten of the 11 men remained in residence at the Turtle Mountain Reservation and in the tribal relations with the Turtle Mountain Band rather than a “Little Shell Community Group” in Montana or elsewhere. One stayed in the Pembina area. There was no available evidence that any of them provided leadership for a group of the petitioner’s ancestors in Montana.

As described in criterion 83.7(b), the petitioner also claimed that a significant number of its ancestors appeared on the Turtle Mountain censuses during the 1880’s and 1890’s, often after spending time in either Saskatchewan or Montana. The petitioner claimed these people remained in contact with relatives in Montana, suggesting those in Montana believed they were under the political authority of the Turtle Mountain Band. But the available evidence, described in detail in criterion 83.7(b), showed that many of the petitioner’s ancestors who appeared on the Turtle Mountain censuses in the 1880’s and 1890’s either remained at the Turtle Mountain Reservation, or dispersed widely to Saskatchewan, Alberta, and Montana. Those who remained at Turtle Mountain were politically affiliated with that Band, and the available evidence did not indicate they exercised any political authority over the petitioner’s ancestors in Montana or vice versa. Others, or their children, later received Indian public domain allotments in Montana, but they did so as members of the Turtle Mountain Band and not as a group of the petitioner’s ancestors or as members of a claimed “Little Shell Community Group.” Most of those who migrated elsewhere

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PF, the petitioner no longer made this specific claim and an examination of all the evidence does not substantiate its prior claim.

<sup>48</sup> The six were John Baptiste Wilkie, Jean Baptiste Charette, Charles Bottineau, Michel Gladeau, Louis (Petit) Thomas, and William Deasey.

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soon fell out of tribal relations with the Turtle Mountain. Therefore, these political activities on the Turtle Mountain Reservation did not provide evidence of bilateral political influence over the petitioner's ancestors as an autonomous entity as defined in the regulations at 83.1.

To summarize, a portion of the petitioner's ancestors had a connection with the Turtle Mountain Band. A few of them played a leadership role within it. However, petitioner's ancestors did not leave the Band as a group and in Montana did not evolve into the petitioner through amalgamation with other groups of petitioner's ancestors.

### 1900-1930: Evaluation of Political Influence in Montana

In its submission for the PF, the petitioner claimed that the group lacked information on political leadership and authority for this period, in part, because its members were supposedly affiliated with the Turtle Mountain Band. The petitioner's argument was based on its claim that some of its members received allotments from Turtle Mountain (LS Supplemental Evidence and Analysis 1994, 113-114). The PF noted that the petitioner lacked sufficient allotment data to make its case and requested further documentation (LS Shell PF 2000, Summary Chart, 7). The petitioner submitted additional evidence of allotments as will be discussed below.

The PF also noted that the petitioner provided little evidence of the group's political leadership in Montana for this period (Little Shell PF 2000, 27; OFA 2000, 53-54). While the petitioner claimed that local leadership existed at this time its record included evidence only on a small number of local Métis leaders in a few settlements of the Front Range and the Highline during vague periods of time (Little Shell PF 2000, 27; OFA 2000, 53-54). In response, the petitioner extended its discussion of local leadership by suggesting that from the early 1900's through the 1950's political influence and authority existed in the form of "job brokers" who obtained work contracts from local ranches, then hired other group members to work as crews (Franklin 1994, 117-119; Little Shell Comments on PF 2005, B & C 20th, 25-43). The petitioner described job brokers as local leaders who spread political knowledge across Front Range and Highline.

In 1927 Joe Dussome formed an organization in Hays, Montana, which the petitioner claims is the beginnings of its formal political organization. While Dussome worked on the behalf of Landless Indians including portions of the petitioner's ancestors, the OFA's recommendation against acknowledgment noted that the evidence did not demonstrate the extent to which he functioned as a political leader for the petitioner's ancestors at large (OFA 2000, 54). As the majority of Dussome's support came from the Highline area, OFA's recommendation requested information about the extent to which Dussome's organization encompassed the petitioner's ancestors across regions (OFA 2000, 41). In addition, it requested that the petitioner provide evidence of Dussome's political activities and describe how they involved the members as a whole (OFA 2000, 41).

### **Turtle Mountain Public Domain Allotments as Evidence of Political Influence, 1900 to 1930**

In its comments on the PF, the petitioner stated members of the "Little Shell Community Group" believed they were "under the authority of Turtle Mountain in the early 1900s." According to the petitioner this accounted for "lack of documented political information on Little Shell prior to

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1927” (Little Shell Comments on the PF 2005, Criterion B & C 20th, 49). The petitioner had argued in earlier submissions that the application for, or receipt of, such allotments demonstrated that its ancestors considered themselves to be under the authority of the Turtle Mountain Agency until the 1920’s. The petitioner claimed that these applications indicated that its ancestors believed they were part of another tribe, and thus, would not exercise separate political authority at that time (Little Shell PF 2005, Summary Chart, criterion (c), 7). The petitioner also argued that discontent over how the Indian Office approved of or rejected allotment applications acted as a catalyst for the formation of the group’s 1927 political organization in Montana (LS Supplemental Evidence and Analysis 1994, 113-114).

The Department was unable to verify this argument at the time because it lacked the allotment data. However, the PF Summary chart stated, “if *significant numbers of the petitioner’s ancestors who were living in Montana* received Turtle Mountain allotments *in Montana*, then, this would indicate a connection to Turtle Mountain” (Little Shell PF 2000, Summary Chart, Criterion (c), 7; emphasis added). The Department also explained that “without such evidence,” it was “difficult to interpret the issue of allotments as a catalyst for the formation of an organization in 1927” (Little Shell PF 2000, Summary Chart, Criterion (c), 7).

As described in the discussion under criterion 83.7(b), the petitioner supplied information on 289 Turtle Mountain public domain allotments in Montana provided for 233 individuals it claimed were part of the “Little Shell Community Group” (Little Shell Comments on the PF 2005, Tables 8 and 9). The date of issuance for the 289 allotments is unknown, but most likely occurred sometime between 1906 and 1917.<sup>49</sup> Using the available evidence, OFA researchers determined the person’s allotment location, place of birth, probable residence at the time of the allotment, and if they had descendants among the members of the current group (see Appendix X11 and criterion 83.7(b) section on Turtle Mountain allotments).

The 233 individuals received their allotments in six counties in Montana. The total number of Turtle Mountain allotments in Montana was 2,055 for 1,982 individuals across 13 counties. Thus, these individuals who were part of the claimed “Little Shell Community Group” constituted just 11 percent of the total allotment recipients. More important, only 39 (17 percent of the 233) of these individuals have descendants among the modern membership of the petitioner. These 39 individuals constituted only 2 percent of all the Turtle Mountain allotment recipients and 2 percent of the estimated number of individuals (1,678) in the “Little Shell Community Group” at that time. Thus, the number of the petitioner’s ancestors receiving allotments did not constitute a significant enough number to be evidence of meaningful political affiliation for the petitioner as a whole.

Of the 233 people, 121 (52 percent) were born in North Dakota; 41 (17 percent) in Montana; 25 (11 percent) in Canada; and 46 were unknown (20 percent). At the time of allotment receipt, however, less than half, 101, (43 percent) resided in Montana. Forty-two (18 percent) lived in North Dakota; and 90 (39 percent) were unknown. Thus, a significant percentage of these allotment recipients were not even living in Montana upon receipt, which is negative evidence

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<sup>49</sup> The period for these allotments is unclear. Most allotment applicants, however, probably received them from 1906 to 1917. Most of them were patented and sold before 1930.

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that there was political authority among these ancestors as a group.

In sum, the evidence indicated these allotment holders were Turtle Mountain enrollees, who either migrated, mainly from North Dakota, to Montana in the early 1900's, were born in Montana sometime between 1850 and 1920 following their parent's migration to the state, or relocated to Montana after receiving allotments. By accepting Turtle Mountain allotments in Montana, they acknowledged affiliation with the Turtle Mountain Band of North Dakota and not to a "Little Shell Community Group" in Montana, because receipt of such allotments depended on the applicant having actual long-term Turtle Mountain membership rather than simply believing they had such status. Thus, the receipt of Turtle Mountain allotments for the 233 individuals did not constitute political evidence for a distinct "Little Shell Community Group" or a group of the petitioner's ancestors in Montana.

While it is true that some of the petitioner's ancestors living in Montana applied for Turtle Mountain public domain allotments at the time only to be turned down, the petitioner submitted only a few samples of rejections for its ancestors or members of the claimed "Little Shell Community Group." The Department's own analysis of this evidence revealed that unsuccessful applicants for Turtle Mountain allotments were usually rejected because they had not maintained tribal affiliation and thus were not viewed as eligible tribal members.<sup>50</sup>

Moreover, there was no available evidence from 1900 to the late 1920's that the petitioner's ancestors in Montana whose applications for an allotment were rejected actually viewed themselves as a group of people belonging to the Turtle Mountain Band. In fact, most of the leading members of the group's political organizations in the 1920's and 1930's did not make the argument that being rejecting for allotments was the driving force behind their political organizing efforts until after 1927 (Deloria 1971, 387-389; Dussome 12/5/1931; House Committee on Indian Affairs 4/4/1934). There was also no available evidence from 1900 to the late 1920's of Turtle Mountain members, or the Turtle Mountain agency, acknowledging a political influence over a group of the petitioner's ancestors in Montana or vice versa, other than those who obtained allotments.

Thus, the available evidence from 1900 to 1927 showed that some of petitioner's ancestors were part of the Turtle Mountain Band and remained affiliated with it. As to the petitioner's other ancestors, the evidence did not show them under the political influence of the Turtle Mountain Band, or that they believed themselves to be. The evidence does not show that these ancestors were involved in group political activities, formal or informal, either in Montana, or as a group of individuals engaged in documented political activities with the Turtle Mountain Band, or as groups that later amalgamated as the petitioner.

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<sup>50</sup> See for example the following correspondence between government agents and rejected applicants: Riley 12/1/1927, Hyde 12/6/1927, Belgarde 1/16/1928, Rhoads 11/14/1929, Hyde 11/22/1929, Rhoads 12/6/1929, 1/20/1930, Laroque 2/27/1928, Hyde 3/3/1928, White Horse 4/9/1928, Hyde 4/16/1928, St. Germaine 11/13/1928, Hyde 11/28/1928, St. Germaine 1/5/1930, Hyde 1/8/1930, Morsette 8/6/1929, Hyde 8/12/1929, Marshall 2/6/1928, Hyde 2/8/1928, Turcotte 3/17/1928, Hyde, 3/24/1928, Turcotte 12/3/1929, Hyde 12/7/1929.

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### “Job Brokers” as Local Leaders

In its submission for the PF, the petitioner claimed that local leadership from the 1900’s through the 1950’s existed in the form of “job brokers.” According to the petitioner, ancestors of current members obtained work contracts in both the Front Range and Highline regions and then hired crews made up mostly of Little Shell ancestors to work for them. The petitioner claimed that “job brokers” functioned as local leaders and facilitated communication among members across the state through their travels in search of migrant labor.

During the 2007 site visit, the OFA did verify that some ancestors of the petitioning group, such as George St. Clair of the Highline, obtained work contracts on local ranches and hired crews to do the jobs (Lavenger Interview 2007; John Merle Doney Interview 2007). However, this work was not obtained specifically for Little Shell ancestral members, nor was it necessarily carried out by them (Lavenger Interview, 2007; John Merle Doney Interview 2007). Interviewees reported that group members obtained work on their own and did not go through a “job broker” (Lavenger Interview 2007; Steve Doney Interview 2007; Philomene Doney Interview 2007). Work crews were often made up of Little Shell ancestors, but also included non-members such as friends (David Parenteau Interview 5/6/1998), or members of federally recognized tribes such as the Gros Ventre (Steve Doney Interview 2007; John Merle Doney Interview 2007). Other employment opportunities also existed during this time period such as postings at the local grocery stores. These were used by the petitioner’s ancestors to obtain employment as well (Dan Jarvey Interview 2002). Based on the one case of Jack Swan, the petitioner claimed that Little Shell “job brokers,” on the Front Range, disciplined group crew members and held back a portion of members wages for group purposes (Little Shell Summary on the PF 2005, B & C 20th, 31). The OFA found no evidence for this in interviews (Ed Lavenger Interview 2007; Darrel Rummel Interview 2007; John Merle Doney Interview 2007).

In summary, while some group members may have looked for economic opportunities in different areas of Montana during this period, there was no evidence of culturally-patterned interregional economic activities that were organized by or around Little Shell ancestors, or which brought large numbers of members together from across regions.

In order to evaluate the petitioner’s claims regarding “job brokers” and “crews,” the OFA conducted a limited amount of ethnohistorical research on the topic. Specifically, it attempted to verify the existence of member’s ancestors who were named as “job brokers” or “crew members” from the 1920’s through the 1930’s by checking local newspaper articles in the places and times where individuals named as “job brokers” would have been working. Newspapers on both the Front Range and Highline were consulted such as *The Helena Independent* and *The Havre Daily News*. These sources did not provide evidence of local jobs on ranches or of “job brokers” at this time.

In addition, the OFA consulted academic works on the topic of migrant labor in Montana during the early 1900’s (Hall 2001; Aarstad 2000; Montana Folklife Survey Collection 1979). No mention was made in these works of “job brokering” in Montana or of group ancestors involved in such activities. The OFA also consulted with archivists and reference personnel at the following institutions: the Library of Congress Folklife Center; the Montana State Historical

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Society; the University of Montana Libraries in Missoula; the National Archives; and, the Department of Agriculture. No information was available on the topic of “job brokers” for any group in Montana for this period.

The OFA also identified ranches on the Highline and Front Range areas to obtain documents regarding employment in the early 1900’s. Available were the records of the Miller’s Brothers Ranch located in the Highline region. This ranch did hire significant numbers of laborers to conduct the types of work described by the petitioner. At the OFA’s request, the Montana State Historical Society Archivist reviewed several ledgers containing the names of employees hired on the same day for ranch work such as shearing. If Little Shell ancestral names appeared together, it was assumed that they may have been hired as a crew on a particular day. No Little Shell ancestral names were found nor were any general Métis surnames. The majority of migrant laborers listed in the ledgers either had German, Mexican, or Scandinavian last names (Arguimbau 6/17/2008).

The petitioner’s evidence did not demonstrate that group members at this time functioned as job brokers who took out contracts for “crews” who were made up primarily of group members. Nor does it indicate the extent of interregional contact that supposed job brokers facilitated between and across regions during this time period. Last, the petitioner does not explain how supposed local leaders in the two regions of Montana interacted with or made up part of the Dussome and Gray organizations that were established in this and subsequent time periods.

### **Joe Dussome and the 1927 Organization**

The PF described the creation of a political organization in 1927 in Hays, Montana formed by just some of the petitioner’s ancestors and led by Joseph Dussome (Little Shell PF 2000, 27). According to the OFA recommendation, the leaders of this organization, which called itself the “lost band” of the Chippewa, all came from the Highline area (Little Shell PF 2000, TR, 6). The Little Shell PF mentioned little about the early activities of the organization. According to the OFA’s recommendation, however, there was little available evidence that the organization undertook actions which demonstrated its political influence over members or its responsiveness to their concerns prior to the mid-1930s (OFA 2000, 54).

In its comments on the PF’s, the petitioner did not submit any new evidence to demonstrate that the 1927 organization exercised political influence over a group of its ancestors or was responsive to their concerns. It did describe some of Dussome’s correspondence with the agents of the Federal Government on behalf of all the landless Indians in Montana, most of which took place after 1934 (Little Shell Comments on the PF 2005, B & C 20th, 61-63).

The petitioner did submit new data on the geographic distribution and social composition of attendees at the 1927 meeting to demonstrate that its political influence extended into the Front Range.<sup>51</sup> In its 2005 narrative on community and politics the petitioner claimed that six of the 51 attendees had “one or more records in the Front Range region,” or had a spouse from the Front Range region,” suggesting possible interregional group political activity among the petitioner’s

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<sup>51</sup> The data shows that of the 51 attendees who signed the 1927 petition as part of the group’s first formal political organization in Montana, 39 have descendants in the modern membership. Forty-six of the 51 or their spouses had documented Pembina ancestry (Little Shell Comments on the PF 2005, Table 11, 1927; LS Minutes 8/20/1927).

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ancestors” (Little Shell Comments on the PF 2005, Criterion B & C 20th, 60). The Department, however, analyzed these data and found none of the signatories or their spouses were living in the Front Range at the time of the meeting. Instead, the records actually showed the six individuals or their spouses had their recorded “event” in the Front Range usually many years before the 1927 meeting. The available evidence indicated that at the time of the meeting, most were from the Highline area of Montana and either part of the Doney family or intermarried within that line.

Thus, the 1927 political organization was quite limited both in terms of geographic range and social makeup. It only encompassed a large extended family and a limited region of northern Montana. The available evidence did not show that this group represented the petitioner’s ancestors living in other settlements throughout northern Montana. The evidence did not demonstrate this political organization incorporated the many individuals the petitioner identified on the Federal censuses as members of the “Little Shell Community Group” living at the time in numerous settlements elsewhere in Montana.

### 1930-1950: Evaluation of Political Activity

The Little Shell PF found the petitioner was the successor of several organizations led by Joseph Dussome including the one in 1927, and ones in 1935, 1939, and 1949. Leadership elections were held in 1935 for the “Non-Treaty Chippewa-Cree Indians of Northern Montana,” in 1939 for the “Pembina Band of Chippewa Indians who were under the leadership of Chief Thomas Little Shell,” and in 1949 for the “Little Shell Band of Chippewa Indians, known as the Landless Indians of Montana” (OFA 2000, 41). While none of the organizations explicitly described itself as the continuation of a previous organization of a different name, and although there were no membership lists for these organizations which could demonstrate the continuity of their supporters, the consistent leadership of Dussome and the consistent geographical region represented by his officers and area representatives implies the continuity of these organizations with the petitioning group. See also OFA 2000, 41.

OFA’s 2000 recommendation against acknowledgment concluded there was evidence that Dussome and other leaders connected to him undertook activities from the middle 1930’s through the 1950’s that were of importance to members because they responded to their concerns and economic needs. The available evidence, however, also indicated that Dussome’s support was limited mostly to one geographical region before 1955 (OFA 2000, 53-54).

There were two organizations advocating on behalf of Montana’s Chippewa-Cree population from the mid-1930’s to the 1950’s, reflecting the residence of the petitioner’s ancestors in two geographically separate areas of Montana and involving many of them in one organization or the other. After 1939, the rival organizations were known as the Landless Indians of Montana, led by Dussome, and the Montana Landless Indians, led by Raymond Gray. Dussome’s organization proved more influential in the Highline and Lewistown area, but had little support from the Front Range ancestors of the petitioner before 1939. Gray’s organization had support from and advocated on behalf of just some of the petitioner’s ancestors, largely those in urban areas and along the Front Range (OFA 2000, 53-54).

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From the middle 1930's until the early 1950's, there was evidence of political processes only within portions of the petitioner's membership and ancestral families and only within parts of the two geographical areas of settlement. Most of petitioner's ancestors were outside these processes. There was evidence of the social cohesion within portions of the group needed for political processes to function, but these processes did not unify or encompass the entire population of the petitioner's ancestors before the early 1950's. The evidence did not show the petitioner as a whole met the criterion from the middle 1930's until the early 1950's (OFA 2000, 54).

In its comments on the PF, the petitioner did not submit new data or analyses indicating how these two political groups were connected. During this period, Dussome had area representatives from Wolf Point to Helena. However, the majority of his support continued to come from the Highline Region. And with the exception of Helena, he had no area representatives in the Front Range area.

The distribution of the group's population at this time presents problems for the petitioner's claim that two separate political factions existed that represented one common group or two groups that amalgamated that represented petitioner's ancestors. As mentioned in criterion 83.7(b) above, the PF established that at the beginning of this period some of the petitioner's ancestors were located in segregated Indian-Métis neighborhoods in towns along both the Front Range and the Highline. In comments on the PF, the petitioner submitted further data in support of its claim that a significant portion of its ancestral population lived in "enclaves" or "Moccasin Flats" made up exclusively of the petitioner's ancestors. The petitioner has not demonstrated how either the Raymond Gray or Joe Dussome organizations represented these claimed populations. Nor does the petitioner demonstrate how these "enclaves" were linked to each other politically or in terms of community.

Because the evidence does not define or describe the petitioner's ancestors as a group or groups at various points in time, it is not possible to determine the extent to which the Dussome and Gray organizations represented the group or merely parts of it. Nor did the petitioner submit any data and or analysis suggesting that these claimed sub-groups of the petitioner's population had political representation as sub entities tied to an overall group or confederation.

In its comments on the PF, the petitioner claimed that local leaders in the form of "job brokers" existed during this period (1930-1950's). The petitioner claims that these individuals in both the Front Range and the Highline had political influence and authority over group members. However, the petitioner did not provide any discussion as to how these job brokers were connected to each other or the group at large. In addition, the petitioner did not explain how these "local leaders" were connected to Dussome and or Gray.

The petitioner referred to 83.6(e) of the regulations in support of its case (Little Shell Comments on the PF, B&C 20th, 65):

Evaluation of the petitioner shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and

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the political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a continuous basis, but this demonstration does not require meeting these criteria at every point in time. Fluctuations in tribal activity during various years shall not in themselves be a cause for denial of acknowledgment under these criteria.

The petitioner cannot use 83.6(e) as an explanation for the lack of political evidence for this period because it has not provided evidence demonstrating political influence and authority for the group before this period (1930-1950). While the petitioner argued that its ancestors supposedly disassembled and then reunited again in the 1950's it has not demonstrated that its members evolved as a group or groups from the historical Pembina Band. Nor has the petitioner provided evidence that such groups of its members reunited in Montana. The evidence indicates that the petitioner's historical population migrated constantly as small family units to and from a number of places (see criterion 83.7(b) above).

### 1950-2000: The Contemporary Period

For the period from 1950 forward the petitioner provided evidence that its members had been part of one common political process drawing support from both regions of the Front Range and the Triangle and from major cities in Montana (Little Shell PF 2000, 31). An area representative system first developed by Dussome functioned during much of this period to disseminate information between the members and the group's leaders. In addition a substantial portion of the membership had knowledge of political conflicts generated by officers in the organization. From the 1950's forward there is some evidence that kinship ties provided a means of political communication among some of the petitioner's members.

However, lacking from the petitioner's record is data indicating if and how the political system from the middle 1950's onward had evolved from a historical tribe or tribes, and how the current political system was connected to a community either historically, or at present. The OFA requested that the petitioner explain if its current political system was the result of a past amalgamation of formerly separate social communities and their separate political organizations, or a political confederation of historically and currently separate social communities (OFA 2000, 56).

In comments on the PF, the petitioner did not provide data describing the social interactions and community organization underlying political activities. Instead, the petitioner extracted and argued with sections of the PF's discussion of the group's elections and officer's conflicts from 1990 through 2002 in an attempt to demonstrate that the group sustained "political influence" during this period (Little Shell Comments on the PF 2005, B & C 20th, and 137-139). The petitioner provided no new data or analysis in its argument. Nor did it address the OFA's request for information on the way in which the political system was tied to an underlying community organization (OFA 2000, 56).

In its response to the PF the petitioner also restated its position that the group's role in the process of enrollment for the Pembina judgment roll during the 1970's to the early 1990's

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demonstrated mobilization of significant number of its members, providing evidence for 83.7(c)(1)(i). However applications for enrollment for a claims payment were actions taken by individuals for the benefit of those individuals and did not provide evidence of group politics under 83.7(c)(1)(i). In comments on the PF, the petitioner asserted that since the council voted to allocate 20 percent of every member's award for the group's use, this indicated group purposes in the mobilization of significant numbers of members (Little Shell Response to the PF 2005, B &C 20th, 138-139). This argument does not provide evidence of mobilization of significant resources from its members for group purposes under 83.7(c)(1)(i) because it was a vote by the council, not by the members, and thus was not a mobilization of the members. The available evidence does not indicate that the council's actions were of significance to the membership or that they were in response to the desires of the membership.

In addition, the petitioner also cited a paragraph from the PF's technical report regarding the group's area representative system:

The area representatives played an important role in the change to statewide elections. The election committee appointed by the council in 1994 to prepare proposals for a revised election process was initially characterized as a committee of area representatives and was co-chaired by Darrell Koke (LSTCIM 6/18/1994). Koke had, prior to that time, brought some of the ideas being talked about by the area representatives to the attention of the council. One of the council members described the area representatives' reporting of membership complaints about the past elections as a major factor in the council's agreement to revise the system (C. Salois 1998a). The ideas were at least partly the result of meetings held by the area representatives in their areas (Thomas 1998). The 1994 election committee's notes of its July 12, 1994, meeting indicated that the committee anticipated that the area representatives would either hold area meetings or otherwise make contact with individuals in their area to discuss and find out the members' preferences about each of the issues concerning revising the election process. (LSTCIM 7/12/1994)

In its comments on the PF, the petitioner argued that the above quote provided evidence under 83.7(c)(1)(i): "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes"; and 83.7(c)(1)(iii): "There is widespread knowledge, communication, and involvement in political processes by most of the group's members" (Little Shell Comments on the PF, B&C 20th, 140).

The Department noted that the area representative system provided some evidence for political communication under criterion 83.7(c)(1)(iii) but only for portions of the petitioner's group. The Department does not accept the petitioner's claim that this quote provides evidence under 83.7(c)(1)(i) or (iii) for the group as a whole. In addition, absent from the petitioner's response is data indicating the extent to which the area representative system responds to the needs of a distinct Little Shell community.

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### 2000-2007: Political Processes

The petitioner submitted contemporary updates in its comments on the PF. In its discussion of criterion 83.7(b) the petitioner submitted community models and constructs as discussed above to address OFA's concern that the nature of the community the group's political activities emanated from and represented needed to be described. These models did not provide a valid explanation of community, nor did the petitioner demonstrate how they related to its political system. In its original submission, as well as in its comments on the PF, the petitioner claimed that kinship networks provided a foundation for its political activities (Franklin and Bunte, 1994, 42-43 and Little Shell Comments on the PF, B&C 20th, 60-61). Specifically, the petitioner claimed that the large size of extended families facilitated the spread of information both socially as well as geographically throughout the group. In its 2007 site visit, the OFA did find evidence that kinship connections among extended family members played a role in the election of leaders. It did not find that kinship networks facilitated the spread of political information throughout the entirety of the group. Neither did kinship networks generate political activity among a significant percentage of the petitioner's membership.

The petitioner submitted an update on the group's elections in 2000 and 2003 and the conflicts surrounding them. During the 2007 site visit, the OFA conducted interviews to verify information submitted since the PF as well as to assess the extent to which the overall membership was knowledgeable of its political leadership and activities.

### **Community Models and Politics**

While the petitioner did not specifically discuss the community foundations of its political system, it did suggest a model of community based on two "historic social core areas" with several "historic centers" within them (Little Shell Comments on the PF 2005, B & C 20th, 113-116). According to the petitioner, the two "historic social core areas" consist of the Front Range and Triangle Regions of Montana. The petitioner's "historic centers" consist of towns within the two regions where the petitioner's ancestors were claimed to have first settled in the beginning of the 1900's (Little Shell Comments on the PF 2005, B & C 20th, 113-116; see also the Petitioner's map entitled: "Little Shell Chippewa Communities in Montana 1880-Present"). The petitioner's model of community contains a number of methodological flaws including the following. The petitioner did not fully describe its ancestral population. While some of its ancestors may have lived in towns within the Front Range and Triangle Regions, the petitioner did not describe the other areas and members of the group who were living elsewhere in the first quarter of the 20th century. Based on its own analyses, the OFA found that the petitioner's ancestors were not only living outside of the areas the petitioner established as its "historic centers," but also elsewhere in Montana and Canada. See criterion 83.7(b) above. In addition, the petitioner did not demonstrate that its ancestors living in its "historic core areas" and "centers" were connected by social community interactions or with those outside the "centers" or "historic core areas." For an analysis of the petitioner's "historic social core areas" model, please see Appendix XIII.

In its comments on the PF, the petitioner did not relate its community model to the group's political organization and activities. No information was provided showing how political

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activities represented the interests of group members residing within “historic centers.” Neither did the evidence demonstrate how political ties or conflicts connected its two “historic social core areas.” This is in spite of the fact that the petitioner claimed that a significant number of its members were moving back into areas traditionally settled by the group (Little Shell Comments on the PF 2005, B & C 20th, 113-114).

In its comments on the PF, the petitioner also submitted another definition of community entitled the “Little Shell Community Group” (See criterion 83.7(b) above). The petitioner has not demonstrated how this construction of community is related to, underlies, or affects the group’s politics. As the model does not distinguish between time periods and combines the categories of ancestry with social interaction it is not possible to ascertain who the political players might be at given points in time.

### **Family Networks and Political Activity**

The petitioner has consistently claimed that from the historical period to the present kinship connections unite the group and are a means through which political information is disseminated both geographically and socially (Little Shell Response to the PF 2005, B & C 20th, 115). For example in discussing attendance at the 1927 meeting held by Joe Dussome in Hays, Montana, the petitioner stated: “Most of these 52 individuals have strong familial and geographic ties to the Highline and the Judith Basin sub-regions” (Little Shell Comments on the PF 2005, B & C 20th, 60). Likewise, in discussing the 1996 elections the petitioner again suggested the importance of kinship connections in affecting political representation throughout the group:

The slate was composed of Chairman: John Sinclair [663], Havre; 1st vice-Chair: Darrel Koke [1831], Great Falls; 2nd vice-Chair; Larry Salois [3513], Cut Bank, Sec/Treas: Caroline Fleury [56], Great Falls; Council: Alvina Allen [2216], Harlem, and Diann Grantham [1520], Billings. The slate represents a good cross section of the Little Shell community with ties to many Little Shell families. John Sinclair is was born and lives in Havre, presently the largest of the highline towns, and son of Former Chairman, John “Buddy” Sinclair now living in Helena. Darrel Koke grew up in Zortman and Malta of the central Highline and is a part of the Debray and LaFournaise network from Glasgow to Helena. Larry Salois is from Cut Bank and Browning with a large Front Range kin network. Caroline Fleury is a Trotchie with deep ties to the Highline; however, through her husband, Gilbert Fleury, she has ties to the Lewistown Fleurys and Swans. Both Koke and Fleury now live in Great Falls and both also maintain ties with James Parker Shields who gave them advice on campaigning, Alvina Allen is from Harlem, but her father was a Lewistown Gardipee and she also has ties to the large Doney network. Diann Grantham lives in Billings and is connected to the numerous Bishop kin network. Koke, Fleury, and Allen were already active in tribal politics. Koke was the first chair of the area reps and had previously been on the council. Fleury and Allen were current council members. Salois and Grantham were area reps for their respective areas.

(Little Shell Comments on the PF 2005, B & C 20th, 142-143).

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Note that as with the petitioner's "Little Shell Community Group" model, the petitioner has combined information on descent from an ancestor or ancestors during various time periods with supposed information on community and political action. Likewise in the case of the above quote, the petitioner is assuming that because an individual is involved in the group's politics, the rest of his or her extended family members are as well. The petitioner has not provided evidence to support this statement. The petitioner also describes members as having "deep" ties to a region because they were born there, and, or, had other current and past relatives there. However, in this case the petitioner has assumed community interaction based on descent and kinship connections rather than producing evidence that members of the group actually interact with each other in social and political contexts. As mentioned in the community section above, the petitioner submitted no new information on kinship reunions in response to the PF's request for such data, which might provide support for such an assumption.

During the 2007 site visit, the OFA noted that kinship does play a role in politics. For example the size, location, and interconnectedness of family networks to some extent affected the outcome of political activities such as voting and elections (John Gilbert Interview 2007; Bruce and Clyde Landry Interview 2007). According to one interviewee:

If you were going to have a meeting in Billings- a general election in Billings, I can guarantee you that at least three of my brothers will be elected because of how many members we have down there. It is no different in great Falls, Helena.... And Doney's and what is going on with our council now is more proof of that than anything. (Bruce and Clyde Landry Interview 2007)

One informant claimed that since the current Chairman John Sinclair was running the last election, and his family was in the area, he had a better chance of winning (Bruce Landry Interview 2007). That family members support their relatives who are running for office is clear from these interviews. However, the petitioner has not provided documentation that these kinship ties create community and political participation outside of voting family, which is only a limited tie.

Political conflicts among those individuals who are active in the group's politics frequently center on the topic of nepotism and family jealousy (Gilbert Interview 2007; Bruce and Clyde Landry Interview 2007; and Cheryl Doney Interview 2007). For example, complaints of nepotism occur when more than one member of a nuclear family holds a position on the council or among the area representatives. According to one interviewee, when this situation occurs council members are benefiting their own families and not the group (McGillis Interview 2007). While jealousy between leaders who come from different extended families occurs, the petitioner has not provided data indicating that a community at large is divided into competing segments or is even involved in political affairs.

### **Membership Knowledge of, and Participation in, Political Affairs**

#### *Elections and Meeting Attendance*

Since the publication of the PF in 2000, the Little Shell petitioning group has held two general

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elections in 2000 and 2004. A special election was held in 2003 as a result of controversies in the statewide 2000 election. The last election was a two-year council member election in 2006.

In its comments on the PF, the petitioner described the conflicts surrounding the 2000 election (Little Shell Comments on PF 2005, B & C 20th, 141-154). The 2000 election dispute centered, in part, on the incumbent council's refusal to step down. Subsequent meetings were conducted and a special election was held in 2003. These events provide evidence of conflict between individuals involved in the political process; however, the petitioner has not provided much evidence indicating the extent of knowledge and participation among the group's members.

The statewide election in 2004 also provides some evidence for conflict between individuals interested in the group's organization. Articles appearing in the group's "unofficial website" (Little Shell Tribe of Montana: An Unofficial Tribal Member website) demonstrate conflict surrounding the group's 2004 elections that involved alleged nepotism, inappropriate extension of the ballot deadline, and allowing an ineligible candidate to run for and sit upon the council. In a 2004 article entitled "Little Shell Tribal Election 2004," the website offers an online petition "To Convene Little Shell Arbitration Panel of Elders to Investigate and rule upon 2004 Tribal Council election board infidelities." The article listed 10 complaints regarding the election and requested that members send the signed petition to the group's council in Great Falls (<http://election2004.littleshelltribe.com/> downloaded on 8/20/2007). The unofficial website is conducted by a Little Shell member residing in Denver, Colorado, which demonstrates some out of state participation as well. However, the extent of political interest and participation by group members has not been demonstrated, as the petitioner has not submitted documentation as to how many people responded to this request for information.

In addition, the petitioner has submitted minimal evidence on election participation. The OFA received sign-in sheets from the 2000 general election indicating a list of 137 voters out of an overall population of roughly 4,000 members (including minors). While the percentage of voters is small, they did come from residences in the Triangle, the Front Range, and from out of state. A typed report for the 2006 council member election noted that polling places operated in Great Falls, Havre, Butte, Helena, Billings, and Browning. While voting attendance has not been well documented, there is evidence of some volunteerism in activities related to the voting process in traditional Little Shell cities and locations across the state and outside of the state as well (Little Shell Tribal Meeting 12/4/2006).

### *The Political Infrastructure and Council Activities*

Council meetings have been held consistently over the years with the exception of the period from 2003-2004 for which time the petitioner has not submitted meeting minutes. Recent meeting minutes from 2005 through 2007 indicate that the council has been actively involved in important issues for the group including federal recognition, economic development, and health. In recent years, the petitioner was successful in obtaining state recognition, and the support of Representative Denny Rehberg, who introduced a House bill in 2007 to acknowledge the Little Shell group through Congress. Other programs and activities discussed at recent council meetings include the development of the Little Shell License Plate and Logo, the Little Shell Tribal Princess Program, the Morony Park project, and buffalo meat distribution project. While

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the group's council and affiliated staff have been active in developing programs and generating public interest for the group, "random" phone calls made to members in Great Falls during the 2007 site visit indicated a lack of knowledge and interest on the part of members about these issues.

Based on 56 interviews conducted during 2007, the OFA found that since the publication of the PF, activities conducted by the petitioner's governing body have generated considerable conflict among some members who have been involved in the group's council. For example in its attempt to conduct group activities in a manner that it considers to be legalistically sound, the current council has been accused of being dictatorial, secretive (Louella Fredricksen and Caroline Fleury Interview 2007), and nepotistic (John Gilbert Interview 2007; Bruce and Clyde Landry Interview 2007). The conflict created by the current governing body's activities has generated interest by some members both affiliated with the current council as well as by group members in opposition to them. However, the group has not provided evidence indicating the involvement, concern, or knowledge of the general membership at large.

Since the publication of the PF, the structure and membership of the Little Shell council has expanded to include different types of personnel and programs that allow the group's council to take advantage of new economic opportunities. The group's political system (both formal and informal) includes a council (the governing body), area representatives, and a tobacco program which provides additional funding for the group. The group has elections for council members every two years and a general election for council officers every four years. At the time of the 2007 site visit the current council consisted of John Raymond Sinclair (Chairman), Ed Lavenger (2nd Vice Chair), Jessie Fuzesy (Secretary-Treasurer), and Council members Alvina Allen, Ronald "Cree" Doney, and Randy Randolph.

James Parker Shield was voted in as First Vice Chair in the 2006 election but resigned in January of 2007 along with Louella Fredricksen. Both resignations resulted from economic activities conducted by Shield and Frederickson which Sinclair felt did not conform to the group's business procedures (John Sinclair Interview 2007). Ronald "Cree" Doney and Randy Randolph were subsequently placed on as council members. The council's headquarter is located in a shopping mall in Great Falls. However the current council members (excluding those who resigned) are from, and reside in, the Highline/Triangle area. Additional personal include: Edna Teske (Current Enrollment Officer); Webmaster (Bruce Landrie); Toni Jo Atchinson (Tobacco Specialist); and, Dr. Russell Boham (Executive Officer). Both Atchinson and Boham work out of the group's office in Great Falls.<sup>52</sup>

The Tobacco Program includes tribal as well as county contractors. The state of Montana has included the Little Shell group along with the seven state reservations under the program. Atchinson runs three programs the Little Shell, the Billings Urban Indian Program, and the Great Falls Urban Indian Program. Through the program she is able to combine Little Shell group business with that of the tobacco program during meetings she holds in various cities in Montana. The percentage of group members involved in these programs has not been demonstrated. According to Atchinson, many questionnaires sent out to group members are returned as they no longer have the same addresses.

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<sup>52</sup> Both Atchinson and Boham's positions are salaried.

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During the 2007 site visit, the OFA collected sign in-in sheets from September meetings that Atchinson held in six cities across the state. The following are the numbers of Little Shell attendees: Helena (11); Butte (11); Great Falls (13); Browning (10); Billings (11); and, Havre (8). The areas, cities, and Little Shell members who attend Atchinson's meetings overlap to some extent with those of the traditional area representatives. While the geographic distribution of attendance for this event is widespread, the topic of the meetings involved the topic of Federal acknowledgment with no other local community topics discussed.

The council also retains an executive officer to obtain funding and carry out programs for the group. Some of these programs include: 1) the Northwest Area Foundation's Community Ventures, Opportunity Link, Poverty Reduction Organizations; 2) economic programs funded by the Montana State Tribal Economic Development Commission; and, 3) funds from the Montana State University College of Technology in Great Falls to conduct a project on their "tribal history."

The Executive Director of the group's council recently conducted two surveys. The first is a survey entitled: "Little Shell Community Needs Assessment Fall, 2006." The survey aimed at gathering social, economic, educational, and health information about members (Little Shell Community Needs Assessment Fall 2006). According to the report, "a total of 1500 surveys were mailed to tribal member households with a return rate of 27 percent for a total of 405 surveys returned." The survey aimed at generating interest in new possible benefits and programs but did not address community issues that exist among the membership.

For another survey entitled the "Tribal Cultural Resource Inventory, Fall, 2006," a total of 397 questionnaires were filled out and returned. The Executive Director for the group's council provided a list of members returning the survey. Their current addresses include both in and out of state members. In state members who returned the survey are from a broad range of locations across the state including Cut Bank, Black Eagle, Browning, Harlowton, Havre, Whitehall, Clinton, Polson, St. Ignatius, Shelby, Box Elder, Billings, Libby, Kalispell, East Glacier, Coram, Stevensville, Great Falls, Poplar, Hardin, Butte, and Glasgow, etc. This breadth of response indicates interest by members located in a wide range of locations; however, the questionnaire attempts to elicit information on interests rather than address any on-going internal community issues of importance to the group, and so is of limited value in demonstrating a bilateral political relationship between leaders and followers.

In 2007, the group's official Internet site was also an avenue through which members could interact with the governing body (<http://www.littleshelltribe.us>). In 2007 the site posted information of past events and listed up-coming ones. It also included a forum in which individuals could post interests and concerns. General information about forums is open to the public. Postings are listed as either being generated from the administration or from members and have an update on the number of times it has been viewed. On July 18, 2007, the OFA made note of the postings on the forum. Administrative issues included the topics of enrollment forms (299 times viewed); "Little Shell Tribe" Enrolled members privileges (viewed 738 times); Youth Crews needed (viewed 37 times); Powwow dates (viewed 64 times); "Bill signed to help tribe get recognition" (viewed 59 times); and, Fuel oil program praised (viewed 36 times). On the same date of July 18, 2007, the group's official website also included postings from

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members. Some of the topics posted by members included blood quantum (viewed 74 times); “Thanks L. S. Members Fun Night” (viewed 72 times); and “other tribe’s behavior: work it out.” While the internet site does indicate some interest in the group’s activities and issues, it is not clear if the numerous postings were from the same or different individuals. The group’s official internet site does not provide significant evidence of knowledge and involvement by most of the group’s members.

An Unofficial Internet Site is run by a Little Shell group member currently living out of state (<http://www.littleshelltribe.com>). The unofficial site posts controversies regarding Little Shell political and other events such as the 2004 election dispute listed above. While the content of the site indicates some group knowledge of leaders and conflict, the group has not provided data indicting what portion of the members know about and read the website.

### *The Area Representative System*

It its comments on the PF the petitioner claimed that the area representative system is still significant (Little Shell Comments on the PF 2005, B & C 20th, 140). However, at present, the area representative system no longer has an official chairman who votes at council meetings. According to Chairman John Sinclair, the area representative system is cumbersome and difficult to maintain since the area representatives do not get paid and the cost of gasoline is expensive (John Sinclair Interview 2007). The OFA interviewed area representatives from the Highline, Front Range and Billings and found that they did provide some representation for group members in different areas of Montana. As in the past, the position is informal relying on volunteer activities such as making phone calls to remind people of meetings and elections and contacting members by computer regarding current issues. However, no area representatives discussed evidence or provided documentation of holding group meetings. The petitioner provided no evidence indicating that the area representative system has remained viable as it was in the past.

### Summary of the Evidence for Criterion 83.7(c)

The PF concluded that the petitioner had maintained political influence over its members as an autonomous entity since historical times while specifying several contemplated departures from acknowledgment precedent and requesting comment on whether such contemplated departures from precedent were consistent with the regulations. As discussed above, this FD concludes that the PF’s proposed departures from precedent under criterion 83.7(c) were inconsistent with the language, the requirements, objectives, and intent of the regulations that require a demonstration that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. The proposed departures were not ratified by subsequent decisions and were proven not to be warranted by subsequent analysis and research. The petitioner’s response to the PF does not present any argument based on professional methodology in history or anthropology that would adequately justify the proposed finding’s departures from precedent. When considered against the plain language of the regulations, the intent of the regulations, regulatory standards of proof, and precedent established in other findings, the PF’s proposed departures from precedent cannot be justified.

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This FD concludes that the available evidence is insufficient to show that the petitioner meets criterion (c). Although there is some evidence that some of petitioner's ancestors were in political relations at various time periods, such as some ancestors in the Pembina area in 1851 and 1863, and some in dispersed Métis settlements along the Red River in the United States and Canada, and some under Dussome or Gray, or since 1955, there is no available evidence that these various political relations continued from a group or groups that left the Pembina Band and subsequently amalgamated to become the petitioner, which is necessary to find political continuity from historical times to the present as required by criterion 83.7(c). Further, without a description of the group, it is not possible to determine if the available evidence encompasses most of its members as required under the regulations.

Since the proposed finding, the petitioner submitted additional documentation that indicates that its ancestors were quite dispersed even before the treaty negotiations with the federally recognized Pembina Band in 1863. Therefore, this FD reviews evidence submitted by the petitioner since 1850.

The available evidence is insufficient to show that the petitioner exercised political influence or authority over its members from 1850 to 1880. The evidence did not reveal political continuity from a historical Indian tribe during this period. Most of the petitioner's ancestors were portions of various Métis settlements along the Red River in Manitoba and North Dakota. The available evidence showed these Métis settlements had political leaders and systems separate from the historical Pembina Band of Chippewa Indians that inhabited the area. While some of the petitioner's ancestors provided limited forms of leadership within some of these settlements, there was no available evidence that the ancestors in these various settlements moved as a group or groups from the Pembina Band, or that they left the various settlements as a group(s) that later amalgamated into the petitioner, which is necessary to find political continuity from historical times to the present. There was no available evidence that the ancestors constituted an autonomous political group that later evolved into the petitioner in Montana or elsewhere. Rather, there is evidence that these ancestors arrived at these settlements in an individualistic process, and that many of the petitioner's ancestors who resided in these Métis settlements before 1880 later dispersed in a gradual, individualistic migration process that brought them to new settlements throughout the northern plains. The available evidence did not demonstrate the petitioner's ancestors maintained any significant form of group leadership, formal or informal, as part of these new settlements. Thus, the available evidence does not demonstrate the petitioner met the requirements of criterion 83.7(c) before 1900.

From 1900 through 1930 the petitioner claimed that group members were under the authority of both Turtle Mountain leadership as well as local leaders located in both the Front Range and Highline regions of Montana. There was insufficient evidence to support these claims. The petitioner's claimed political ties to Turtle Mountain were based on the receipt of allotments by some of the group's ancestors. Information on local leadership in Montana consisted of a limited number of descriptions of a few local Métis leaders located in Highline and Front Range communities.

In comments on the PF, the petitioner submitted additional information on allotments for 233 individuals it claimed were part of its "Little Shell Community Group" during this period, and

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that this group was in bilateral political relations with the Turtle Mountain Band. However, the Department did not consider this submission to supply adequate evidence of political influence for the following reasons. First, of the group's claimed allotment recipients, only 39, or 17 percent of the 233, have descendants in the modern membership. Second, the number of group members who received allotments was a small percent of the estimated size of the Little Shell group at the time. Third, a large number of allotment holders were living outside of Montana at the time of their receipt of them, indicating they were not part of a group of the petitioner's ancestors in Montana. And fourth, the petitioner did not provide documentation indicating that the rest of its ancestors viewed themselves as being under the political control of the Turtle Mountain Band or vice versa, or otherwise associated with these allottees in a political system.

In comments on the PF, the petitioner submitted additional information on alleged local leaders it claimed served as job brokers from the 1900's through the 1950's, but the Department's investigation did not find evidence that the group's ancestors functioned as "job brokers" for the group. While a few local Métis leaders living in the Front Range and Highline did obtain work contracts, interviews indicated that these individuals did not specifically hire other Little Shell group members. In addition, based on interviews it conducted in 2007, the Department found that there was no evidence to support the petitioner's claim that Little Shell ancestors who obtained labor contracts withheld a portion of their work crew's salaries for group activities. Nor was there evidence that they punished crew members who misbehaved as was suggested by the petitioner. The evidence from the interviews did not indicate how "job brokers" were supposedly tied to each other across regions. Nor did the evidence indicate if "job brokers" were connected to leaders at Turtle Mountain, or if this activity involved a significant number of members, or widespread knowledge and communication.

While the petitioner claimed that Joe Dussome was the leader of its first formal political organization in 1927, the OFA requested information to show that this organization encompassed the petitioner's ancestors across regions. It also requested that the petitioner provide evidence of how Dussome's political activities involved the members as a whole. In its comments on the PF, the petitioner claimed that Dussome had interregional support based on the fact that six of the 51 attendees at the organization's 1927 meeting were from the Front Range. In analyzing the petitioner's data, the Department found that none of the six individuals or their spouses was living in the Front Range at the time of the meeting. Most were part of the Doney family from the Highline or intermarried with them.

During the middle 1930's, a second organization claiming to represent the Landless Chippewa Cree Indians of Montana developed in competition with the Dussome organization. This group was lead by Raymond Gray whose supporters came mostly from the Front Range. Without a clear description of the Little Shell community at this time as well as in earlier periods, it was not clear the extent to which these organizations represented two political factions within the same group or were political organizations representing two different populations and or communities. In its comments on the PF, the petitioner claimed that it could use 83.6(e) of the regulations, which states that evaluation of petitions shall take into account fluctuations in tribal activity in demonstrating political authority, as an explanation for a lack of political process. The petitioner did not demonstrate this claim because the petitioner did not provide evidence of political influence and authority up to the 1950's. In addition, the petitioner has not provided sufficient

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evidence to demonstrate community and thus does not satisfy criterion 83.7(c) for this period.

From the period of the middle 1950's through the publication of the PF in 2000, the petitioner provided evidence of a unified political organization that extended to a substantial portion of its membership. However, as with the previous period, without a description of the group's community, it was not possible to determine that the group's political organization represented the entire community and thus whether its activities were of importance to most of its members. The petitioner provided models of its overall community organization. The Department did not find that these models provided either evidence for community or of a relationship between the petitioner's political system and a community or set of sub-communities. Thus, there is insufficient evidence to demonstrate political influence and authority, 83.7(c), for this period.

For the FD, the petitioner provided further updates on conflicts surrounding the group's elections and political leadership. While the evidence showed some conflict among opposing political leaders, it did not show active participation or widespread knowledge of political activities among a significant percentage of the membership. In addition, the evidence did not demonstrate that the council voting to allocate 20 percent of the Pembina Judgment award to the group if it received Federal acknowledgment was a form of group mobilization, as the simple act of voting by the council does not show group mobilization under the regulations.

For this criterion, using the reasonable likelihood of the validity of the facts standard, the Department finds that the petitioner does not meet criterion 83.7(c).

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**Criterion 83.7(d) requires**

**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.**

The PF found that the petitioner satisfied the requirements of criterion 83.7(d) by submitting a copy of its 1977 constitution and a 1987 resolution which clarified the membership criteria in Article V of the constitution. The petitioner did not submit any new evidence concerning the governing document or its membership requirements.<sup>53</sup>

This FD affirms the PF's conclusion that the Little Shell petitioner satisfied the requirements of criterion 83.7(d).

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<sup>53</sup> The current leader of the group discussed the issue of lowering the blood degree requirement to 1/8 Indian blood if a parent was a member, during the oral interviews conducted in preparation for the FD; however, the petitioner did not submit any resolutions concerning an official change in the group's blood degree requirements. The Federal acknowledgment process does not require a minimum degree of Indian blood, but requires descent from the historical tribe. See the section on potential membership in this FD for additional information.

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### Criterion 83.7(e) requires that

**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. . . .**

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

### Introduction and Definition of the Historical Indian tribe

The overview of the Little Shell PF stated:

The evidence shows that a substantial portion of the petitioner's members have ancestry from either the historical Pembina Band of Chippewa prior to a treaty of 1863, or from a successor, the Turtle Mountain Band. . . . The petitioner is a combination of historical Métis groups. (Little Shell PF 2000, Summary, 4)

In defining the historical Indian tribe, the Little Shell PF also stated that the treaties with the Pembina and Red Lake Bands in 1863 and 1864 "and the subsequent annuity lists of the recipients of the benefits of those treaties revealed the members of the Pembina Band in that era" (Little Shell PF 2000, Summary, 37). Statements in the PF technical report provided additional information on the composition of the historical Pembina Band:

The Pembina Band of Chippewa emerged in the early-19th century as a band associated with the trading post at Pembina on the Red River. The Pembina Band was recognized by the United States in treaty negotiations in 1851 and 1863, although only the 1863 treaty was ratified by the Senate. At that time, however, the Government's negotiators did not consider the Métis to be a part of the Chippewa tribe, and did not negotiate with them. (Little Shell PF 2000, TR, 4)<sup>54</sup>

The PF stated that the 1880 General Land Office Report (GLO 1880, herein referred to as the

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<sup>54</sup> The OFA recommendation stated that "the available evidence does not show the extent to which the petitioner's ancestors were a part of Indian tribes, rather than only being descended from Indian-European marriages (OFA 2000, 4). And, "whether or not the Métis relatives of the Chippewa actually were a part of the Pembina Band, or were affiliated with it, the United States at that time did not recognize those Métis to be legitimate members of the federally recognized treaty tribe" (OFA 2000, 10).

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McIntyre Report) identified individuals “. . . who had received treaty scrip as an American ‘mixed-blood’ relative of the Pembina Band under the provisions of the treaties in 1863 and 1864.”<sup>55</sup> Therefore, “[t]hese scrip recipients were descendants of someone who had been a member of the band at a time prior to the treaty” (Little Shell PF 2000, TR, 3).<sup>56</sup> The PF accepted that descent from the historical Indian tribe could be traced through scrip recipients because they had an ancestor who was a member of the pre-treaty Pembina Band. This FD follows that same reasoning. However, the record for the FD also shows that some scrip recipients had received annuities or had living parents who received annuities. Thus, some of the scrip recipients were not only descendants from the Pembina Band in an earlier generation, but were also identified as members by their appearance on the annuity lists.<sup>57</sup>

Therefore, for the purpose of determining descent from the historical Indian tribe for this FD, the Department considers the records of the treaty negotiations and the subsequent annuity lists as evidence of the composition of the historical Pembina Band of Chippewa Indians in the treaty era. Members of the historical Pembina Band were identified by the annual Pembina Band annuity lists from 1864 to 1874.

Descent may also be traced using evidence in additional sources which themselves do not identify members of the historical Indian tribe. Two such sources were the Lake Superior Chippewa treaty schedules, including those for the Pembina and Red Lake Chippewa Bands,<sup>58</sup> and the 1880 McIntyre Report on scrip recipients discussed above and in the PF. The McIntyre report identified Pembina and Red Lake scrip recipients, and the Red Lake and Pembina Band Treaty Schedules (B, L, and N) identified the heads of families or single persons over 21 at the time of the treaty who were “of mixed-blood” of the Pembina Band. The Chippewas of Lake Superior Treaty Schedules (A, C, D, E, F, G, K, and M) identified many of the petitioner’s

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<sup>55</sup> In 1879, the Secretary of the Interior appointed Special Agent C. W. McIntyre of the General Land Office to investigate allegations of the fraudulent issue of scrip under the 1863 treaty with the Pembina and Red Lake Chippewa. The Secretary confirmed that “the issuance of scrip should be limited to the mixed bloods residing with the Red Lake and Pembina Indians at the date of the treaty who were connected with them by blood, and that mixed bloods of all other bands or tribes and all such as were foreign born, should be excluded” (McIntyre 1/3/1880). To accomplish this task, McIntyre, also aided by knowledgeable informants, identified the individuals by name (including some aka or dit names), residence, age, and family relationships, to determine whether the scrip recipients were “good,” “entitled,” “bad,” or “doubtful” (McIntyre 1880).

<sup>56</sup> The recommendation stated “Because these mixed-blood relatives of the treaty band were descendants of someone who had been a member of the band at an earlier time, the petitioner’s members who descend from men who received treaty scrip as a relative of the Pembina Band therefore descend from a member of the band in a generation earlier than the treaty” (OFA 2000, 66).

<sup>57</sup> For example, Charles Azure (b. 1841) received annuities in 1868 and was listed as #325, “good” on the 1880 McIntyre Report of scrip recipients. His father, also named Charles Azure, received annuities in 1868, possibly in 1872, and was scrip recipient #325 on the 1880 McIntyre report and “good.”

<sup>58</sup> Between about 1865 and 1874, the Secretary of the Interior appointed commissioners, who were aided by knowledgeable informants, to determine which Chippewa Indians had rights to land and “land-scrip” under the Lake Superior Chippewa treaties, including those with the Pembina and Red Lake bands. The Department published results of the investigations in 1872 and 1874 in a series of “treaty schedules” that identified the claimant’s name, their place of residence, and remarks about the claimant’s family relationships, age, if from the Red River Settlements in Canada rather than a U.S. Indian, or if the claimant was already a beneficiary under another treaty.

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ancestors who applied for scrip under the provisions of the Lake Superior treaty, but were “rejected” as eligible for Lake Superior Chippewa scrip because they were identified by the knowledgeable informants as “Pembina mixed-bloods.” The treaty schedules were published in the Commissioner of Indian Affairs reports in 1872 and 1874. In its analysis for the FD, OFA used these records in conjunction with evidence from the Federal censuses, parish records and other contemporary records to provide verifications of the “mixed-blood relatives,” who had an ancestor who was a member of the Pembina Band.

### Summary of the Proposed Finding and Departures from Precedent

Under criterion 83.7(e), the Little Shell PF concluded that “the evidence establishes a reasonable probability that a strong majority of the petitioner’s members descend from individuals with Pembina Chippewa ancestry” (Little Shell PF 2000, Summary, 44). The “strong majority” referred to was 62 percent. The PF’s evaluation of descent from the historical Indian tribe was based on a total membership of 3,893. The PF found that about 48 percent of the membership (1,875 of 3,893) “could trace their ancestry back to the Pembina Band of Chippewa and its related Métis families or to its successor” [i.e. one of its successors, the Turtle Mountain Band of Chippewa Indians] (Little Shell PF 2000, Summary, 43). Of this total, thirty-three percent (1,293 of 3,893) descended from one of the treaty signers in 1863 or 1864, annuitants in 1864, or scrip recipients in 1880 on the McIntyre Report. The other 15 percent descended from an ancestor who was identified as a Turtle Mountain Chippewa in 1890, 1892, or by the 1906 Chippewa’s family history books. The PF also stated that “[i]f Pembina ancestry is assumed for the Chippewa element of the Chippewa at Rocky Boy’s Band of Chippewa-Cree, as was done by the Indian Claims Commission and by the Bureau of Indian Affairs in preparing the 1994 judgment roll,” then another 14 percent of the petitioner’s membership could be included as individuals of Pembina Band Chippewa descent, yielding a total 62 percent.<sup>59</sup> The PF summary under the criteria accepted the conditional “if” regarding the Pembina ancestry of Rocky Boy’s Chippewa element and performed calculations for the total descent from the historical Indian tribe based on this presumption while instructing the petitioner to provide the evidence to validate the presumption.<sup>60</sup>

The PF found that the petitioner did not submit genealogical charts for about 900 new members on the 1987 and later lists or sufficient evidence to count them as “members who have descent from the historical tribe” (Little Shell PF 2000, Summary, 44). These individuals were new

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<sup>59</sup> The Little Shell PF technical report section on the “Indian Claims Commission Awards, 1964-1994” provided detailed analysis of the awards for lands ceded by the Pembina Band and the compilation of the subsequent judgment rolls (Little Shell PF 2000, TR, 156-161). Also see the description of the relationship between the individuals on the 1994 judgment roll and the petitioner’s membership lists (Little Shell PF 2000, TR, 230-231). The TR concluded that about 38 percent of the LS petitioner’s members were on the 1994 judgment roll (Little Shell PF 2000, TR, 231).

<sup>60</sup> The Little Shell PF technical report stated the conditional “if Pembina ancestry is assumed for the Chippewa element at Rocky Boy’s” an additional 14 percent of the membership “could be included as individuals of Pembina Chippewa descent” (Little Shell PF 2000, TR, 232-233). See the discussion of how the BIA identified, for purposes of the judgment awards, the Chippewa Cree Tribe of Rocky Boy’s Reservation, as a tribe with some enrolled members who were descendants of the 1863 Pembina Band (Little Shell PF 2000, TR, 158-159).

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members on the 1987 list or on the 1990, 1991, or 1992 supplemental lists. The PF stated that it was possible that “a significant number of these individuals also descended from ancestors with established Pembina Chippewa descent” (Little Shell PF 2000, Summary, 44). However, the record for the PF did not demonstrate their relationship to someone who descended from the historical Indian tribe.

The PF also referred to the group’s “ability to trace one’s ancestry to the Roe Cloud Roll of unenrolled Indians, which was prepared by the BIA in 1938 and approved in the 1940’s” as evidence the group uses for demonstrating descent from the Pembina Band (Little Shell PF 2000, Summary, 37). The PF stated that 66 percent of the petitioner’s members are either on the Roe Cloud Roll themselves or direct descendants of someone on it and that another 11 percent are “closely related” to someone on it (Little Shell PF 2000, Summary, 37). The PF concluded that the Roe Cloud Roll was not a tribal roll and did not identify members of a historical Indian tribe, but stated that “the Department finds it did identify a significant portion of the petitioner’s ancestors as half-blood Indians of Chippewa-Cree descent” (Little Shell PF 2000, Summary, 37).<sup>61</sup>

The Little Shell PF also accepted the petitioner’s claim that “its members derive from” the Turtle Mountain Chippewa, and “its immediate precursor group, the Pembina Chippewa Tribe” and “ultimately from the Red River/Pembina Chippewa Métis aboriginal community that made up the majority of the historic Pembina and the historic and present day Turtle Mountain Bands” (Franklin 1995, 2 *in* Little Shell PF 2000, Summary, 41). The PF stated there was “some support for the petitioner’s contention of the existence of a historical Chippewa-Cree tribe” by linking the petitioner’s ancestors who were identified as Cree in the 1880 scrip or other records with a statement that “the records show some marriage between Pembina Chippewa or their Métis relatives and the Cree or Cree-Métis at Pembina, as well as at the Red River Settlements in Canada and later in Montana (Little Shell PF 2000, Summary, 41).<sup>62</sup>

The PF’s overview of the Little Shell petitioner provides some background for understanding its findings that the petitioner met criterion 83.7(e):

The evidence shows that a substantial portion of the petitioner’s members have ancestry from either the historical Pembina Band of Chippewa Indians prior to a treaty of 1863, or from a successor, the Turtle Mountain Band. The petitioner asserts to have its origins in a Chippewa band which had been led by a succession of three hereditary chiefs, all known as Little Shell. The petitioner is a combination of historical Métis groups. Before 1870, many of the petitioner's ancestors were part of the Métis populations along the Red River of the North at the Red River Settlement (now Winnipeg) in Canada and at Pembina and St. Joseph in North Dakota. These Métis populations of the mid-19th century were

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<sup>61</sup> The history behind the creation of the Roe Cloud Roll as a list of “half-blood” Indians who might be eligible to organize under the provisions of the 1934 Indian Reorganization Act is explained in more detail in the Technical Report (Little Shell PF, TR, 99-107).

<sup>62</sup> The OFA recommendation stated “there is no evidence that references to Cree ancestry were synonymous with Chippewa-Cree or with Pembina Chippewa” (OFA 2000, 64).

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described by contemporary observers as socially and culturally distinct from both the European settlers and tribal Indians in the same area, but also as being related to and sometimes acting together with Indian tribes. In the early 1890's, some ancestors were listed on censuses of the Turtle Mountain Band. (Little Shell PF 2000, Summary, 4)

This summary statement links evidence about the petitioner's ancestors identified at the time of the PF with statements about the historical Pembina Band, the Turtle Mountain Band, the general the Métis population in the Red River Settlements in Canada, and Métis populations in Montana to support the PF's claim that "strong majority of the petitioner's members descend from individuals with Pembina Chippewa ancestry" (Little Shell PF 2000, Summary, 44).

As discussed above in the section titled "Summary of the Proposed Finding and Analysis of Departures from Precedent," the Little Shell PF's contemplated departure from precedent in proposing that 62 percent of the LS membership who showed descent from the Pembina Band satisfied the criterion for descent from the historical Indian tribe had not been applied by the Department to any previous or subsequent acknowledgment finding. It is not adopted here. New evidence submitted in response to the PF now links the petitioner's membership at the time of the PF with descendants of the historical Indian tribe. Based on the evidence in the record for the FD and the application of professional genealogical research standards, the Department finds that about 89 percent of LS petitioner's members (3,865 of 4,332) descend from at least one ancestor who was a descendant of the historical Pembina Band.

### The PF's and OFA's Advice to the Petitioner

The PF suggested that the petitioner locate other annuity lists and Turtle Mountain censuses that may have included some of their ancestors, as well as verify descent from other men named on the 1880 McIntyre Report as ways of documenting Pembina Band ancestry for the petitioner's members who had not demonstrated descent from the historical Indian tribe (Little Shell PF 2000, Summary, 42, 44; OFA 2000, 60). The OFA subsequently provided the Little Shell petitioner with considerable technical assistance on how to strengthen its case. OFA also informed the group that no other petitioner for acknowledgment as an Indian tribe had met criterion 83.7(e) with less than 80 percent of the membership demonstrating descent from the historical Indian tribe.

OFA also advised the petitioner to update its membership list to include all new members who were not on the membership lists reviewed for the PF (Little Shell PF 2000, Summary, 41, Fleming 11/1/2005). The letter summarizing an October 2005 teleconference advised the group to "do the best you can in providing the correct current residential addresses, and identifying those with the last known addresses" after noting that the petitioner stated it was having difficulty in getting the residential addresses or getting the members to respond to your requests to update their records (Fleming 11/1/2009). For the 900 individuals who were lacking evidence connecting them to their ancestors at the time of the PF, OFA advised the petitioner to provide ancestry charts and genealogical evidence. These ancestry charts and supporting evidence were required in order to document the new members' descent from their ancestors on the Roe Cloud

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Roll (identified in the LS governing document as evidence of descent) and ultimately from the historical Pembina Band (OFA 2000, 60, 69).

The Little Shell PF technical report provided information concerning the origins of some of petitioner's ancestors on the Roe Cloud Roll, by stating that some were descended from men who were listed in McIntyre's 1880 report, but that at the time of the PF it was not known "whether Roe Cloud applicants or their ancestors were on any of the annuity payment lists for the treaty with the Pembina Band" (Little Shell PF 2000, TR, 106). The Department also advised the petitioner that

There is no available evidence that a Cree or Cree-Métis element along the Red River had a bi-lateral relationship with the Pembina Band of Chippewa. However, there is evidence from the Pembina county census of 1850 and the treaty scrip list of 1880 that some Cree and other Indians married Pembina Indians or Pembina Métis prior to the treaty, as well as in later generations. (OFA 2000, 63)

This evidence alone, however, was not sufficient to demonstrate descent from the historical Indian tribe. Thus, Roe Cloud Roll applicants and others, such as some of the Rocky Boy's descendants who identified themselves as "Chippewa-Cree" or "Cree-Chippewa," would also need to demonstrate descent from the historical Pembina Band.

### The Petitioner's Comments on the PF

The Little Shell petitioner submitted new membership lists and a new genealogical database to illustrate its members' claims of descent from the historical Indian tribe. The petitioner also included substantial new evidence to support those claims. This section summarizes the petitioners' evidence concerning criterion 83.7(e) and the Department's analysis of that evidence.

### **The Petitioner's New Membership Lists**

The petitioner submitted a response to the PF in February 2005 that included a new membership list separately certified by the governing body on February 3, 2005 (LS Enrollment List 1987-2000). This list included the names, membership numbers, and addresses of 3,973 members; however, many of the addresses were post office box numbers rather than the required residential addresses (83.7(e)(2)). The most recent membership numbers had been assigned in 2000, not 2005, indicating the petitioner had not regularly updated the membership list, or had not included all new members. Also, this list did not include any birth dates for the members and only a few maiden names, also required by the regulations (83.7(e)(2)). The Department notified the Little Shell petitioner of these deficiencies and asked for an updated membership list with all of the required elements (Fleming 4/20/2005). The petitioner's response to the PF also included a "Deceased List March 2006" report with the names, birth dates, membership numbers, and death dates for 483 persons. The petitioner also submitted a report with the identification number, name and reason for being "disenrolled." Of the 51 names on the list, 26 were listed as "dual

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enrollees” and 27 were listed as “disenrolled” without explanation.

The Department received a separately certified membership list in paper and electronic formats dated July 18, 2006.<sup>63</sup> It listed 4,336 names, bearing enrollment numbers “87LS” through “2005LS.” It thus included the members at the time of the PF as well as members who were enrolled as recently as 2005.<sup>64</sup> There were 730 individuals added to the membership list with numbers from 2000 to 2005(LS Enrollment List 1987-2000).

### **The Department’s Analysis of the Certified Membership**

The certified July 18, 2006, membership list identified 4,336 members and included all of the required elements, with the exception of about 1,100 cases where the only address was a post office box number or general delivery address rather than a residential address. The individuals on the deceased and “disenrolled” lists were not on the certified membership list. The Department found four instances where the same individual was listed twice, and after eliminating the duplicate entries from its annotated membership list, the Department determined that there are 4,332 living members represented on the July 2006 certified membership list. The Department’s analysis in this report is based on its determination that there are 4,332 members in the group.

The Department made an electronic copy of the July 2006 membership list and merged it with the information from the membership list that the Department had annotated for the PF. The Department then continued to annotate its copy with additional information found during the verification process (OFA Annotated List 7/11/2008).

The petitioner also submitted a report dated February 2, 2005, identifying “Pending Enrollment 2005” with the names and membership status of 118 applicants. The report included comments that identified each individual as “not eligible-no Chippewa” (1 name), “not eligible-lacks blood degree” or similar comments: (17 names), “needs more research” (22 names) “not eligible 1/8 no parent enrolled” or “no parent enrolled” (7 names), “enrolled with Turtle Mountain” (1 name) or “enroll” (70 names). The Department found that 67 of the names from the February “Pending Enrollment 2005” list were issued membership numbers dated 2005 and appeared on the July 2006 certified membership list. Three of the individuals added to the membership list had the comment “needs more research” and one of the new members had “not eligible-1/8 no parent enrolled” in the comment field on the pending list.<sup>65</sup> Seven names noted as eligible to enroll in

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<sup>63</sup> The certification was signed by the chairman, three officers, and one council member. The secretary/treasurer signed as proxy for two other council members. This certified membership list bore the heading, “Official Enrollment of the Little Shell Tribe of Chippewa Indians of Montana Total Current Enrolled Members 4,336 on March 1, 2006.”

<sup>64</sup> There are 10 individuals on the membership list who were born between 1900 and 1905 (over 100 years old in 2006) and 46 other individuals born between 1905 and 1915 (over 90 in 2006) when the July 2006 list was certified. While it is entirely possible that several members reached these advanced ages, it is also possible that some deaths were not reported to the LS petitioner.

<sup>65</sup> It is not clear that the petitioner is uniformly applying its requirement of having 1/4 Indian blood as part of the eligibility requirements. Several of the 50 sample membership files reviewed for the FD, (see following section) noted the applicant/new member’s blood degree was 1/8, 17/128, or some other degree less than 1/4. The

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2005 were not on the July 2006 list.

The July 2006 membership list showed 202 members with roll numbers dating from 1996 to 1999. These appear to be the “over 200 pending applications” discussed in the PF (Little Shell PF, 36). Another 730 names were added between 2000 and 2005. Of the 932 new members, 400 had at least one parent on the 1987 membership list (13 new members have both parents on the 1987 list). Another 203 of the new members had at least one parent who also enrolled between 1987 and 2005, but no parent on the 1987 list. There are about 40 names on the current membership list that do not have parents’ names or other information to connect them to a previous generation in the FTM or to other names on the membership list. The remaining 289 new members did not have a parent on one of the previous or current membership lists.

### **The Petitioner’s Genealogical Evidence for Descent from the Historical Indian Tribe**

The Little Shell petitioner submitted a report in February 2005 called “Criterion (e): Descent from an Historical Indian Tribe” that “summarized the evidence and analysis of the data that the Little Shell Tribe is using to document ancestry to the Pembina Band of Chippewa.” The introduction to the petitioner’s report “defines who counts as an ancestor and why we count these individuals as ancestors of modern day Little Shell members.” The petitioner’s report used the 1854 Lake Superior Chippewa Treaty (La Pointe Treaty) and 1863 Pembina and Red Lake Bands treaty schedules, the McIntyre report, and Pembina annuity rolls to document the Pembina Chippewa ancestry of its members.

The LS petitioner also submitted its genealogy in electronic format in a computer program called The Master Genealogist™ (TMG). The TMG database included the information the Department compiled in electronic format for the PF and considerable new information gathered by the petitioner’s researchers for the FD. The notes and “fact fields” in this database included citations to or transcriptions of baptismal, marriage, and burial records from various churches in Pembina, North Dakota; in Montana; and in the Canadian parishes (primarily in the Red River area) where the petitioner’s ancestors lived. The petitioner’s genealogical database also included many new names and family connections that were not in the record for the PF (LS Comments on PF TMG Cda).

### **The Petitioner’s Evidence from Annuity Lists, the McIntyre Report, and Treaty Schedules**

The LS used evidence from annuity lists that were not available for the PF to identify ancestors and their siblings. Individuals listed as treaty annuitants were included in Chart 1 and Chart 2 of the petitioner’s report.

The petitioner stated,

BAR stated in the PF that it may be possible for LS to identify other ancestors in

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acknowledgment process does not require a minimum Indian blood requirement, but the LS petitioner’s governing document and resolutions clarifying membership enrollment practices state there is a 1/4th Indian blood requirement (Little Shell PF 2000, TR, 221-222). The petitioner did not submit additional resolutions or other evidence of an official change in the enrollment requirements.

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the annuity rolls from the 1860's to the 1880's (PF 2000, 27). Under the provisions of the 1863 treaty, annuity payments were to be made for 20 years. LS identified 17 direct ancestors on the annuity lists and 33 ancestors who were siblings of individuals on the annuity lists. (Little Shell Comments on PF 2005, Criterion E, 7)

The LS petitioner submitted photocopies of annuity lists of the Pembina Band for 1865 and 1868-1874.<sup>66</sup> The lists included the names of “Chiefs, Warriors, Heads of Families, and Individuals Without Families of the Pembina Band of Chippewa Indians within the Chippewa Agency” (Pembina Band Annuity Roll 1865, 2). Most of the individuals were identified by their Indian names; however, many of the Indians and the “mixed-blood relatives” on the list were identified by European-style names that were also found in the petitioner’s ancestry.

The 1865 and 1868-1874 annuity lists constituted new evidence for this FD. The lists identified the head of family by name and the number of males, females, and children per family. Although these lists did not name everyone in the family, the number of males, females, and children in each family helped to distinguish among families of similar or the same names and provide evidence that a father and adult son of the same name were both on the list as heads of families.

The petitioner also submitted other new evidence about the Pembina Band annuitants found in a book about the Turtle Mountain Band of Chippewa compiled by Gail Morin, who was the petitioner’s lead genealogist for preparing the genealogical evidence for the response to the PF.<sup>67</sup> Morin extracted information from the various annuity lists and Indian censuses, such as the Devils Lake Sioux and Chippewa and Turtle Mountain Band of Chippewa, and the “Turtle Mountain Indian and Mixed-Blood Census” enumerated by McCumber in 1892, and organized the data in chronological order under the name of the individual to whom it applied (Morin 2000). The petitioner listed 22 individuals [the petitioner identified only 17, OFA identified 5 others] on Chart 1 who received annuities and 33 individuals on Chart 2 who had a sibling who received annuities.

The petitioner cited treaty schedules for “Chippewa Half-Breeds of Lake Superior” in House Executive Document 193, 42nd Congress, 2nd Session to identify individuals with Pembina ancestry. That document has lists of applicants for scrip under the provisions of the 1854 Lake Superior Chippewa Treaty (La Pointe, Wisconsin) and the 1863 Pembina and Red Lake Treaty (Old Crossing) and the 1864 supplementary treaty with the Pembina and Red Lake Indians. Treaty Schedule B specifically lists applicants under the 1863 Pembina and Red Lake Treaty (Little Shell Comments on PF 2005, Criterion E, 2). The petitioner states it “is using the identifications as “mixed-blood of the Pembina band” or similar identification in a treaty schedule—no matter the actual treaty for which the individual is applying—as legitimate

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<sup>66</sup> The 1864 Pembina Band annuity list was in the record for the PF. OFA identified five other individuals on Chart 1 who were among the Pembina annuitants.

<sup>67</sup> Gail Morin, *Turtle Mountain Chippewa Pembina Band Annuity Payments 1865, 1868, 1869, 1870, 1871, 1872, 1873, 1874 [and] Turtle Mountain Agency Census 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1892* (Pawtucket, Rhode Island: Quintin Publications, 2000).

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identification” (Little Shell Comments on PF 2005, Criterion E, 4).

LS also cited letters from the commissioners noting that the applicants did not always understand the “averments that they made in the application, neither as to age, citizenship, nor tribal relation” (Neal et al., 1871, 65). The commissioners reported that the applicants understood that by signing the papers they would get scrip, which had value. Thus, the historical individuals may have made applications for scrip several times and under different treaties, whether or not they actually had a right to apply under a particular treaty. The petitioner used information from the treaty schedules for the Lake Superior Chippewa Band that “rejected” an applicant because he was “Pembina mixed-blood” as evidence of their ancestor’s origins and claims of Pembina Band ancestry (Little Shell Comments on PF 2005, Criterion E, 5).

The LS petitioner’s report identified 35 direct ancestors of the petitioner’s members who were “approved” on Schedule B for scrip under the provisions of the 1863 Red Lake and Pembina Treaty, or were identified as “belonging to the Pembina Band as mixed-bloods” or were “rejected” on Schedule B because they had already received scrip under 1854 Lake Superior Treaty (Little Shell Comments on PF 2005, Criterion E, 5). These 35 ancestors were included with other direct, lineal ancestors in Chart 1 of the petitioner’s response to criterion 83.7(e). The petitioner also identified 51 of their ancestors who had a sibling who was either “approved” or “rejected” as described above (Little Shell Comments on PF 2005, Criterion E, 6). These ancestors were included in Chart 2 of the response along with other ancestors who had a sibling who received annuities or scrip. Both Chart 1 and Chart 2 included individuals who were identified as “Pembina mixed-bloods,” but were “rejected” on Treaty Schedule B because they had already received scrip under the provisions of the 1854 Lake Superior Treaty, for which they may or may not have been eligible.

The petitioner identified 21 ancestors identified as “good” (or other positive comments) on the 1880 McIntyre Report on Pembina scrip recipients and included them in Chart 1. The petitioner stated they included them “whether or not they were indeed eligible to receive scrip under the treaty provisions” (Little Shell Comments on PF 2005, Criterion E, 6-7). The petitioner also identified 23 of its ancestors listed on Chart 2 who were the siblings of individuals noted as “good” on the McIntyre Report (Little Shell Comments on PF 2005, Criterion E, 7). The petitioner stated that they did not include all of the “good” McIntyre applicants in their family lines if the family line already had a representative in its analysis (Little Shell Comments on PF 2005, Criterion E, 7).

### *The Petitioner’s Ancestors Identified on Chart 1 and Chart 2 in Its Response to the PF*

The LS petitioner claims that about 94 percent of its members “can be documented as descending from the Pembina Band of Chippewa” by tracing to individuals “who received scrip (or who were listed as eligible to receive scrip) as Pembina Chippewa relations” and/or “received annuity payments as Pembina Chippewas” (Little Shell Comments on PF 2005, Criterion E, 1). The petitioner used a combination of documents that it claims “collectively identifies 123 Pembina Chippewa ancestors of today’s Little Shell.” The petitioner also claims that these 123 ancestors descend from 51 “common progenitors, marked as Criterion E Progenitors in the Little

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Shell genealogy database” (Little Shell Comments on PF 2005, Criterion E, 1).<sup>68</sup>

The LS petitioner presented two charts listing their claimed founding ancestors. Chart 1 lists 53 “Documented Lineal Ancestors” and Chart 2 lists 70 of the petitioner’s ancestors who were “Siblings of Documented Lineal Ancestors” (Little Shell Comments on PF 2005, Criterion E, 16-39).<sup>69</sup> The petitioner’s “Chart 1” listed individuals who themselves were on the annuity lists, McIntyre Report, or “relevant treaty schedules” as a “Pembina mixed-blood.”<sup>70</sup> The petitioner’s “Chart 2” listed the petitioner’s ancestors who were themselves *not* on annuity lists, treaty schedules, or scrip reports, but who had a sibling named on same documents (Little Shell Comments on PF 2005, Criterion E, 1). Based on this claimed sibling relationship, the petitioner then reasoned that their direct ancestor would also be considered a descendant of the historical Indian tribe.<sup>71</sup>

### The Department’s Analysis of Petitioner’s Claims for Chart 1 and Chart 2 Ancestors

About 45 of the individuals in Chart 1 and Chart 2 were identified among the petitioner’s ancestors in the record for the PF. However, the Petitioner’s response also identified about 78

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<sup>68</sup> The petitioner’s definition of the “Little Shell Community Group” included in addition to the annuitants and scrip recipients as ancestors, the individuals who were identified as “hunters” on the 1850 Federal census of Pembina, Pembina County, Minnesota Territory as a third component of the “ancestral community.” This component of its definition of community was not specifically carried over by the petitioner to provide evidence of descent from the historical tribe. The petitioner included references on Charts 1 and 2 to “hunters” on the 1850 Federal census for supporting evidence that the ancestor was located at Pembina, but did not use “hunters” alone as evidence for demonstrating descent from the historical tribe.

<sup>69</sup> The birth dates for the individuals on Chart 1 or Chart 2 ranged from 1781 to 1852; therefore, if living, they were adults at the time of the Pembina 1863 and 1864 treaties.

<sup>70</sup> The “relevant treaty schedules” referred to here were the Pembina Band treaty schedules or the Lake Superior and other Chippewa treaty schedules that named scrip applicants who were “rejected” because they were “Pembina mixed-bloods.” The treaty schedules, the letters from the Commissioner of Indian Affairs and the special agents who compiled the reports, investigations of fraudulent claims, descriptions of the informants, and an explanation of when and where the applications were taken were published in the reports of the Commissioner of Indian Affairs in 1872 and in 1874.

<sup>71</sup> The petitioner’s narrative also included a section entitled “Little Shell Ancestor Families” that summarizes the information about the families of the 123 claimed ancestors. The “Overview” of the family section lists father, mother, and children and noted those individuals with descendants in the LS petitioner. The names from Charts 1 and 2 appear in this section, as well as comments from treaty schedules, annuity lists, or the McIntyre Report (Little Shell Comments on PF 2005, Criterion E, 14, 40-119). For example, under the heading of “Andre Allary (12284) Family,” who was named on Chart 1, the “Overview” listed the names of his parents as Michel Allary and Marguerite Salteaux, and Pierre and Marie Allary as his siblings. Andre Allary was identified as having “Little Shell descendants.” Under “Details,” brief paragraphs about Andre Allary quoted or summarized statements from Lake Superior Chippewa Treaty Schedules E (for “Andre Henrie”) and Schedule C (for “Andrew Allaire”). These family summaries do not include the birth or death dates of the individuals, but do include the reference number assigned to the name in the petitioner’s genealogical database in order to distinguish between men of the same name. In some cases, such as “Charles Joseph Bottineau (4366) Family,” the overview included multiple family units (Charles Joseph had children by two wives and his wife Margaret also had children by another marriage) and connections to other families in the “Little Shell Ancestor Families” section. The “Details” section listed siblings, half-siblings, a sister-in-law, and a cousin who were annuitants or on treaty schedules.

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more ancestors who were descendants of the historical Pembina Band. The petitioner's response to the PF has not only documented for the first time family connections with individuals already in the record for the PF, but also has identified and documented connections of family lines that were not documented at the time of the PF. The Department's research verified many of these claims, but rejected others.

OFA found evidence from the annuity lists, or treaty schedules, and McIntyre report that identified several of the petitioner's Chart 1 and Chart 2 and other LS ancestors. OFA used the information from these historical records that identified Pembina Band members or descendants in combination with supporting evidence to verify that 99 of the 123 ancestors on Chart 1 (43) and Chart 2 (56) were identified as descendants of the historical Pembina Band of Chippewa. With the exception of one or two "full-bloods," they were identified in the historical records as "Pembina mixed-bloods" or "mixed-blood relatives" of the Pembina Band. Because of the similarity of names, variations in spelling, and multiple individuals with the same or similar names, OFA used the Federal censuses, parish records, and Canadian scrip applications, and other historical documents to distinguish individuals and verify which ones were the petitioner's ancestors.

The 24 ancestors on Chart 1 or Chart 2, whom the Department could not verify as descendants of the Pembina Band as "full-bloods" or "Pembina mixed-bloods," were however part of the general Métis population, having descended from several tribal backgrounds in the earlier generations. Primarily, they were located at the Red River Settlements before and after the 1854 Lake Superior and the 1863 Pembina and Red Lake Treaties. Five of the Chart 1 or 2 Ancestors each had one Saulteaux Indian grandmother. Two of these same five Saulteaux descendants also had one Serpente Indian grandmother. One ancestor was identified as Assiniboine (or "Half-breed" with an Assiniboine grandmother) and two were "Circe/Sarcee" tribe descendants through a maternal grandmother.<sup>72</sup> Eight were Cree associated with the Métis population in the Red River settlements, but lacked identifications that could be interpreted to mean Pembina Band of Chippewa. Eight others were identified as Indians, "Half-breeds," or Métis, but the available record did not identify a specific Indian tribe, or provide supporting evidence that put the family at Pembina.

Many of the petitioners' ancestors on Chart 1 or Chart 2 were also closely related by blood or marriage to at least one other person on those same Charts: 23 had a parent, child, or sibling; 3 had a spouse; and 4 had a mother- or father-in-law on Chart 1 or Chart 2.<sup>73</sup> Five of the new

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<sup>72</sup> Saulteaux is a Plains Ojibwa tribe from western Manitoba and Saskatchewan, Canada. Circe/Sarcee is an Athapaskan speaking tribe from the sub-Arctic that migrated to the area between the Battle and Red Deer Rivers in Alberta, Canada by the mid-19th century. The Assiniboine is a Siouan-speaking tribe that ranged from western Saskatchewan to the Pembina River in Manitoba and Dakota Territory in the mid-19th century. Hudson's Bay Company records referred to some of the Northern or Eastern Shoshone Indians as "les Serpente" or Snake Indians. See *The Handbook of North American Indians*, Volumes 11 and 13.

<sup>73</sup> The petitioner explained: "Note that there are other individuals not on our Charts who are ancestors of modern Little Shell tribal members listed as 'Good' on the McIntyre Report. These individuals are part of a family line that is already represented by either a father (previous generation to themselves) or a son (subsequent generation to themselves). Individuals in this situation are not included in our count, as we did not want to 'double-dip' in our count of ancestors" (Little Shell Comments on PF 2005, Criterion E, 7).

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ancestors were not closely related to one of the petitioner's Chart 1 or Chart 2 ancestors: Louis Thomas (b. bef. 1831) and his son Louis Thomas, Jr. (b. 1851) were described as "Good" by McIntyre, and Marguerite Chalifoux (b. 1816) was identified as Chippewa under the 1854 Lake Superior Treaty. Francois Boucher (b. bef. 1846) received annuities in 1868 and 1871. Antoine LaPlante (b. 1820) was #305 on the McIntyre report, but described as "Cree ½ breed no relation to treaty" (McIntyre Report 1880).

The Department's researchers investigated each of the individuals on Chart 1 and Chart 2 to verify Pembina Band claims, and conducted additional research to identify any other of the petitioner's ancestors who also were Pembina Band descendants, but not included in the petitioner's analysis.<sup>74</sup> OFA used the 1880 McIntyre Report, treaty schedules published in 1872 and 1874, annuity lists from 1865-1874, Morin's book *Northwest Half-Breed Scrip – 1885* [Canadian], Federal censuses, Red River settlements censuses cited in the petitioner's genealogical database or in the case of the 1835 Red River census, abstracted in *The First Métis Nation*,<sup>75</sup> and other historical records to verify or refute the information summarized in Chart 1 and Chart 2.

In order to more fully understand how the petitioner's ancestors were related to the historical Pembina Band, OFA identified and transcribed the full name (first name and surname) of the European-style names on the annuity lists, 155 of whom were also individuals in the Department's annotated genealogical database of the LS petitioner.<sup>76</sup> Not all of the 155 annuitants have descendants in the current group, but were siblings or other relatives of some of the petitioner's ancestors and were included in the petitioner's family records. Twenty-three of these annuitants were listed among the petitioner's ancestors on Chart 1 or Chart 2. See Appendix XVII for the list of individuals the Department verified as descendants of the historical Pembina Band. See Appendix XVIII for the list of the petitioner's claimed ancestors the Department determined were not Pembina Band descendants.

### *The Department's Analysis of Chart 1 Ancestors*

The petitioner identified 53 ancestors in Chart 1 who they claim were considered Pembina Band descendants because they received scrip or annuities, or were identified as "Pembina mixed-bloods" in Pembina and Red Lake treaty schedules B, L, or N, or in one of the Lake Superior Chippewa treaty schedules. The Department confirmed Pembina Band ancestry for 43 of the 53 historical individuals on Chart 1. Of the 53 individuals claimed as "Documented Lineal

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<sup>74</sup> For example, OFA identified two individuals on Chart 1 who had a widow who received annuities, and identified three individuals on Chart 2 who themselves received annuities and two others whose spouses received annuities; therefore, their descendants were also descendants of the Pembina Band.

<sup>75</sup> The petitioner transcribed information from censuses of the Red River settlements from about 1827 to 1844. These transcriptions appear as "Facts" and "Notes" pages in TMG genealogical database under the name of the ancestor who was head of the house in the census year.

<sup>76</sup> Another 24 names on the annuity lists were a single first name or last name, but not both, and the OFA could not reasonably assume they were individuals in the petitioner's ancestry who had the same name.

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Ancestors” in Chart 1, the Department found that 51 have descendants in the current petitioner.<sup>77</sup> The numbers of descendants per “lineal ancestor” vary from 1 each for Antoine Azure, Pierre Azure, and Jean Baptiste Bercier to several hundred for Pierre Berger (274), and Joseph Ouellette (388), Louis Garipey [Gardipee] (402), Gabriel Azure (466), and Joseph Delauney [Doney] (759).

The Department found that the 51 actual ancestors on Chart 1 included 41 individuals who were on at least one of the Pembina Band annuity lists, entitled to scrip in the McIntyre Report, or identified as “Pembina mixed-bloods” on the treaty schedules.<sup>78</sup> Three of the 41 men, Andre Allary, Louis Belgarde, and Antoine Brien, who were identified as “Pembina mixed-bloods” on treaty schedules, were enumerated on censuses of Turtle Mountain in 1890 or 1892. A fourth man, Charles Houle (b. 1798) who was a “Pembina mixed-blood” on Treaty Schedule B, died at Leroy, Pembina County in 1880. His widow and some of his children were enrolled at Turtle Mountain in the 1880’s and 1890.<sup>79</sup> The TMC census information for these four men, combined with evidence from the Federal censuses and birthplaces of their children, some of whom received annuities, supported the comments in the treaty schedules that Andre Allary, Louis Belgarde, Antoine Brien, and Charles Houle were “Pembina mixed-bloods.”

As stated earlier, because of the similarity of names, variations in spelling, and multiple individuals with the same or similar names, OFA used the Federal censuses, parish records, and Canadian scrip applications, and other historical documents to distinguish individuals and verify which ones were the petitioner’s ancestors. This type of analysis applied to individuals named on the annuity lists, McIntyre Report, Lake Superior Chippewa and Pembina Band treaty schedules. Through this process, the Department found that 10 of the petitioner’s ancestors on Chart 1 were not Pembina Band Indians, although their names may have been on annuity lists, the McIntyre Report, or treaty schedules. See Appendix XVIII. Three examples illustrate this conclusion. Pierre Berger was listed on the 1868 annuity list and “Approved” on the Pembina Band Treaty Schedule B; however, he was not a Pembina Indian and was listed on the McIntyre Report as “not a Chippewa . . . Bad.” He was described as “from the West” and probably a mixed-blood descendant of the “Circe” Indian Tribe. His mother, Cecelia Dumont was living in 1875 and identified herself as “half-blood” when she applied for Canadian scrip. Her mother (Pierre’s grandmother) was called “Susette, an Indian woman” and “Josephte Circe or Carey,” a

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<sup>77</sup> The OFA’s research confirmed that two men on the list, Louison Frederic and Alexandre St. Arnaud, do not have descendants in the current membership list, although their siblings do. Louison Frederic received annuities and Alexandre St. Arnaud was “good” in the McIntyre Report.

<sup>78</sup> The petitioner included Pierre Azure (b. 1818) as a Chart 1 ancestor based on a statement from Treaty Schedule “C” that “All the Azure family reside at Pembina and west of the Red River, and are connected with the Pembina Chippewas. Never belonged to the Lake Superiors” (Little Shell Comments on the PF 2005, Criterion E, 22). Pierre Azure, who died before 1869, was not on the 1865-1868 annuity lists; however, “Madame Azure,” a woman with 11 children on the 1868 Pembina Band annuity list, appears to be his widow, Marie Marthe (Breland) Azure. She and some of their younger children were later recorded among the “mixed-blood” families on the Turtle Mountain Reservation. The Department included Marie Marthe (Breland) Azure as a Pembina Band annuitant in its analysis.

<sup>79</sup> The Department also found that Louis Belgarde’s mother and siblings received annuities and Charles Houle’s son Antoine (b.1826) was on the 1868 list of Pembina Band annuitants, which also supported the treaty schedule comments that Belgarde and Houle were Pembina mixed-bloods.

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Circe or Sarcee Indian.<sup>80</sup> The Circe, Circus, Ciries, or Sarcee Indians (now known as the Sarcee Indian tribe) were from north of Calgary, Alberta, Canada. Although Pierre Berger was not a Pembina Band Indian, his wife, Judith Wilkie, was a “mixed-blood” descendant of the Pembina Band who received annuities in her own right (as “Judrick Boeger”) in 1869. Pierre Berger may have appeared on the 1868 annuity list in lieu of his wife (Pembina Annuity Roll 1868, 1869).

In another example, the petitioner attributed the Pembina Band connection to the “wrong” Joseph Collins. There are two men in the FTM database who were born just a few years apart and both named “Joseph Collins,” one of whom received annuities, but does not have descendants in the petitioner’s membership, and other has descendants in the petitioner’s membership, but was not a Pembina Band descendant. The petitioner “attached” the Pembina Band Treaty Schedule B “Batiste Collins” of St. Joseph, North Dakota, information to Joseph Collins, the brother of their ancestor Richard Collins on Chart 2. However, this Joseph Collins was baptized in 1838 at Jasper House on the Athabasca River and lived in the area of Edmonton, Alberta, Canada, between 1870 and 1872, as verified by the birthdates and places of his children. Joseph and Richard’s sister, Sophie Collins, lived on the St. Albert Reserve and applied for and received Canadian Half-Breed Scrip (Morin 1997, 64). Another sister, Jane (Collins) Gladeau, was a member of Michel’s Band in Alberta, Canada. A review of all of the evidence available on the family of Joseph and Richard Collins links them with Alberta, Canada, not Pembina, Dakota Territory.<sup>81</sup> There is no reliable evidence that the Canadian Joseph Collins was the same man as the Joseph Baptiste/Jean Baptiste Collins at St. Joseph, Dakota Territory. The Canadian Indians Joseph Collins and Richard Collins have descendants in the LS petitioner.

The Joseph Collins identified on the Petitioner’s Chart 1 (born about April 1835, the son of Richard Collins and Genevieve Bruyere and married to Sophie Loyer) is the petitioner’s ancestor, but is *not* the same man as the “Joseph Bte. Collin, St. Joseph,” #257 on the 1880 McIntyre Report, “Batis Cullah” on the annuity lists, or “Jean B. Collin” a resident of St. Joseph when Treaty Schedule B was compiled in 1870-1871.<sup>82</sup> The Joseph Collins, who was the Pembina Band descendant identified in the above named records, was living at St. Joseph, Dakota in 1870. He was born before August 1, 1832, the son of Jean Baptiste Collins and Elizabeth Henry, was issued scrip under the Lake Superior Chippewa Treaty of 1854, and was identified in the treaty schedules as “Pembina mixed-blood.” His siblings, Louise and Suzanne

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<sup>80</sup> Cecelia Dumont identified her father, Jean Baptiste Dumont, as a French Canadian, and her mother “Susette” as an Indian woman, but did not name the tribe. Jean Baptiste Dumont, Cecelia’s brother, also applied for Canadian scrip and named their mother as “Josephthe Circe.” “Susette” appears more than once in the Canadian records in place of the more formal baptismal name, “Josephthe.”

<sup>81</sup> All of the petitioner’s members who descend from Joseph Collins descend through his daughter Catherine (Collins) Whitford, who came to Montana in 1883. She was identified as “half Cree” in the 1917 McLaughlin Report. She stated that she had received scrip for 240 acres [in Canada], but sold it.

<sup>82</sup> “Joseph Collin,” wife “Isabel” [*sic*: Angelique] and two teen-aged children were on the 1870 Federal census of Pembina County, Dakota Territory. They lived next door to “Lewis Grandbois,” [*sic*: Louis], the brother of Angelique (Grandbois) Collins (1870 Census Pembina, Dakota Terr., 23). The census enumerator for Pembina County in 1870 frequently used the English equivalents of French names, as in Lewis, John and Francis for Louis, Jean, and Francois. More frequently he used creative spelling to record the French names, such as Battes for Baptiste, Lonener for Langer, Butrans or Bertam for Poitras, Burgois for Berger, and Auzier for Azure.

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Collins are Chart 2 ancestors. He married Angelique Grandbois. This Joseph Collins [the Pembina descendant] does not have descendants in the petitioner's membership.

Louis Gardipee (b. abt. 1828) is a third Chart 1 ancestor whom the Department finds is not a Pembina Band Indian descendant. The petitioner's claims regarding Louis Gardipee were based on the Pembina and Red Lake Bands Treaty Schedule B comments that he was "Approved . . . has taken claim on the Pembina (American side) . . ." (Little Shell Comments 2005, Criterion E, Chart 2, 33). However, the 1880 McIntyre Report stated he was Cree, a known cart driver, and "bad" (McIntyre Report 1880, #267). His brothers Jean Baptiste Gardipee, who appears to be McIntyre entry #262 "John B. Garipe [sic] Turtle Mountain Cree BAD" (McIntyre Report 1880, #262), and Bonaventure are listed on Chart 2 with citations to the Pembina and Red Lake Schedule B comments that their brother Louis was "approved." The full transcript of the Schedule B entry for Louis Gardipee reads:

Guardipee, Louis; Aug. 15, 1868, William H. Grant, Approved. Is a Red River half-breed; tolerably [sic] old man; saw him before, but not since the date of the application. F. X. Brousseau. Don't recollect them. A. J. Campbell. Can't say anything about them; know Francis, Baptiste, and Joseph, but not Louis. J. B. Bottineau. They used to live at White Horse Plains, when I was there 20 years ago; did not see them this spring; one of that name has taken a claim on the Pembina, (American side,) and employed Charles Grant to put up a house for him; don't know his name. J. Robert. Louis is the one. J. J. Hill. (Pembina and Red Lake 1863, Treaty Schedule B, 195)

As seen by these statements made in Louis Gardipee's own lifetime (between about 1828 and 1884), little was known of his tribal origins. His association with Pembina appears to have been based on his claimed residence at that place in 1868.<sup>83</sup> Louis, Bonaventure, and Jean Baptiste (and other siblings) were the children of a non-Indian, Louis Gardipee (b. 1777), and Josephte Ducharme (b. 1806), who was identified as Métis or "Half-Breed" without a specific tribal affiliation, by her children in their Canadian scrip applications (Morin 1997, 116-118). Neither Louis Gardipee nor any of his known siblings were born at Pembina or listed on any of the annuity lists. Louis and Jean Baptiste were specifically identified in their own lifetimes as Cree. None of Louis' known siblings married Pembina Band of Chippewa. Louis Gardipee was enumerated on the Red River Settlements censuses in 1835 and 1870. His 13 children were born in Manitoba or Saskatchewan, Canada, between 1852 and 1880, and almost all migrated to Montana, beginning about 1878, where numerous of his grandchildren were born between 1878 and about 1925. One son married a granddaughter of Pembina Band annuitant Agathe (Azure) Pelletier in Canada in 1875<sup>84</sup> and two of his other sons married Doneys (descendants of Joseph Delauney/Doney on the petitioner's Chart 1, who was identified as a Pembina Band descendant based on a Treaty Schedule B statement and supporting evidence) in Montana in 1891 and 1910.

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<sup>83</sup> There is a Francois Gardipee (age 26) household at Pembina in 1850; however, he is the son of Francois and Louise (Gladeau) Gardipee, and not related to Louis, Bonaventure or Jean Baptiste Gardipee discussed here.

<sup>84</sup> Leonide Gardipee (b. 1852) had six wives: Marguerite Pelletier was his 3rd wife and the mother of three children. She died in 1880. Leonide and his 5th wife, "Going-By-the-Wind" (tribe unknown), and several of his children were included in the 1909 "Census of Rocky Boy's Band of Chippewa Indians of Montana" by T. W. Wheat.

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Thus, there is little contemporary evidence that can associate Louis Gardipee and his siblings or his children with Pembina Band Indians until their descendants met and married Pembina Band descendants in Montana or Canada after 1875.

In some cases, the Department's researchers found that the spouse of the Chart 1 ancestor was an annuitant, or the spouse was the child or sibling of the individuals the Department found were "Pembina mixed-bloods." Thus, in verifying the petitioner's descent from the historical Indian tribe, the Department did not rely solely on the list of ancestors the petitioner identified in its Charts 1 and 2, but took into account other ancestors who were identified as Pembina Band descendants.

### *The Department's Analysis of Chart 2 Ancestors*

The petitioner identified 70 ancestors in Chart 2 who they claim had at least one sibling (or in one case they claim had several first cousins) who were considered Pembina descendants because the sibling received scrip or annuities, or were identified as "Pembina mixed-bloods" in Pembina and Red Lake Treaty Schedule B or one of the other Chippewa band treaty schedules. Chart 2 included the name of the petitioner's direct ancestor, the ancestor's sibling, whether the sibling received scrip, annuities, or was on a Treaty Schedule and the comments on those documents that identified the sibling as "mixed-blood Pembina," or similar descriptions (Little Shell Comments on the PF 2005, Criterion E, 11, 30-39). The petitioner claims that the descendants of the individuals on Chart 2 connect to the historical Indian tribe based on the ancestor's sibling relationship the individual named on the historical records listed above.

Of the 70 individuals on Chart 2, 69 have descendants in the current petitioner. Only Catherine Genthon dit Dauphinais on Chart 2, who is the wife of Louison Frederic listed on Chart 1, does not have descendants in the current group, although two of her siblings (Francois X. Dauphinais and Charlotte Dauphinais on Chart 2) do have descendants in the LS petitioner.<sup>85</sup> The other individuals on Chart 2 have at least 2 descendants in the current petitioner: the numbers of descendants per ancestor varies from 2 each for Marie Ann Charette, Josephthe Caplette, and Angelique Parisien to several hundred for Madeleine Trottier (311), Genevieve Parisien (522), Marguerite Bottineau (539), and Suzanne Bercier (801).

The Department's analysis confirmed that 56 of the 70 individuals on Chart 2 had at least one brother or sister who received annuities or was identified as "good" in the 1880 McIntyre Report, or was identified as "Pembina mixed-blood" on a Lake Superior Chippewa, Red Lake, or Pembina Band treaty schedules. One of the women on Chart 2, Marguerite Grant (b. 1790), was the half-sister of Pembina annuitants with whom she shared the same Chippewa mother. The other 55 individuals were the full brother or sister of the annuitant, scrip recipient, or treaty schedule applicant. The Department's analysis did not accept Pembina Band ancestry for 15 of the petitioner's ancestors on Chart 2 (see Appendix XVIII).

The Department conducted additional research to verify both the claimed sibling relationships and descent from the historical Indian tribe. The full-sibling relationships were confirmed by the baptismal or marriage records that named both parents. Canadian scrip applications also

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<sup>85</sup> Michel (McIntyre Report #58) and Joseph Dauphinais (McIntyre Report #189), brothers of these three Dauphinais siblings, were identified as "Good" on the 1880 McIntyre Report.

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provided evidence of the applicant's birth date and place and parents' names. In some cases the Department found more convincing evidence of Pembina Band descent in that the Chart 2 ancestor either had a parent who received annuities, or they themselves received Pembina Band annuities or scrip. Joseph Azure's father received annuities; Alexis Belgarde and Euphrosine "Frezine" Belgarde received annuities, as did their mother Marguerite Dufort. Joseph Belgarde and Marguerite Belgarde on Chart 2 were also children of the annuitant Marguerite (Dufort) Belgarde. In the cases of Nancy Grant, Suzanne Laverdure, Marguerite Parisien, Angelique Petit, and Joseph Trotter, they were enumerated as "mixed-bloods" on or off the Turtle Mountain Reservation in the 1880's or 1890's, which in combination with evidence from Federal censuses or children's birth, baptismal, or marriage records, corroborated Pembina Band descent attributed to their siblings on the treaty schedules.<sup>86</sup> Thus, the Department did not rely solely upon sibling relationships to demonstrate their Pembina Band ancestry for these 10 individuals.

In the case of Urbain Henault Delorme (b. 1800), who is one of the Chart 2 ancestors for whom the Department does not confirm Pembina descent, the petitioner based his connection to the Pembina Band on statements in the treaty schedules for Bazile Delorme (b. abt. 1803), whom they identified as Urbain Henault Delorme's brother. Treaty Schedule B for Pembina and Red Lake Bands, and Schedules E and N for Lake Superior Chippewa identified Bazile as a "Pembina mixed blood," and his name appears on the Pembina annuity lists in 1870 and 1872. While it is reasonable to assume that Bazile Delorme was a mixed-blood relative of the Pembina Band, the evidence is not so convincing that Urbain was his full brother or that Urbain Henault Delorme was a Pembina mixed-blood. A lengthy article in the St. Boniface, Manitoba Historical Society described him as a well-known historical figure, "*L'homme riche des Prairies*." The first paragraph states that Urbain was the natural son of "Francois Enos (*et* Henault) and Madeleine (*et* Charlotte) Saulteuse" and that he was born on the plains about 1801.<sup>87</sup> When he was about 4 years old, Urbain and his sister, Seraphie Delorme, were sent to Quebec where Urbain remained until he returned to Red River with his father in 1817. He lived at St. Francois Xavier, Manitoba, where his children were baptized. The article states that he had a brother Bazile, and has many details about Urbain Henault Delorme's life, including the fact that he had a substantial fortune, but makes no mention of Pembina Band connections.

(<<http://www.shsb.mb.ca/bulletin/delorme.htm>> *Le Centre du patrimoine*, printed 5/5/2009).

Both Bazile and Urbain Delorme were on the Grantown, Red River settlement censuses from 1830 to 1843. Francois Delorme lived with his son, Bazile in 1830. None of the Federal censuses or church parish records put Urbain Henault Delorme on the United States side of the border at any time before the 1863 Pembina and Red Lake Treaty, during the Pembina annuity years, or before his death in 1886 at St. Daniel, Carman, Manitoba, Canada. While the 1850 Federal census, the annuity lists, and treaty schedule comments show Bazile Delorme was at

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<sup>86</sup> After the 1870 Métis revolt in Canada, some residents of the Red River Settlements moved to Turtle Mountain. Thus, the Turtle Mountain Band in the 1880's-1890's may have members who were not lineal descendants of the treaty Pembina Band. The Department did not accept residence at Turtle Mountain as evidence of Pembina Band descent without other evidence that connected the family to the Pembina Band.

<sup>87</sup> This article and other information in the FTM showed Francois Henault dit Delorme had children by Madeleine Saulteuse and Charlotte Saulteaux. It may be that Bazile and Urbain were half-brothers, rather than full brothers, which might explain why Bazile was a Pembina annuitant and identified as "mixed-blood Pembina" on treaty schedules B, E, and N.

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Pembina or St. Joseph, they do not provide supporting evidence that Urbain Henault Delorme was a “Pembina mixed-blood.”

The Department found that 12 of the 15 for whom the Department does not confirm Pembina descent were full siblings to the individuals the petitioner claimed were the documented “Pembina mixed-blood,” and that 2 of the 15 (Josephte Rochon and Marie Gladeau) were half-sisters of the individuals the petitioner identified as the documented “Pembina mixed-blood.” Josephte Rochon (b. 1819) was the half-sister of the Gardipee brothers, who were identified as Cree and are discussed above: they have the same mother, Josephte Ducharme, who was identified as half-blood or Métis. The petitioner identified Marie Gladeau (b. 1805) as the sister of Michel Gladeau who was a documented Pembina annuitant and scrip recipient. However, Marie was his half-sister, having the same French Canadian father, but a different mother. Marie (Gladeau) Whitford’s 1875 Canadian scrip application identified her mother, “Elise,” as a half-blood. One individual on Chart 2, Louise Parisien (b. 1841), was as the petitioner claimed, a first cousin to several documented Pembina scrip recipients or annuitants; however, the Department did not accept the cousin relationship as a reliable substitute for the sibling relationship or evidence of descent from the Pembina Band. Although Louise Parisien shared a Saukteaux Indian grandmother in common with several of her Parisien first cousins, those cousins had different mothers and it is not clear that their Pembina or Red Lake claims were through the Parisien/Saukteaux grandmother, or through the women who married her sons. Although Louise Parisien was not identified as a Pembina Band descendant herself or through her sibling relationships, she was married to Joseph Belgarde (b. 1827) who received scrip and whose mother received Pembina Band annuities. Therefore, Joseph and Louise (Parisien) Belgarde’s 216 descendants in the petitioner’s membership have descent from the historical Indian tribe through Joseph Belgarde and his mother, Marguerite Dufort.

In conclusion, the Department could not confirm Pembina Band descent for 15 individuals on Chart 2. The comments in the treaty schedule remarks or the McIntyre report findings that the petitioner quoted on Chart 2, which they claimed applied to a sibling of one of their direct ancestors, could not be supported with other contemporary evidence. The Federal censuses, Canadian censuses or scrip applications, and birth or baptismal, marriage or death records for the children or siblings of these 15 Chart 2 ancestors did not place the families at Pembina, or provide evidence to corroborate the claims made on the treaty schedules or McIntyre report. For example, see the analysis of the Louis Gardipee references listed above for the evidence concerning his three siblings who were listed on Chart 2 (brothers Bonaventure and Jean Baptiste Gardipee, and half-sister Josephte Rochon) and the analysis of the evidence for Joseph Collins, whose brother Richard Collins is on Chart 2). The Department’s explanation is summarized in Appendix XVIII.

### *The Department’s Analysis of Spouses of the Chart 1 and Chart 2 Ancestors*

In the process of verifying descent from the historical Indian tribe, the Department used the petitioner’s genealogical database, the McIntyre Report, Canadian Scrip applications, abstracts of baptismal and marriage records, and other sources in the record for the FD in order to identify the tribal ancestry of the spouses of the Chart 1 and Chart 2 ancestors. Some of the petitioner’s Chart 1 and Chart 2 ancestors married more than once; therefore, there are a total of 148 spouses

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for the 123 claimed ancestors. The Department found that 57 of the 148 spouses (about 39 percent) either received Pembina Band annuities themselves, or had a parent, siblings, or grandparent whom OFA determined were descendants of the Pembina Band. Eighteen spouses were identified simply as “Chippewa” without evidence of band affiliation, or as descendants of specific Chippewa bands such as Saulteaux/Saulteuse or Red Lake. Thus, about half of the spouses had Chippewa ancestors. Other spouses were identified as descendants of Cree, Assiniboine, Sioux, Circe/Sarsee, Montagnaise, Gros Ventre, Bois-Brules, or Maskegone, but were identified Métis or “half-bloods” rather than Indians or members of these Indian tribes. Their connection to the Indian tribes was based on having one parent or grandparent who descended from one these Indian tribes. About 30 of the spouses were identified as “half-bloods” or Métis, primarily in Canadian scrip applications, but without reference to a specific Indian tribe. Eight of the spouses were either described as non-Indians (French-Canadian, Scottish, or English) or lacked sufficient evidence to determine whether they were non-Indians or Métis. Eleven of the petitioner’s ancestors on Chart 1 had a spouse who was also listed on Chart 1 as a “lineal ancestor” or on Chart 2 as the sibling of someone OFA verified was identified as a Pembina Band descendant.

### The Department’s Analyses for Descent from the Historical Indian tribe

In order to expedite the research process, the Department copied the petitioner’s TMG database into a “GEDCOM” file and converted it to a database for use in the Family Tree Maker™ (FTM), a genealogical program the Department has used for several years. For the FD, the Department added data in fact fields and corrected family connections in its copy of the FTM genealogical database.<sup>88</sup> This FD’s conclusions regarding descent from the historical Indian tribe and other membership issues are based on the information in the Department’s annotated FTM database.

The Department’s analysis found that about 89 percent (3,865 of 4,332) of the current members had an ancestor who was a Pembina Band descendant and therefore, they descend from the historical Pembina Band. As stated earlier, the Department used evidence in the petitioner’s genealogical database, Canadian Scrip applications, abstracts of baptismal and marriage records, and other historical sources in the record for the FD to verify descent from the historical Indian tribe. OFA applied this verification process to the individuals named on the treaty schedules, the annuity lists, and in McIntyre’s report to confirm that they were Pembina Band descendants and the petitioner’s ancestors. This finding identified the petitioner’s direct ancestors who received Pembina annuities between 1865 and 1874, who were identified as “Pembina mixed-blood” in treaty schedules for either the Pembina Band and other Chippewa bands, or was identified as “eligible” or “good” on the 1880 McIntyre Report on Pembina scrip applicants. This finding also includes as Pembina Band descendants the petitioner’s direct ancestors who were full-

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<sup>88</sup> The OFA’s annotations included adding citations for evidence of tribe, residence in 1850, 1860, or 1870, proof of parentage, and other useful information to distinguish individuals. Corrections typically included correcting birth, marriage, and death dates, merging duplicate entries, attaching children to parents, adding a spouse, or detaching a spouse and children from the wrongfully identified family. In a few instances, the OFA found that identification as “Pembina mixed-blood” in the treaty schedules or McIntyre report had been incorrectly attributed to the petitioner’s ancestors who had the same names as those named in these two reports.

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siblings of the individuals listed on the historical documents cited above, since they would have the same eligible Pembina Band parent. The direct ancestor may not have been eligible for annuities or scrip because he was too young or was not the head of a family. In the case of females, a widow or wife whose husband had received scrip was not eligible for scrip. However, the sibling relationship provided the evidence that petitioner's direct ancestor also descended from the common Pembina Band ancestor in the parental or earlier generation.<sup>89</sup>

The Department did not determine for the FD whether the new members added since the PF were also on the 1994 roll for the distribution of the Indian Claims Commission judgment award, which was one of the sources the PF said included "descendants of the 'mixed-blood' element of the Pembina populations who received benefits provided by the treaty (Little Shell PF 2000, Summary, 39). Such a review may provide additional evidence concerning the about 89 percent of the members who have documented descent from the Pembina Band, and may provide some evidence for a portion of the 11 percent that the Department could not confirm as Pembina Band descendants for the FD. If such a review of the 1994 judgment roll did not identify any additional Pembina Band descendants, the petitioner still meets criterion 83.7(e) with a showing of 89 percent descent from the historical tribe.

The Department reviewed the available Pembina Band annuity lists, the McIntyre Report, and the schedules of applicants for scrip under treaties of various Chippewa bands in order to verify the petitioner's claims concerning the Chart 1 and Chart 2 ancestors and to identify other of the petitioner's ancestors and relatives who may have been a part of the Pembina Band. This process found the individuals in the petitioner's ancestry among the "mixed-blood relatives" of the Pembina Band. OFA also reviewed the birth or baptismal, marriage, and death records, Federal censuses, Canadian Half-Breed scrip applications, and other historical records that identified the claimed ancestors and his or her siblings and children to substantiate the petitioner's or the OFA's findings concerning the ancestors.

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<sup>89</sup> The Department has accepted in other acknowledgment decisions under criterion 83.7(b), during periods when no membership lists existed, that first degree relatives (siblings and children), of individuals who were identified as members of a historical social community also be considered part of that social community. This principle was applied to an evaluation of criterion 83.7(e) for the Muwekma petitioner because of the absence of any historical membership list. Muwekma FD stated that "On the basis of limited genealogical and anthropological evidence, the Proposed Finding made the assumption that Avelina (Cornates) Puente Marine 'was part of the Indian group at the Alisal rancheria prior to Kelsey's census of 1906'" (Muwekma FD 144), and ". . . the Proposed Finding made the assumption that 'the siblings of her [Avelina's] children on the 1910 Federal Census of 'Indian town' were non-resident members of the Verona Band. . . ." (Muwekma FD, 150).

The proposed finding allowed 'for non-resident and unlisted siblings of those individuals enumerated in the settlement lists [the 'proxy' membership list of the historical band] to be considered part of the historical band for purposes of criterion 83.7(e). . . .' (Muwekma FD 2002, 149; see also, 144-145,150-153, 159)

Because there is evidence of the historical membership of a Pembina Band in the form of Federal annuity lists, the situation of this petitioner is not comparable to that of the Muwekma petitioner.

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### **The Department's Analysis of Evidence from the Annuity Lists, Scrip Records, and Treaty Schedules**

OFA's researchers created a list of all of the legible English or French names on the annuity lists, added the years the individuals received annuities, and added remarks that would help distinguish the individual, such as number of individuals in the family recorded on the annuity lists.<sup>90</sup> If the Department could reasonably identify an individual in the genealogical database as the annuitant (that is, a head of family or single person over 21 in 1863, who lived long enough to receive annuities) and was a resident in or near Pembina (the place) at least some of the time between 1850 and 1870, then the OFA added the year or years that person received annuities to the fact field for "Pembina-Annuity" in the FTM database. Some single adult females and widows with children were also listed as heads of families on the annuity lists.

The extracts from the annuity lists and TMC censuses in Morin's book include the original spelling of the name found on the annuity list and the names and ages of each person in the household on the later TMC censuses. Thus, in many cases the different heads of families identified on annuity lists can later be identified at Turtle Mountain (or in the vicinity) over a span of several years. Also, individuals with the same or similar names can be distinguished from each other. In most cases, Morin's analysis of the historical records agreed with the Department's conclusion regarding the composition and origins of the families. However, there were some cases in which Morin identified a Turtle Mountain Indian as having been an annuitant, but the Turtle Mountain Indian on the censuses in the 1880's or 1890's would have been too young to be on one of the annuity lists as an adult. The Indian on the Turtle Mountain censuses may have been the son or nephew with the same name as the Indian on the earlier annuity lists. In such cases, the Department's researchers used family composition (i.e., evidence from parish records and the number of children identified on census enumerations) and a combination of information from Federal censuses, treaty schedules, the McIntyre Report, and statements in the Canadian scrip applications to identify the annuitant.

As stated earlier, the Secretary appointed Special Agent C. W. McIntyre in 1879 to investigate allegations of the fraudulent issue of scrip under the 1863 treaty with the Pembina and Red Lake Chippewa. McIntyre's 1880 report identified individuals by name, place of residence, age, family relationships, whether living or dead, and his finding as to whether the Pembina or Red Lake scrip was "good" or "bad."

The Department's researchers added a fact field in the FTM database for McIntyre Report comments in order to identify other family members the petitioner had not included, to clarify family relationships, and distinguish identifications between individuals with the same name. The Department did not accept appearance on McIntyre's Report alone, but used the McIntyre Report comments in combination with the Federal census information, the parish records, the treaty schedule remarks, and the annuity lists to confirm identifications. In most instances, the Department's findings agreed with the petitioner's identifications. However, see the Department's analysis of the petitioner's ancestors on Chart 1 and Chart 2 for additional details,

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<sup>90</sup> The annuity list typically listed the number of adult males, adult females, and children in each family. Some years broke down the number of children to the record the number of boys and girls per family.

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as well as comments in Appendices XVII and XVIII.

OFA also used a combination of the Federal census information, the parish records, the McIntyre Report remarks, and the annuity lists to confirm identifications of individuals listed on the treaty schedules. In describing how Lake Superior applicants listed on Lake Superior Treaty Schedule C were determined, the Commissioner of Indian Affairs Henry S. Neal explained

We have decided these cases upon the principles already stated, viz., that women having living husbands on September 30, 1854, and all persons who had not, sometime during their lives, a personal connection, in other words “did belong to the Chippewas of Lake Superior,” are not proper claimants. On this principle we have rejected the applications of all mixed-bloods who are connected with the Mississippi and Pillager bands, and the Pembina and Red Lake bands, although their fathers and mothers may some time have belonged to the Chippewas of Lake Superior.

Very few of the applicants in these bands, however, claimed to have any connection with the Lake Superior Chippewas than that they have a common ancestry, and formerly drew their annuities at the same agency. (Neal 1871, 254-255)

Commissioner Neal went on to explain that many of the applicants for Lake Superior scrip were also on Schedule B, which represented applicants under the 1863 Pembina and Red Lake Treaty. He stated,

These claims we have also adjudged according to the limitations of the treaty of 1863, which requires that each beneficiary shall be a male adult half-breed, who is related by blood to said Chippewas of Red Lake and Pembina bands. This we have construed to mean close relationship at the present time, and not the relationship of a remote, common ancestry; and have insisted that the applicant shall be a citizen of the United States.

Owing to the widely scattered localities and the roving lives of the Pembina half-breeds, it has often been very difficult to decide those questions to our entire satisfaction. In such cases we have generally given the half-breed the benefit of the doubt. (Neal 1871, 255)

Commissioner Neal also briefly outlined the “character and qualifications” of the persons giving evidence. For example, Armstrong and Gurneau of Bayfield, Wisconsin, and Roy and Morrison of Superior City were “mixed-bloods who have spent their lives at Lake Superior, and are intimately acquainted with the mixed-bloods belonging to the Chippewas of Lake Superior” (Neal 1871, 256). Neal stated that Joseph Robert of St. Paul as a former resident of the Red River country had “traded there more or less every year since,” and that Burdick, Beuprie, and Hill had also traded with the mixed-bloods of the Red River country. Some of those giving information about Pembina applicants were John Baptiste Bottineau, a mixed-blood of the Pembina Band and former resident of St. Joseph, Dakota Territory; “Peter Bottineau the

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celebrated guide,” who was born and raised in Pembina, and by his repeated visits to that section of the country” was acquainted with almost all of the mixed-bloods connected with the Red Lake and Pembina Bands; and John B’te Wilkey [*sic*] and Antoine Azure who were “reliable mixed-bloods” (Neal 1871, 256). Thus, the remarks or comments in the treaty schedules for the Pembina and Red Lake bands and Lake Superior or other Chippewa bands provided evidence that some of the petitioner’s ancestors were considered “Pembina mixed-blood” descendants at the time of the 1863 or 1864 treaty.

If the petitioner identified a treaty schedule as evidence, then the OFA added the treaty schedule name, date, and a comment to fact fields for the individual in the FTM genealogical database. Likewise, if the Department found a name on the 1880 McIntyre Report could be reasonably matched to one of the names in the genealogical database, “McIntyre-1880” was added as a fact field for that individual. Once the annuity, treaty schedule, and scrip information was entered into fact fields in the genealogical database, the Department’s researchers created lists of descendants from each category as well as reports of the number of historical individuals (ancestors and others without known descendants) who were on one or all of those historical lists.

Although this FD found that both the treaty schedule remarks and McIntyre Report findings were generally reliable evidence, the Department found some of the claims in these sources could not be supported by other evidence, or that the persons identified were not the petitioner’s claimed ancestors.<sup>91</sup> The Department did not rely solely on the McIntyre or treaty schedule remarks to confirm the Pembina Band claims. Thus, some identified as Pembina Band on those sources have not been accepted as individuals having Pembina Band ancestry. See Appendix XVII for the list of the petitioner’s direct ancestors (and some of their relatives who do not have descendants in the current group) whom the Department found were descendants of the historical Pembina Band. This appendix also identifies the petitioner’s ancestors Chart 1 and Chart 2 ancestors. See Appendix XVIII for the list of the petitioner’s Chart 1 and Chart 2 ancestors whom the Department found were not descendants of the historical Pembina Band.

At least 47 of the individuals who applied for scrip and 53 who received annuities have descendants in the current petitioner’s membership. Some of the scrip applicants and annuitants were parent and child, or a scrip applicant or annuitant’s wife was also the daughter of another applicant. Therefore, the total number of actual living descendants in the membership is less than the sum of all descendants of all the annuitants or scrip applicants.<sup>92</sup>

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<sup>91</sup> For example, Genevieve Hallet (Chart 2) had a brother James Hallet, who the informant for Treaty Schedule B said was “living on the Assiniboine River; is a mixed blood of the Pembina Chippewas; have had their homes in the settlements since I knew them, but hunted buffalo on this side.” OFA did not find James Hallett, his sister Genevieve Hallett, or any of their families on any Federal census for Pembina, Dakota Territory, nor did they apply for Pembina scrip. Their children’s birth places and statements in Canadian scrip application do not confirm the family resided at Pembina or were Pembina Band descendants.

<sup>92</sup> For example, Marguerite (Dufort) Belgarde, the widow of Alexis Belgarde, was on the 1868 annuity list. She had 12 children, 5 of whom have descendants in the petitioner’s current membership (341 members in all). Her sons Joseph and Alexis Belgarde and daughters Josephte Belgarde Decouteau and Euphrosine (Freizine) Belgarde Rainville were annuitants in 1868 or 1869. Her sons Joseph, Theodore, and Augustin, applied for scrip but were identified as Assiniboine/Sioux living in the Turtle Mountains. Two of her daughters, Sophie and Marguerite, married men who applied for scrip and were listed on the McIntyre Report (Francois Rainville #97 “good” and

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The Department matched 155 individuals on the annuity lists, 121 individuals on the McIntyre Report, and 95 individuals on the treaty schedules with individuals in the petitioner's claimed ancestors in its genealogical database. Some of the individuals were on more than one list; therefore, the actual total number of individuals is 265, rather than the sum of all three sources. However, the Department found that not all of the 265 were Pembina Chippewa. Some of the individuals whose names appeared on the annuity lists in the 1865-1874 were identified in the 1880 McIntyre report as Cree, Sioux, or Assiniboine and the OFA could not verify the Pembina Band identification with supporting evidence. In other cases the Department found Pembina Band descent for individuals who were identified as "bad," "doubtful," or "unknown" in the McIntyre Report. In a few cases, the Department did not find any corroborating evidence to support "Pembina mixed-bloods" identifications on the treaty schedules or McIntyre Report.<sup>93</sup> In a few other instances, the Department found that the individuals in the historical record were not the petitioner's ancestors. When the other evidence described above supported the Pembina Band identifications, the OFA included that individual as having Pembina Band ancestry and included the descendants in its analysis of descent from the historical Indian tribe. See the following section on the Department's analyses of the petitioner's Chart 1 and Chart 2 ancestors for additional details.

If the Department found that treaty schedule applicants were Pembina, but not eligible because they were too young or received scrip under another treaty, they were included in the analysis for purposes of determining descent from the historical Indian tribe (criterion 83.7(e)). In order to determine how many in the current LS membership has at least one ancestor who was identified as "mixed-blood Pembina" in the treaty schedules, annuity lists, or scrip applications, OFA created a subset of the genealogical database that included all of the annuitants and scrip applicants and all of their descendants. The OFA was then able to identify each person with a LS membership number who had an ancestor who was a Pembina Band annuitant or scrip applicant, without 'double-counting' the members who have more than one eligible Pembina Band ancestor. OFA then compared this list with its copy of the July 2006 membership list and annotated each member's record to show they descended from a Pembina Band descendant.

### **The Department's Analysis of Descent from the Turtle Mountain Band of Chippewa Indians of North Dakota**

The various censuses of the Indians belonging to the Turtle Mountain Reservation in the 1880's, 1890, and 1892, the 1900, and 1910 Federal censuses, and the 1906 Turtle Mountain Band family history books identified individuals who were enrolled with the Turtle Mountain Band of Chippewa Indians, many of whom were also descendants of the Pembina Band. However, tribes evolve over time and not all of the Turtle Mountain Indians originated from the Pembina Band. For example, Gabriel Beauchemin, who was born in Dakota Territory in 1838, the son of Red

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Alexis Langer #339 whom McIntyre determined was "Sioux ½ breed - not good" although his mother was Pembina. At least 12 of Margaret (Dufort) Belgarde's many grandchildren married individuals who were on the annuity lists themselves or were the children of annuitants or scrip applicants. Thus, Marguerite (Dufort) Belgarde has descendants in common with at least 20 other annuitants or scrip applicants.

<sup>93</sup> OFA's analysis did not credit Pembina Band ancestry to treaty scrip applicants McIntyre recorded as "Not Good" or "Bad" by virtue of being Cree, Assiniboine, or Sioux Indians, or having always lived in Canada unless there was other reliable evidence to refute the McIntyre Report findings.

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Nest, an Assiniboine woman,<sup>94</sup> was listed as a “mixed-blood inside the reservation” on the Turtle Mountain censuses from 1886 to 1892 and received an allotment in Montana as a Turtle Mountain Band of Chippewa Indian. The surname “Beauchemin” (or variations of it) does not appear on any of the Pembina annuity lists, and there is no evidence available at this time that Gabriel Beauchemin also had Pembina Band ancestry. In another case, Susanne Dagneau/Daignault, the daughter of Richard Daignault (French Canadian) and Lisette Bernard (half-blood, no tribe identified), identified herself as a British subject of French Métis origins in 1875 when she was a resident of St. Boniface, Manitoba, and applying for Canadian scrip (see notes in FTM). However, from 1888-1890 she was listed as a “mixed-blood inside the reservation” on the Turtle Mountain censuses. There is no evidence in the record that Susanne Dagneau was a Pembina Band descendant.

In addition, some of the later Turtle Mountain applicants were rejected or disenrolled because the council said they were Pembina Band descendants without ties to the Turtle Mountain Band of Chippewa Indians. This was demonstrated by the evidence from a meeting between Special Agent Edgar A. Allen and the council of the Turtle Mountain Indians at Belcourt, North Dakota. The minutes from this meeting identified applicants for enrollment and “the action of the council upon the same” (Kakanewash 1906, 1). For example, the Turtle Mountain Indian Council unanimously recommended that William Jerome and his minor children be recognized because he lived on the 9,000,000 acres between Olga and Langdon, North Dakota at the time of the 1892 McCumber Census of Turtle Mountain Indians and never lived outside the U. S. “He came here 17 years ago and took an I. H. E. [Indian Homestead Entry] near the reservation, but it was filed upon by a white man and he returned to his present home” (Kakanewash 1906, 4). The Turtle Mountain council also recognized his father, Louis Jerome (b. 1834), and his brother Roger P. Jerome. However, the council unanimously rejected Louis’s brothers Martin Jerome (b. abt 1828) and Roger Jerome (b. abt. 1846) and their families stating they were not recognized “for the reason that they have never lived on the 9,000,000 tract, their homes being in Minnesota, as their applications show, and they have never affiliated with the Turtle Mountain Band” (Kakanewash 1906, 14). Louis Jerome (b. 1834), four of his brothers, and his father, Martin Jerome (b. 1800) were on several Pembina Band annuity lists

Therefore, although Turtle Mountain Band of Chippewa was one of the successors to the Pembina Band,<sup>95</sup> not all of the members of the Turtle Mountain Band were Pembina Band descendants. Based on the evidence cited in the examples above, the Department did not use enrollment at Turtle Mountain alone as evidence for descent from the historical Pembina Band for this FD. However, if the Department’s researchers saw that one of the Pembina Band annuitants, scrip applicants, or “Pembina mixed-bloods” on the treaty schedules was later enrolled at Turtle Mountain, then the TMC identification was used as supporting evidence to

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<sup>94</sup> The current record does not name his father or provide evidence that he was from Pembina Band or any other Indian tribe. Gabriel Beauchemin may be related to the non-Indian Andre Millet dit Beauchemin (1780-1865) who came from Quebec to the Red River Settlements before 1828 and had children born there between about 1800 and 1843.

<sup>95</sup> See the Little Shell PF 2000 Technical Report discussion on the lineal descendants of “members of the Pembina Band as it was constituted in 1863,” who were eligible to share in the distribution of the Pembina judgment award (Little Shell PF 2000, TR, 158).

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substantiate the Pembina Band identification. If the Department's researchers could not link the Turtle Mountain Band ancestor to someone on the annuity lists, treaty schedules, or McIntyre report described above, then it did not presume the connection or include the Turtle Mountain Indian in its calculations for descent from the historical Pembina Band. About 1 percent of LS members (41 of 4,332) descend only from an individual listed on one of the historical Turtle Mountain censuses whom the Department could not document as a Pembina Band descendant.

### **The Department's Analysis of Descent from the Chippewa-Cree of Rocky Boy's Reservation**

OFA also evaluated the new evidence concerning annuitants, treaty schedules, and the McIntyre Report to confirm the Pembina origins of the petitioner's ancestors who were identified in the records of the Chippewa-Cree Indians of the Rocky Boy's Reservation (Rocky Boy's). The PF found that about 14 percent of the petitioner's membership (543 of 3,893 in the 2000 PF) descended from a member of Rocky Boy's Reservation. The May 30, 1917, "Tentative Roll of Rocky Boy Indians" summarized information in the McLaughlin Report including the name, age, birth place, the year of first residence in Montana, and whether he or she was a Canadian scrip recipient or U.S. homesteader. Some of the Rocky Boy's Indians were born at Pembina, or other North Dakota locations; however, OFA could not link these Rocky Boy's Chippewa to Pembina Band Chippewa Indians on the annuity lists, treaty schedules or the McIntyre Report. The OFA's analysis of the evidence submitted and reviewed for the FD shows that about 6 percent of the current members (257 of 4,332) descend exclusively from someone on one of the Rocky Boy's censuses, who were identified as Chippewa, Cree, or Assiniboine, or from other Canadian Indian tribes without any evidence of descent from the Pembina Band.

### **The Department's Analysis of the Petitioner's "Criterion E Progenitors"**

The petitioner stated that the 123 "Pembina Chippewa" individuals on Chart 1 and Chart 2, "descend from 51 common progenitors, marked as Criterion E Progenitors in the Little Shell genealogy database" (Little Shell Comments on PF 2005, Criterion E, 1).<sup>96</sup> In most cases the "Criterion E Progenitor" was the parent or grandparent of someone on Chart 1 or Chart 2, and, in at least one case, the "Criterion E Progenitor" was the great-grandparent. Nine "Criterion E Progenitors" were males and 42 were females.

The Department confirmed the tribal origins of these 51 "Criterion E Progenitors" from baptismal and marriage records cited in the petitioner's genealogical database, the 1880 U. S. scrip applications, treaty schedules, *The Genealogy of the First Métis Nation*, the *Northwest Half-Breed Scrip 1885*, and other sources in the record. The Department found only six of the "Criterion E Progenitors" were identified as Pembina Band through the annuities or McIntyre Report or combined evidence. In many instances the marriage record or child's baptismal record

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<sup>96</sup> The petitioner's March 2008 submission on community provided a definition of the "Little Shell Community Group (LSCG)" that "includes the progenitor and all descendants of: (1) Criterion E Pembina Chippewa ancestors with descendants in the modern community, who are on the relevant 1863 Pembina and Red Lake Chippewa treaty documents," as well as individuals on those documents who do not have descendants in the current group and all of the "Little Shell ancestors" identified as "Hunter" on the 1850 Federal census (LSCG Definition 3/4/2008, received 3/19/2008, 3). There are 104 "LSCG Progenitors" on this list.

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identified the wife or mother as an “Indian Woman,” “Josephite Indian,” or simply “Angelique” without identifying tribal affiliation. In other cases, the wife or mother was identified as “Chippewa Woman” [no other name], or “Josette Saulteuse,” which at least provided some evidence of her ancestry. Ten of the “Criterion E Progenitors” were identified as Saulteaux, 8 as Chippewa, 5 as Cree, 2 as Assiniboine and 1 as Circe or Sarsee. In all, the Department could not confirm a specific Indian tribe for 21 of the “Criterion E Progenitors,” and confirmed Pembina Band ancestry for only 6.

The evidence regarding the petitioner’s “Criterion E Progenitors” confirms what Commissioner Neal stated in 1871 about the “mixed-bloods connected with the Mississippi and Pillager bands, and the Pembina and Red Lake bands” whose “fathers and mothers may some time have belonged to the Chippewas of Lake Superior,” but that the claim was based on “common ancestry” (Neal 1871, 254-255). The evidence also shows that “progenitors” of the petitioner’s ancestors on Chart 1 and Chart 2 were from a variety of other tribal backgrounds. See Appendix XIX for the list of “Criterion E Progenitors.”

### **The Department’s Analysis of Descent from the Métis at the Red River Settlements**

The PF found that about 11 percent of the petitioner’s members (433 of 3,893 at the time of the PF) descend from one of 64 individuals who were at the Red River settlements (RRS) in Canada in 1835 or 1870, but not from individuals who were otherwise identified as descendants of the Pembina Band, Turtle Mountain Band, or Rocky Boy’s Band (Little Shell PF 2000, Summary, 44). Therefore, they were not counted as having documented descent from the historical Pembina Band.

The petitioner’s response to the PF included more complete transcriptions for each of the censuses from 1827 to 1844 and photocopies of the 1870 Manitoba census.<sup>97</sup> Other new evidence for the FD, such as Pembina Band annuity lists and the treaty schedule comments provided additional evidence concerning the petitioner’s ancestors and other relatives who lived in the Red River settlements, either periodically or over long spans of time. The petitioner also provided evidence in its genealogical database that identified many other ancestors who lived in the Red River settlements between 1827 and 1844.

The evidence available for the FD shows that 33 of the 64 Red River settlers identified in the PF were on the 1827-1844 censuses and 31 were on the 1870 Manitoba census. Eight of the 64 ancestors were on both the 1827-1844 RRS censuses and the 1870 Manitoba census. The new evidence for the FD shows that 14 of the 64 men died before the 1863 treaty, and therefore were not on annuity lists or treaty schedules even if they had been eligible. One of the 64 RRS ancestors had a parent who received annuities and 6 had a sibling whom the Department found was a descendant of the Pembina Band. Based on the sibling relationship, the Department found that those seven RRS ancestors were also Pembina Band descendants.

The Department looked at evidence for the wives of the 64 Red River settlers to see if they were

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<sup>97</sup> Abstracts of the 1835 and 1870 Red River censuses were available for the PF in *The Genealogy of the First Métis Nation*.

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identified as “Pembina mixed-bloods,” in which case, descendants of some of the Red River settlers would also have Pembina Band ancestry. The Department found that 15 of the spouses either received annuities themselves, or had siblings or parents who were identified as mixed-bloods of the Pembina Band.

This FD’s analysis of descent from Red River settlers was not limited to the 64 individuals identified for the PF, but included all of the other individuals the petitioner identified from the Red River censuses. The OFA’s analysis of the RRS census data in the FTM genealogical database found 116 men who were born before 1820 (and therefore likely to be of age and head of household by 1827 or 1844) who were listed on at least one of the RRS censuses (1827-1844). The Department found that 30 of these 116 Red River settlers were “mixed-blood relatives” of the Pembina Band, as evidenced by the annuity lists, McIntyre Report, or treaty schedule comments. The Department’s researchers found that about 86 percent of the petitioner’s membership (3,736 of 4,332) descends from at least one of these RRS ancestors.<sup>98</sup>

OFA’s analysis of LS petitioner shows that about 78 percent (3,396 of 4,332) of the current membership have ancestors from both the Pembina Band and Red River settlements ancestral pools. Using the FTM program, OFA created a list of the petitioner’s members who are descendants from Pembina Band (3,864)<sup>99</sup> and a list of members who are descendants of the 116 ancestors on the Red River settlements censuses described above (3,736). The OFA then compared the two lists to determine the number of current LS members who descend from both historical populations.

The petitioner included transcriptions of the 1870 Manitoba census in its genealogical database and submitted photocopies of some of the actual censuses showing the families residing in 17 parishes or specific localities such as “near the U.S. line,” “near Pembina,” or “Scratching River.”<sup>100</sup> The 1870 Canadian census listed everyone by name, their place of residence, place of birth, age at last birthday, and the name of each person’s father. It also identified each person as Métis, white, or Indian; married, single, or widowed; British subject or U.S. citizen; French or English; and whether Catholic or Protestant. It thus identified the maiden name and father of the married women and widows who were listed by their married names on the census and who might otherwise not be identifiable. This multi-generational information helped in determining which of the petitioner’s families were being identified on the Manitoba census and verified some of the genealogical connections in the petitioner’s ancestry. Over 900 individuals in the FTM genealogical database have citations to the 1870 Manitoba Census: 89 of whom OFA also

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<sup>98</sup> The 116 individuals in this analysis is not a complete accounting of all the petitioner’s ancestors who were at Red River in the 1827-1844 era, but is representative of the adult, mostly male, heads of families who were there.

<sup>99</sup> This analysis was conducted before OFA verified Pembina Band ancestry for one other family line in the petitioner’s ancestry, which added 17 more names to the number of members in the group with descent from the historical Pembina Band (3,865 total). This addition did not significantly change the numbers or percentages and did not warrant recalculating this analysis.

<sup>100</sup> See FAIR for images of the Manitoba censuses submitted by the petitioner. The petitioner did not submit all of the census pages for each of the 17 different localities, but copies of some of the pages that included the petitioner’s ancestors.

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identified as Pembina Band descendants. They were living in nine different parishes, primarily along the Red and Assiniboine rivers. Sixteen of the 64 RRS ancestors identified in the PF were among those on the 1870 Manitoba census. They were living in 5 different parishes: 12 were in St. Francois Xavier, and 1 each in Headingly, St Boniface, Ste. Agathe, and High Bluff, Manitoba. Time did not permit a separate analysis comparing petitioner's members who are the descendants of the 1870 Red River Settlements' population with the members who are descendants of the Pembina Band.

### Potential Membership

The petitioner's 2005 list of pending members identified 118 individuals with birthdates ranging from the 1910's to 2000. About 40 were born before 1960 and likely to be currently of an age to have children or grandchildren so that the potential membership exceeds 118 people. However, this pending list does not reflect the full potential for additional members.

The petitioner's governing document states that descendants of the Pembina Band with one-quarter Indian blood are eligible for membership and that "any member's child who possesses a minimum of 1/8 Indian blood" is also eligible. (See Little Shell PF 2000, TR, 216-217, 220-223 for details concerning membership issues in the 1977 constitution and subsequent resolutions to clarify the membership criteria.) The data in the group's own marriage analysis shows that since 1991 only one member married an Indian, and that for the previous four decades the vast majority of the membership (over 85 percent) married non-Indians (Little Shell Comments on PF 2005, B & C 20th, 71). Therefore, it appears that many of the children and grandchildren of current members would not be eligible for membership because of the group's minimum blood requirement. This situation could lead to changes in the group's governing document that would lessen or remove the blood degree requirement, and thus greatly increase the membership.

There are only 179 members who were under 21 on the certified July 2006 membership list, a number that seems low for a total membership of over 4,000, especially since there were over 2,000 members who were of child-bearing age (16-46) in 1987 (when current 21-year olds were born). Therefore an unknown, but potentially very large, number of children may be added to the membership list.

Another set of potential members are the siblings (and their descendants) of adult members. As a test to determine if all members of a family are enrolled, the Department's researchers made a non-random selection of 10 names in the LS marriage analysis and matched them with their families identified in the FTM. These 10 individuals were born in 1887, 1891, 1898, 1928 (2), 1929, 1930, 1944, 1950, and 1955, and thus of child-bearing age between the early 1900's and the 1970's. The Department's researchers also added six enrolled members who were in leadership positions in the current petitioner, or were interviewed as part of the analysis for the FD. These six individuals were born in 1936, 1942, 1953, 1957, 1958, and 1970, and thus of child-bearing age between the 1950's and the present. The Department's researcher then identified the parents of all 16 individuals and printed a descendant chart for the parents' generation to get all of the siblings and half-siblings as well as children and grandchildren of the selected "primary" person and his/her siblings. Thus, the sampling included 3 generations of

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information for 101 adults (16 selected individuals and their 85 siblings).

Twelve of the 16 selected individuals have LS membership numbers. The other four apparently died before the 1980's. Fifteen of the 16 individuals were on the 1939 Roe Cloud Roll, or their parents, grandparents, or siblings were on it. The 16 individuals have a total of 57 children, 39 of whom have LS membership numbers. Additionally, only 17 of the 37 known grandchildren or great grandchildren of the 16 individuals have Little Shell membership numbers. Therefore, another potentially large number of children may be added to the membership list.

As for the 85 siblings (75 full-siblings and 10 half-siblings) of the 16 individuals, 50 have LS membership numbers.<sup>101</sup> These siblings have a total of 191 children, 69 of whom were identified as married in the FTM record. The 85 siblings also have a large number of grandchildren and great-grandchildren who do not have LS membership numbers, but are potential members.

Another set of potential members are the other descendants of Pembina Band of Chippewa who were on the Roe Cloud Roll. The petitioner's 1977 governing document cites the Roe Cloud Roll of unenrolled Indians as evidence of descent from the historical Pembina Indian tribe and the materials reviewed for the PF included the Roe Cloud Roll applications. The PF found that 310 of the 550 Roe Cloud Roll applicants had descendants in the LS membership.<sup>102</sup> The PF also found that about 115 of the 310 ancestors on the Roe Cloud Roll were descendants of Pembina Band scrip recipients on the McIntyre Report. Thus, other descendants of Roe Cloud Roll applicants may be eligible for membership in the LS group if they can document their descent and meet the petitioner's quarter-blood requirement. The Department did not calculate how many other Roe Cloud applicants descended from Pembina Band of Chippewa identified in the annuity lists, treaty schedule comments, or McIntyre Report on scrip recipients.

The circumstances described above outline the potential for a greatly expanded membership, both through enrolling close family members of current members and enrolling individuals who have not previously been enrolled, but who meet the requirements of the group's governing document.

The Acknowledgment regulations state:

Upon acknowledgment as an Indian tribe, the list of members submitted as part of the petitioners documented petition shall be the tribe's complete base roll for purposes of Federal funding and other administrative purposes. For Bureau purposes, any additions made to the roll, other than individuals who are descendants of those on the roll and who meet the tribe's membership criteria, shall be limited to those meeting the requirements of §83.7(e) and maintaining significant social and political ties with the tribe (i.e., maintaining the same

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<sup>101</sup> The number of siblings may be low. Many of the members who were born in the 1950's and 1960's do not have descendants in the FTM.

<sup>102</sup> The PF found that about 77 percent of the membership had least one direct ancestor, sibling, or other close relative (such as aunt, uncle, or great-aunt) on the Roe Cloud Roll (Little Shell PF 2000, TR, 106). The OFA's analysis for the FD finds that about 75 percent of the current membership has at least one direct ancestor or other close relative on the Roe Cloud Roll.

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relationship with the tribe as those on the list submitted with the group's documented petition). (Section 83.12(b))

Under the regulations any additions to the July 2006 membership list, as the base roll, must be limited to the descendants of current members who have not yet submitted the necessary evidence demonstrating that they meet the group's membership requirements described in its governing documents. Any other additions to the July 2006 membership list would need to meet the requirements of criterion 83.7(e) and demonstrate that they have maintained "significant social and political ties with the tribe."

### **The Department's Review of Sample Membership Files**

On October 28, 2008, the Department requested the LS petitioner send photocopies of 50 membership file folders from among those of members added since the PF (about 5 percent, 50 of 932), including those the PF identified were lacking ancestry charts and genealogical documentation (about 900) (Little Shell PF 2000, Summary, 44).<sup>103</sup> The OFA audited the 50 files for completeness and verification of how the petitioner documents the member's descent from the historical Indian tribe. All but one of the sample files had an ancestry chart that illustrated four or five of the applicants' ancestors, including their ancestor on the 1939 Roe Cloud Roll, in Turtle Mountain Band of Chippewa records, or on the Rocky Boy's Reservation 1917 census. However, most of the files had little actual documentation beyond the applicant's own birth record or baptismal record documenting the connection to the parental generation. One file had a baptismal record issued several years after the baptism, but no other documents or forms to connect the individual to his parents or other previous generations. The other 49 files included a photocopy of each applicant's birth record or baptismal certificate, although two of the birth records were the "short form" styled certificate that gives only the name, date, and place of birth, but did not name parents. The 50 sample files followed the same pattern of documentation as those reviewed for the PF. That is, if one file does not appear to be complete, additional evidence may be found in a parent or grandparent's file in order to complete the trail of evidence documenting the member's descent from the historical Indian tribe.

Some of the files included an ancestry chart for the applicant's family member who is also enrolled in the group. For example, the file for one member born in the 1970's had an ancestry chart that identified her mother, maternal grandmother born in 1915, and great-grandparents born in the 1880's. The member's enrollment application cited her mother's brother who was born in the 1940's as the "ancestor on base roll through whom enrollment rights are claimed" and the file included his ancestry chart showing five generations of his ancestry; two more than on his niece's ancestry chart. The new member's file also included her mother's and uncle's birth records, the grandmother's death record, and letters from the enrollment officer. The letters

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<sup>103</sup> Criterion 83.7(e) requires a petitioner to demonstrate descent from its historical tribe. However, the membership size of some petitioning groups, or their problematic record trails, may preclude the Department from evaluating evidence of every parent-to-child relationship within the time limits of the acknowledgment process (for example, the United Houma Nation petitioner, #56, with over 17,000 members in 1994). In those instances, OFA evaluates the available evidence for a sampling of the petitioner's members. Using the sampling as representative of the whole, the Department applies the "reasonable likelihood" principal to use the results of the sampling evaluation to determine whether the petitioner as a whole meets the criterion.

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notified that the applications had been approved based on “the information provided in the application, together with all other evidence concerning the applicant’s eligibility,” indicating that the enrollment committee looked at more than just what the applicant supplied. The petitioner’s evaluation of applications follows the practices discussed in the PF (Little Shell PF 2000, TR, 227; and see Souther 5/11-13/1998 in FAIR).

During the May 1998 site visit to the petitioner’s offices as part of the review for the PF, one OFA researcher audited the membership files “to confirm the procedures and determine how the group maintains its files” (Little Shell PF 2000, TR, 225-226).<sup>104</sup> That review found the files generally included applicants’ birth or baptismal records naming parents, ancestry charts, membership applications, and other evidence that illustrated each individual’s descent from someone on the Roe Cloud Roll, which the PF technical report found “the petitioner relied on . . . as the prime, although not sole, source, for identifying the Indians of Pembina or Little Shell Chippewa descent” (Little Shell PF 2000, TR, 223). The PF technical report also noted that not all of the membership files had all of the documents or forms referred to in its governing document or membership resolutions, but that as a whole the files had “the records required by the petitioner’s governing documents and resolutions to determine that the applicant is entitled to enroll as a member” (Little Shell PF 2000, TR, 226).

The applicants’ claims found on ancestry charts and applications in the membership files are supported by other evidence in the record. The notes field for individuals in the petitioner’s genealogical database includes transcriptions of historical records, such as the parish registers of baptisms, marriages, or burials.<sup>105</sup> The genealogical database also includes citations to other documents in the record, such as census records and other published sources, which demonstrate the connections between the generations.

The ancestry chart in the membership files shows four or five generations and includes notations to the ancestors who were on the Roe Cloud Roll,<sup>106</sup> on Rocky Boy’s rolls, or in the Turtle

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<sup>104</sup> In May 1998, OFA looked at a non-random sampling of about 360 membership files (9 percent of 3,893) and about 20 folders from “pending” files. The sampling included 86 of the first 273 membership file folders and every 13th file folder thereafter. See Little Shell PF 2000, TR, 225-228 for additional information on the group’s membership files and enrollment processes.

<sup>105</sup> The transcriptions appear to be word-for-word transcriptions of unpublished church records. For example, in the notes for Amable Elise Azure the transcription of the burial record reads: “S-20 [“sépulture” or burial number], Elise [Amable ?] Azur, bu. 10 Dec 1888, age 82 years, widow of J. Bte. Wilky, Witnesses: Charles Meunier and J. Bte. Beauchamp, L. Alph Ricklin ptre. (page 155).” The citation is to “Our Lady of the Sacred Heart, Olga, North Dakota 1882-1900, File Reference: Olga, page 155, S-20.” OFA did not find that these parish records had been microfilmed or published. In general, OFA tested the transcriptions against U.S. and Canadian census records, Canadian scrip applications, and some published cemetery records which confirmed parental relationships, dates and places of birth, or date and place of death or burial.

<sup>106</sup> The “Roll of Landless Indians of Montana” compiled by Dr. Henry Roe Cloud was discussed in detail in the Little Shell PF. It was based on evidence in the “Application for Registration as Indian,” that had the applicant’s name, birth date and place, spouse and children’s names, parents’ and grandparents’ names and origins, other family information and degree of Indian blood (Little Shell PF 2000, TR, 99-107). Overall, the applications and Roe Cloud Roll were useful, contemporary sources for indentifying the living applicants and their children. However, the PF and FD viewed information about the parents and earlier generations of Roe Cloud Roll applicants as clues and did not accept those claims without some additional evidence to support the identifications.

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Mountain censuses and family books. The evidence in the record connects those particular historical individuals with *their* ancestors, many of whom the Department finds were documented as members of or descendants of Pembina Band. OFA looked at almost every entry in the genealogical database (23,830 individuals), starting with the individuals with LS membership numbers and then the entries for each of their ancestors, looking for citations to the evidence used to document the connections claimed. Where possible, using the evidence in the record or readily available through Internet sources, OFA was able to substantiate that the names, dates, and family connections were correct in most instances. Thus, the FD's review of the entire record supports a finding that the sample membership files actually reviewed (less than 10 percent of 4,332) were representative of the whole, and that the files contain sufficient evidence to document the members' ancestry.

In conclusion, the Department's review of all the evidence for the FD finds that the petitioner's membership files generally include two types of evidence. The first type of evidence consists of modern ancestry charts that illustrate four or five generations of the member's ancestors including individuals listed on the 1939 Roe Cloud Roll. The petitioner accepts an appearance on the 1939 Roe Cloud Roll as evidence for descent from the historical Pembina Band for its membership determinations. The second type of evidence in membership files consists of documents that verify the member's own vital information and parentage, but the files usually lack such documents for earlier generations. Documentation for earlier generations may instead be found in the membership file of the applicant's parent or grandparent. Thus, a membership file in isolation may not have all of the necessary evidence, but must be viewed in combination with the parent, grandparent, or other family members' files in order to see the documentation used to verify descent. The Department did not conduct a second audit of the LS membership files, but relied on the evidence in the sampling reviewed for the PF and the sampling of files provided for the FD to evaluate the completeness of the petitioner's membership files.

### Summary of the Department's Findings

The Department's findings are based on its investigation of the Pembina Band ancestors, and its confirmation of the current members' descent from the Pembina Band ancestors. The evidence in the record demonstrates that about 89 percent (3,865 of 4,332) of the petitioner's current members have at least one direct ancestor who descended from the historical Pembina Band of Indians. This includes the Pembina Band members identified in the annuity lists for the years 1864-1865 and 1868-1874. The Department found that some of these Pembina Band annuitants and "mixed-blood relatives" were also identified as "Pembina mixed-bloods" in Pembina and Red Lake Band treaty schedules, were rejected as applicants on Lake Superior Chippewa treaty schedules because they were "Pembina mixed-bloods," or identified as Pembina scrip recipients on the 1880 McIntyre Report.

About 1 percent of the membership (41 of 4,332) descends exclusively from an ancestor on the historical rolls of the Turtle Mountain Band, without other evidence demonstrating Pembina Band ancestry. About 6 percent of the current membership (257 of 4,332) descends from the Chippewa-Cree Indians of Rocky Boy's Reservation without showing they also descend from the Pembina Band. About 3 percent (134 individuals) may have Indian ancestry from Indian tribes

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in Canada, Montana, or elsewhere, but have not documented descent from the historical Pembina Band. Less than 1 percent (about 40 individuals) of the group's membership has not illustrated their ancestry (names and birthdates are on the membership list, and they appear in the Department's annotated FTM, but they are not connected to parents or grandparents or earlier generations).

#### Conclusions

The petitioner submitted a properly certified membership list that identifies 4,332 members. The membership list includes all of the elements required in the regulations, although not complete for each individual. The evidence in the record demonstrates that about 89 percent of the current membership (3,865 of 4,332) has descent from the historical Pembina Band of Indians. Based on precedent, 89 percent is sufficient to satisfy the requirements of the criterion. Therefore, the petitioner meets criterion 83.7(e).

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**Criterion 83.7(f) requires that**

**the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.**

The PF found that less than 1 percent of the petitioner's members (15 of 3,893 at the time of the PF) were enrolled in federally recognized Indian tribes in Montana. Therefore, the PF concluded that the petitioner's membership "is composed principally of persons who are not members of any acknowledged Indian tribe."

The Department developed lists of names of current LS members who had a parent or grandparent enrolled at Turtle Mountain, Rocky Boy's, or Ft. Belknap Reservations. Almost all of these individuals enrolled in LS between 1998 and 2005, although a few have membership numbers dating to 1987. In October 2008, the Department sent these lists to the tribal enrollment offices at Rocky Boy's (172 names), Fort Belknap (123 names), and Turtle Mountain Band of Chippewa (220 names) reservations for verification of the individual's enrollment status. Rocky Boy's response identified five individuals who were enrolled with that Indian tribe, one of whom had been identified as dually enrolled at the time of the PF. Turtle Mountain's response stated that none of the names on the list were enrolled at TMC. Fort Belknap did not respond to this request as of June 18, 2009. After eliminating the duplications from the list of dual enrollees at the time of the PF with the information gather for the FD, there appears to be 19 LS members who are enrolled in federally recognized tribes.

For the FD, the Department finds that less than 1 percent (19 of 4,332) of the LS petitioner's membership is enrolled in federally acknowledged Indian tribes. Should all of the 123 names submitted to Fort Belknap be enrolled there, the LS membership would still be "composed principally of persons who are not members of any acknowledged North American Indian tribe." Therefore, this FD confirms the findings in the PF: the LS petitioner is principally composed of persons who are not members of any acknowledged Indian tribe.

The LS petitioner meets criterion 83.7(f).

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**Criterion 83.7(g) requires that**

**neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.**

A review of the available documentation for the PF and FD revealed no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe.

Conclusion

The petitioner meets the requirements of criterion 83.7(g).

Appendix I

**Examples of Households Included  
as Part of the “Little Shell Community Group” that Did Not Have Pembina Band  
Ancestry until Much Later in Time**

1880 Census

1. Eli Louis Gardipee, b. 1860 (Database #241)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1910**
2. William Conway, b. 1848 (#10631)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1938**
3. Joseph Kipp, b. 1891 (#10587)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1964**
4. Philip Lucero, b. 1848 (#10549)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1914**
5. Eli Gardipee, b. 1857 (#6723)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1958**
6. Adolph Fellers, b. 1835 (#4332)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1903  
and that was a marriage to a Rocky Boy’s Chippewa**
7. John Plummer, b. 1853 (#7438)  
Non Pembina ancestry  
Wife had no Pembina ancestry  
No evidence of a descendant marrying a person of Pembina ancestry until **1901**

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8. Frank Truchot Jr, b. 1866 (#7193)
  - Non Pembina ancestry
  - Wife had no Pembina ancestry
  - No evidence of a connection to a person of Pembina ancestry**
  
9. Thomas Pambrun, b. 1833 (#14850)
  - Non Pembina ancestry
  - Wife had no Pembina ancestry
  - No evidence of a connection to a person of Pembina ancestry**
  
10. Basil Ambrose Larance, b. 1825 (#4301)
  - Non Pembina ancestry
  - Wife had no Pembina ancestry
  - No evidence of a descendant marrying a person of Pembina ancestry until **1886**

## Appendix II

### Description and Analysis of Origins and Migration of the Petitioner's 104 "Common Progenitors" and their Descendants in the Red River Valley before 1880

Since the PF, the petitioner has provided conflicting definitions of what constituted its claimed ancestral group."<sup>1</sup> In its 2005 narrative, the petitioner first described itself as having "evolved out of the early 19th century Pembina-Chippewa tribe into a primarily mixed-ancestry, Ojibwa/French, tribe" (LS Comments on PF 2005, Criterion B & C 19th, 2). This definition indicated the petitioner believed the ancestors of the current group originated as part of the historical Pembina Band of Chippewa Indians and then evolved into a separate group of mixed Indian ancestry in Montana.

The petitioner's 2005 narrative provided a more expansive description of the "core ancestral community," arguing the Little Shell group consisted "primarily of Ojibwa/French Métis"

1) who were primarily based in Pembina and St. Francis Xavier and St. Boniface (both of the latter are parishes in the "Red River Settlements" and all are part of the Red River area); 2) who became Plains Buffalo Hunters and lived a great deal of the year on the plains with their Chippewa relatives; (3) who were a part of and eventually evolved out of the Pembina Chippewa Tribe; and (4) who spoke Michif, a language that combines French noun phrases, with verbs phrases from the *lingua franca* of the northern plains—a form of Cree.  
(LSM Comments on PF 2005, Criterion B & C, 19th, 2)

The petitioner refined and expanded the definition of its historical ancestral group in its last submission upon request from the Department (Kennedy 3/5/2008). Now the petitioner defined its ancestral group as having three components. The "largest component" included individuals the petitioner designated as "Criterion E" people, "Pembina Chippewa Ancestors" with descendants in the modern group, or "their siblings" without descendants, who were on the "relevant" documents associated with the Pembina and Red Lake Bands of Chippewa Indians Treaty of 1863.<sup>2</sup> The second component included people "approved for and found on the relevant" Pembina treaty documents who do "not have descendants" in the current group. The third component incorporated individuals designated as hunters on the 1850 Federal Census of Pembina in Pembina County, Minnesota Territory. Using these criteria, the petitioner traced the

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<sup>1</sup> For the documented petition before the PF, the petitioner incorrectly assumed the Little Shell group was previously acknowledged by the Federal Government until 1904 as part of the Turtle Mountain Chippewa Tribe and thus provided no detailed examination of the group's history or community before that period (OFA 2000, 28).

<sup>2</sup> These treaty documents included annuity lists and scrip records from the 1860's and 1870's.

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individuals represented in these components to a group of 104 progenitors (LS Comments on PF 2005, Criterion B & C 20th, 69; see also LSCG 8.17.2004.xls.). The petitioner provided a list of these 104 common progenitors and annotated them in its genealogy database (Kennedy 3/5/2008). The 104 progenitors included 51 individuals annotated as “Criterion E Progenitors” whom the petitioner claimed were the ancestors of 123 lineal ancestors later documented as having Pembina Band of Chippewa ancestry. The other 53 individuals were annotated as simply “Progenitors.” These 104 progenitors came mainly from a variety of Indian ancestries, including Chippewa, Assiniboine, Cree, and Saulteaux, but in a few cases, they were white men of French-Canadian ethnicity married to Indians. They then included all the progenitors and all their descendants and “counted” them as part of what it called the “Little Shell Community Group,” which constitutes the entire body of the group’s claimed members since historical times to the present, although the petitioner often used the term to describe a claimed community at specific points in time (Kennedy 3/5/2008). The number of individuals in this claimed group was approximately 13,434.

This FD focused on determining if the petitioner’s ancestors originated as part of a historical entity, most likely the Pembina Band of Chippewa Indians,<sup>3</sup> and evolved from it as a substantially continuous community during its migration to Montana and elsewhere. To determine if the petitioner evolved from part of an Indian entity from the Pembina region of North Dakota, as suggested in the PF, the FD analyzed the origins and settlement patterns of the petitioner’s 104 claimed progenitors and their descendants for the subsequent one or two generations. It made this analysis mainly through ancestral charts developed from the petitioner’s genealogical database,<sup>4</sup> as heavily augmented by OFA.

The analysis revealed the group’s claimed common progenitors were mostly born during the late 18th and early 19th centuries. By the 1820’s and 1830’s, church records documented the place of birth or settlement of affiliation for many of them as the Métis Parish of St. Boniface in southern Manitoba, Canada.<sup>5</sup> In the 1840’s and 1850’s, most of the progenitors or their children and grandchildren were located primarily either at the Red River Métis settlement of Pembina County in what is now North Dakota, or at the Red River Métis settlement at St. Francis Parish in southern Manitoba, Canada. But smaller numbers of these ancestors also resided in the Red River Métis settlements in St. Boniface and St. Norbert Parishes. In each case, the petitioner’s ancestors were only a minority of these settlements. Essentially, the ancestors who made up the ancestral core of the petitioner’s claimed “Little Shell Community Group” originated as a small portion

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<sup>3</sup> The FD concentrated on the Pembina Chippewa Band because the petitioner used it as the historical descent group for the purpose of descent from the historical tribe under the criterion 83.7(e), rather than the more broadly defined “Little Shell Community Group,” which constituted a much larger population.

<sup>4</sup> The OFA also reviewed marriage data from the genealogical database, the 1850, 1870, and 1880 Federal censuses for Pembina, North Dakota, Pembina Band treaty scrip and annuity records from the 1860’s and 1870’s, and the Canadian Red River Settlement Census Returns from 1827 to 1843, and the Canadian Manitoba Census from 1870.

<sup>5</sup> In some cases, the information to identify the place of birth or settlement of affiliation was unavailable.

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of a much larger ethnic group, the Métis who inhabited and dominated the numerous transnational settlements of the Red River valley.

In the 1860's and 1870's, the children and grandchildren of these 104 progenitors were listed on records showing them living in Pembina County and St. Francis Parishes, and in smaller numbers in places like St. Boniface and St. Norbert Parishes. But they could also now be found in records that described them as part of settlements farther west in Saskatchewan, Alberta, and Northern Montana. In these cases, the petitioner's ancestors again composed only a portion of the settlements in this dispersed area. Available evidence also showed that some of the ancestors in the Pembina region during these two decades were part of or described as having descent from the historical Pembina Band of Chippewa from the Red River area. The full-blood Indians of this band were affiliated and intermarried with many Métis. Indian Office records from the 1850's to the 1870's, documented that some of the petitioner's ancestors residing in the Pembina area collected annuities as part of the federally recognized Indian tribe or were described as having Pembina Band of Chippewa ancestry on treaty scrip schedules. However, the petitioner's ancestors composed only a portion of the annuitants or the scrip recipients and their connection to the Pembina Band often proved largely temporary.

The factors pushing the petitioner's ancestors, along with many other members of the Métis settlements, from the Red River valley westward onto the plains of southern Saskatchewan and Alberta and northern Montana were various. First, an influx of white settlers, in Canada and the United States, began gradually dislodging the Métis, and the Pembina Band of Chippewa Indians, from the Red River region. Second, after a failed Métis rebellion in 1870, the Canadian government adopted land policies favoring white settlers over Métis. For some like the petitioner's ancestors, this meant uprooting many of them from their lands and dispersing them gradually westward. Third, the Federal Government adopted policies that removed some of the Métis, including some of the petitioner's ancestors, from the rolls of the Pembina Band of Chippewa Indians or restricted their access to treaty annuities and land scrip in the Pembina region, pushing some of them gradually from the Pembina area (Tenney et al. 10/20/1871, 688; Smith 11/1/1874, 32; CIA 1878, 80, 1880, 104; Price 10/24/1881, L). Finally, the rapid decline of the buffalo herds forced other Métis, among them some of the petitioner's ancestors, westward in search of the remaining herds in Montana and Saskatchewan. At first, much of this buffalo-hunting migration was seasonal and only temporary but later became more permanent as many Métis established dispersed winter quarters in Wood Mountain, Cypress Hills, and Qu'apelle in Saskatchewan, and along the Milk River in northern Montana.

When the buffalo reached the point of near extinction in the 1870's, many Métis, including some of the petitioner's ancestors, chose to remain in these dispersed areas. Thus by the late 1870's, early 1880's, the petitioner's ancestors, those descended from the group's 104 progenitors, were already located in varying numbers in dispersed Métis settlements throughout the northern plains, including Manitoba, Saskatchewan, Alberta, North Dakota, and northern Montana. In all these areas, the petitioner's ancestors remained only portions of the multiple, larger Métis settlements rather than a distinct

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“Little Shell” community tied together by social relationships and interaction. Migration by the descendants of the 104 progenitors to northern Montana, Saskatchewan, and Alberta from North Dakota continued from the 1880’s to the 1920’s, although census data indicated the bulk of it occurred from 1880 to 1910. The migration was individualistic, without evidence of retention of any ties to a prior group.

The dispersed nature of the migration and settlement patterns of the group’s ancestors is shown by the following example. Francois Amyotte,<sup>6</sup> was born about 1776 somewhere on the Red River in Manitoba, Canada. He married a Marie Arnet, who was born about 1790, also somewhere on the Red River in Manitoba. Francois was probably a Métis, but his actual tribal ancestry remains unknown. There was no information on his wife’s ancestry. Francois Amyotte had at least two sons, Louis, born 1819, and Joseph, born 1822, somewhere on the Red River in Manitoba. In 1850, he and his family, and his son Joseph and his family, were listed on the Federal census in Pembina, North Dakota. There was no further information on Francois Amyotte after that time, but by the 1870’s his son Joseph Amyotte’s descendants had migrated mainly to Saskatchewan where they intermarried with individuals who had come from the Red River Métis settlements in Manitoba. One of Joseph Amyotte’s children eventually migrated to the Highline area around Malta, Montana, via Saskatchewan in the late 1880’s. Yet by this time the Métis descendants of Francois Amyotte were also living in Saskatchewan, Alberta, and even on the Turtle Mountain Reservation in North Dakota. There was no available evidence to show the migration of the Amyotte line to these areas was group oriented; rather, the evidence showed it was individualistic in nature. Such dispersed migration and settlement patterns were typical of the vast majority of the group’s progenitors.

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<sup>6</sup> He is database reference number 12597.

### **Appendix III**

#### **Description and Analysis of the Petitioner's Documented Lineal Ancestors**

The petitioner claimed “approximately” 94 percent of its current members have documented descent from the “Pembina Band of Chippewa.” It argued these members traced their ancestry “to individuals who received scrip (or who were listed as eligible to receive scrip) as Pembina Chippewa relations and/or received annuity payments as Pembina pursuant to the treaty of 1863 between the US government and the Pembina Band of Chippewa.” Using these documents, the group identified “123 Pembina Chippewa ancestors” of the petitioner, who descend from “just 51 common progenitors,” who were also part of the 104 progenitors described above (Little Shell Comments on PF 2005, Criterion E, Summary of Evidence, 1).

The petitioner provided a list of these 123 claimed lineal ancestors. According to the petitioner, treaty annuity and scrip records described 53 of these individuals as “mixed-blood Pembina,” while the remaining 70 were the siblings of individuals described as “Pembina mixed-bloods” on such documents (see criterion 83.7(e) for a discussion of the actual ancestry of these claimed 123 lineal descendants). The OFA analyzed the available data on these ancestors to uncover their origins and migration patterns.

The evidence revealed the first group of 53 ancestors were mainly born or baptized in the early 1800's in what became Pembina County, North Dakota, or St. Boniface, St. Francis Xavier, St Norbert Parishes, or unidentified Métis settlements on the Red River in Manitoba. They generally remained listed as part of these Métis settlements until the 1850's, rather than among any full-blood Pembina Chippewa. From the 1850's to 1870's, most of them appeared on various records showing residence in the Métis settlement of Pembina, North Dakota.

In the early 1870's these ancestors began to disperse further. Thirteen, for example, were found on records, mainly the 1870 provincial census, placing them in Manitoba in the early part of that decade. Yet 14 were also found on records that put them in Saskatchewan or Alberta a few years later in the 1870's, and 14 others were recorded in Montana sometime between the late 1870's and 1900. In addition, 12 of them appeared from the late 1880's to the early 1900's on the Turtle Mountain Reservation censuses, 5 after being in Saskatchewan or Montana. In 12 separate cases, the ancestor's spouse or children were recorded on the Turtle Mountain Reservation censuses. The available evidence showed these 12 individuals were in group relations with the Turtle Mountain Band of Chippewa Indians of North Dakota and there was not a group of the petitioner's ancestors together in Montana.

Looking at the death places of these 53 ancestors, when identifiable, the OFA found they died in northern Montana, North Dakota, Manitoba, Saskatchewan, and North Dakota, including the Turtle Mountain Reservation area and Pembina County. Their children

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showed similar, dispersed patterns of residence throughout the northern plains during their lifetimes.

One example of a documented lineal ancestor is representative of the dispersed nature of the migration and settlement patterns of the group's ancestors. Charles Azure, Sr.<sup>7</sup> was born in 1816 in the Red River Métis settlement of St. Boniface Parish, Manitoba. By the early 1840's, he was living in the Red River Métis settlement of St. Francis Xavier Parish, where he, his first wife, and two sons were recorded on the 1843 census. By the late 1840's he was living in the Métis settlement area of Pembina County in North Dakota, where in 1850, he was listed on the Federal county census with his second wife and their children. In the late 1860's and early 1870's, Azure received annuities and scrip as a Pembina mixed-blood under the 1863 Pembina treaty. He and his family apparently remained in the Pembina area at least until 1880, but also may have spent time in Manitoba during the early part of the 1870's. In 1880, he and his family were recorded on the Montana Federal census at St. Peter's Mission on the edge of the Front Range. Then between 1884 and 1900, he was recorded on multiple reservation censuses at the Turtle Mountain Reservation in North Dakota, where he died in 1907. Almost all of his children remained in North Dakota, either at the Turtle Mountain Reservation or the Pembina area. These individuals were more likely affiliated with the Turtle Mountain Band of North Dakota and not with a distinct interacting group of Little Shell ancestors in Montana. A few of his children remained in Montana in the 1880's, but the available evidence did not indicate they came there as part of a group migration or settled in a distinct community of the petitioner's ancestors. Such a dispersed migration and settlement pattern was typical of all 53 documented lineal ancestors.

The 70 siblings of documented ancestors showed similar origin and migration patterns. Before the 1850's, they too were mostly associated with Pembina County, North Dakota, which was part of Minnesota Territory at the time, or St. Francis, St. Boniface, St. Norbert Parishes, and other unidentified Red River Métis settlements in Manitoba. Only 31 of these 70 ancestors appeared on records indicating a Pembina residence sometime between the 1850's and 1870's, and these 31 were not located together as a group. In the early 1870's, about 35 appeared on records indicating residence in Manitoba, and by the middle to late 1870's, 28 were found on records that placed them in either Saskatchewan or Montana. Only eight appeared on Federal censuses in Montana between 1880 and 1920. In contrast, in 14 other cases, the individuals were recorded on Turtle Mountain Reservation censuses in the 1880's and 1890's, and in 18 additional instances, a spouse or child were so recorded. Seventeen of these Turtle Mountain individuals and family members had previous family events, like a baptism or marriage, either in Saskatchewan in the 1870's or Montana in the 1880's, before being recorded on the reservation records. The available evidence showed these individuals were in relations with the Turtle Mountain Band of Chippewa Indians of North Dakota and not a group of the petitioner's ancestors in Montana.

Looking at the death places of these 53 ancestors, when identifiable, they died in northern Montana, North Dakota, Manitoba, Saskatchewan, North Dakota, including the Turtle

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<sup>7</sup> His genealogical database number is 13374.

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Mountain Reservation area and Pembina. Their children showed similar, dispersed patterns of residence throughout the northern plains during their lifetimes.

One example of the sibling of a documented lineal ancestor showed the dispersed nature of the migration and settlement patterns of the group's ancestors. Josepthe Courchene was born in 1826 in the Red River Métis settlement of St. Boniface Parish. In 1844, she married Jean Baptiste Jerome, a Métis of Pembina Band ancestry, and they had one child born in 1844 at St. Boniface Parish. This marriage lasted only one year, and in 1846 she married Pierre Deschenaux, a Métis originally from Alberta of unknown Indian ancestry. They had 13 children born between 1846 and 1870. In the late 1840's and early 1850's, Josepthe Courchene and her family were moving intermittently among the Métis settlements of St. Norbert and St. Boniface Parishes in Manitoba and Pembina County in North Dakota. Between 1858 and 1870, she and her family remained in Pembina County. In 1869, her brother, Francois Courchene received scrip under the 1863 Pembina treaty, described as having Pembina mixed-blood ancestry. By 1870, she and her family were living along the Battle River in Saskatchewan, where she died in 1920.

The one child, and all her children, from Josepthe Courchene's first marriage migrated to North Dakota. Only one of her 13 children from her second marriage migrated to Montana, going to the Great Falls area in the late 1890's after spending the previous 30 years in either Saskatchewan or Alberta. The available evidence did not indicate that this family line came there as part of a group migration or settled in a distinct community of the petitioner's ancestors. All the other children who lived to adulthood, for which there is information, remained in Saskatchewan or Alberta. Such a dispersed migration and settlement pattern was typical of all 70 siblings of documented lineal ancestors.

Appendix IV

Critique of the Little Shell Group Marriage Data, 1850-1940

Figure 1:

The Department's Analysis of Little Shell Claimed Group Marriages, 1851-1940

Decade	Total Claimed Marriages in LSCG	Total of Claimed Group Marriages in LSCG	Percentage of Claimed Group Marriages in LSCG
1851-1860	169	87	51
1861-1870	177	89	50
1871-1880	225	119	53
1881-1890	209	89	42
1891-1900	180	83	46
1901-1910	194	79	41
1911-1920	212	86	40
1921-1930	249	89	36
1931-1940	287	86	30

Section 83.7(b)(1)(i) of the acknowledgment regulations lists as evidence for community, “Significant rates of marriage *within the group*, and/or, as may be culturally required, patterned out-marriages with other Indian populations” (emphasis added). Section 83.7(b)(2)(ii) of the regulations provides that a petitioner shall be considered to have provided sufficient evidence of the existence of a community at a particular time if, “At least 50 percent of the marriages *in the group* are between members of the group” (emphasis added).

The Little Shell PF concluded

almost all of the petitioner’s adult Métis ancestors who moved into Montana were married to other ethnic Métis, and were the descendants of such marriages. Once in Montana, the petitioner’s Métis families intermarried extensively with other Métis families in the state. Measurements of intermarriage among the petitioner’s ancestors, both by the BIA’s researchers and the petitioner’s researchers, showed very high rates of Métis-to-Métis marriage between 1880 and 1940, and substantial rates afterwards. (Little Shell PF 2000, Summary, 13)

The PF suggested that to “strengthen” the FD, the petitioner might “wish to establish, by a more extensive analysis, the extent to which the entirety of a region [in Montana] was linked by marriages ties, and by using other data concerning social and economic contacts, develop a more complete portrait of a historical community (Little Shell PF 2000, Summary, 15). It also proposed the petitioner could further strengthen the PF by

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“providing additional evidence for the social context for these marriages among the petitioner’s ancestors” (Little Shell PF 2000, Summary, 15).

The PF acknowledged a significant degree of Métis-to-Métis marriage among the petitioner’s ancestors, but did not apply this marriage data correctly under the acknowledgment regulations. The regulations provide that “significant rates of marriage within the group” is evidence for community. But, the Métis population is not the petitioner or its ancestral group. Métis-to-Métis marriages, thus, did not measure marriages between members of a group. Rather, it measured the rate at which the petitioner’s ancestors married other individuals of similar ethnic background. The PF mistakenly substituted an ethnic group for a social group or social community.

The available evidence for the FD does not show all Métis formed a single group. Nor does it demonstrate the petitioner’s ancestors as a group consisted of a recognized portion of all the “ethnic” Métis, or that the intermarriage analysis was confined to such a distinct group, either before or after they migrated to Montana. Without first defining the character and limits of the petitioning group, the FD cannot actually measure a rate of marriage between the members of a group or a rate of marriage within a group.

In its comments on the PF, the petitioner provided data on 3,697 new marriages since historical times, drawn from over 13,000 individuals in its genealogical database. Rather than just examining Métis-to-Métis marriages, the petitioner now provided an analysis of marriages within its claimed “Little Shell Community Group.” It designated marriages occurring within the “Little Shell Community Group” as “in-group” ones, and marriages between other Métis or Indians as “patterned out-marriages.” The petitioner then labeled marriages between members of the “Little Shell Community Group” and non-Indians as out-marriages (Little Shell Comments on the PF 2005, B & C 20th, 69-77).

The first problem with the new marriage data was that the petitioner’s claimed “Little Shell Community Group,” as previously stated, did not constitute a historical group but a collection of people of common ancestry derived from an arbitrary set of ancestors who originally formed parts of much larger Métis settlements before they migrated to Montana. See also Appendix I. The available evidence did not demonstrate the petitioner’s ancestors were a distinct community within these settlements or that all the Métis in these settlements formed one group. After the petitioner’s ancestors migrated to Montana, the available evidence did not show they came as part of a group migration or that they constituted a distinct community within the many settlements areas in which they resided. Thus, marriages between individuals the petitioner designated as members of the “Little Community Group” did not meet the definition of “in-group” marriages under the regulations.

The second problem with the petitioner’s marriage statistics was that they were incomplete. For instance, the petitioner provided only information on the marriages of the people it included in its claimed “Little Shell Community Group.” Yet, the available evidence showed their marriages were occurring within multiple settlements throughout the northern plains, in Canada and the United States. The available evidence did not

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indicate the petitioner's ancestors formed a distinct community or communities within these settlements. Thus by providing only information about the marriages of the "Little Shell Community Group," the petitioner provided only a portion of the evidence regarding potential marriages within these settlements over time. In addition, the petitioner only provided data on the marriages within family lines for which it had information. This fact led to gaps in the marriage data within family lines. It was not uncommon for marriage data submitted by the petitioner to be available for only portions of the siblings within very large families, particularly among those ancestors who did not migrate to Montana.

Finally, the petitioner left out a great deal of marriage data regarding the Indian tribes of which it claimed its ancestors were part. For example, from 1850 to 1880 the petitioner claimed some of the members of the "Little Shell Community Group" were part of the Pembina Band of Chippewa Indians. Yet for that period it only included marriage information for the mixed-blood members of the Pembina Band in its database it judged to be part of the "Little Shell Community Group." The petitioner did not provide any marriage information about the other mixed-blood and the full-blood members of the Pembina Band of Chippewa Indians, who constituted a significant portion of the Pembina Band from 1850 to 1880. It was for these years the petitioner claimed in-group marriages exceeded 50 percent. Without the marriage statistics for the other mixed- and full-blood members, the data set remained incomplete, and thus did not demonstrate evidence under 83.7(b)(1) or (2).

From 1880 to 1930, the petitioner also claimed some of the individuals belonging to the "Little Shell Community Group" were part of the Turtle Mountain Band of Chippewa Indians. But again, the petitioner included only marriage information about individuals connected to the Turtle Mountain Band in its database it judged to be part of the "Little Shell Community Group." It did not provide marriage data about the other members of the band, both mixed- and full-blood, who were a much larger contingent.

Nor did the available evidence explain how the petitioner's marriages within these Indian communities, the Pembina Band or the Turtle Mountain Band, were related to those largely Métis marriages of its ancestors occurring in the multiple other settlements in which they resided from 1850 to 1930. Thus, the petitioner's marriage statistics provided only a limited portrait of the petitioner's overall ancestral group.

The third problem came from the petitioner's definition of patterned out-marriages. The regulations require such marriages be "culturally required" with other Indian populations to be evidence of community. Yet the available evidence did not indicate the marriages the petitioner designated as patterned out-marriages were culturally required; rather, the evidence suggested they were a matter of individual preference. Such marriages would not meet the definition of a patterned out-marriage under the regulations. A statistical breakdown of the petitioner's marriage data follows in the Appendix V.

Appendix V

Statistical Breakdown of Little Shell Petitioner Marriage Data

For the period from 1851 to 1880, the petitioner claimed that “in-group” marriages constituted over half of the marriages in the “Little Shell Community Group,” and thus provided sufficient evidence of community in itself under 83.7(b)(2)(ii).<sup>8</sup> As discussed above in “The Petitioner’s Definition and Description of Community from the Early 1880’s through Present,” the FD does not accept the LSCG as a correct baseline, as a group, for purposes of the marriage evaluation.

For new “in group” marriages from 1851 to 1860, the petitioner claimed there were 52.07 percent; from 1861-1870, there were 50.85 percent; from 1871 to 1880, there were 54.67 percent. Looking at extant marriages, the petitioner claimed percentages, in five-year periods, ranging from 32 percent in 1850, and gradually increasing to 51 percent by 1880 (Little Shell New and Extant Marriages 2005).

The OFA analyzed all of the group’s marriage data from 1851 to 1880 to determine its accuracy. For this period, the group submitted data on 571 marriages, 301 of which it claimed were in-group. The OFA verified that all but six of the marriages the petitioner claimed as “in-group” marriages for this period did occur. The breakdown for the verified “in-group” marriages was as follows:

Decade	Marriages	“In-Group” Marriages	% of “In-Group” Marriages
1851-1860	169	87	51 percent
1861-1870	177	89	50 percent
1871-1880	225	119	53 percent

From 1881 to the 1940, the petitioner contended that new “in-group” marriages declined below 50 percent but remained significantly high, and therefore provided good evidence of community under 83.7(b)(1)(i).

For new marriages from 1881 to 1890, they were 42.58 percent; and from 1891 to 1900, they were 46.11 percent. From 1901 to 1910, they were 41.24 percent; from 1911-1920, they were 40.57 percent; from 1921-1930, they were 36.14 percent; from 1931 to 1940 they were 29.97 percent. Looking at extant marriages, the petitioner claimed percentages, in five-year periods, ranging from 51 percent in 1880, and remaining near or at 50 percent as late as 1940 (see Little Shell New and Extant Marriages 2005).

To determine the accuracy of the group’s marriage data for 1881 to 1940, the OFA analyzed the portion from 1901 to 1930. For this period, the group submitted data on 655

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<sup>8</sup> The petitioner provided marriage statistics starting with the 1830’s. By the petitioner’s own computations, group marriage rates did not exceed 50 percent before 1850.

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marriages, 256 of which it claimed were “in-group.” The OFA verified that all but two of the “in-group” marriages for this period did occur. The breakdown for the verified marriages was as follows:

Decade	Marriages	“In-Group” Marriages	% of “In-Group” Marriages
1901-1910	194	79	41 percent
1911-1920	212	86	40 percent
1921-1930	249	89	36 percent

As a secondary analysis, the OFA examined all of the petitioner’s new marriage data, both “in-group” and not, from 1850 to the 1930’s to determine in which settlements the marriages of the petitioner’s ancestors occurred.

This analysis revealed that in the 1840’s and 1850’s, most of the marriages were occurring in the Métis settlement area of Pembina County, and St. Francis and St. Boniface Parishes in Manitoba, Canada. Occasionally, marriages occurred in the other Métis Parishes along the Red River and in the provinces of Alberta and Saskatchewan. The birth locations of the partners, when discernible, varied more, probably reflecting the group’s mobility, but the Métis settlement areas of Pembina County, St. Francis and St. Boniface Parishes, and to a lesser extent St. Norbert Parish, dominated.

In the 1860’s and 1870’s, many marriages still occurred in the Métis settlements of Pembina County, St. Francis, and St. Boniface, and to a lesser extent St. Norbert. But more marriages started taking place in Saskatchewan and Alberta, due to the wider ranging buffalo hunting then occurring among the Métis. Birth locations for the marriage partners were also mainly from the Métis settlements of Pembina County, St. Francis and St. Boniface Parishes, and to a lesser degree St. Norbert Parish.

In the 1880’s and 1890’s, more marriages were occurring at St. Peter’s Mission in Montana, in Saskatchewan and Alberta, and the Turtle Mountain Reservation area. As for the birth locations, more of the marriage partners were born in Saskatchewan and Alberta, but some marriage partners were born in St. Francis Parish and Pembina County, and to a lesser degree St. Boniface Parish.

From 1900 to 1910, the petitioner’s marriages were occurring mostly in Montana and Saskatchewan in that order. The marriages in Montana took place at St. Peters Mission, the Triangle area of northeastern Montana, and in some of the far eastern counties like Roosevelt and Sheridan. The marriages in Saskatchewan were often at St. Ignace and Lestock, while a few were in Alberta. There were also occasional marriages at the Turtle Mountain Reservation. Some marriages were still taking place in St. Boniface. Most of the couples during this period were born in Montana, from counties in the Triangle and the Front Range, and in Saskatchewan, at Wood Mountain, Cypress Hills, and Qu’apelle. But some were also born in Pembina County, Turtle Mountain Reservation, and St. Francis Parish.

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From 1910 to 1920, more marriages took place in the Triangle, and occasionally the Front Range in Montana. The number of marriages in Saskatchewan and Alberta decreased. Some were occurring at Turtle Mountain Reservation. The birth locations of the couples were mainly from Montana, in the Triangle, some of the eastern counties, and even from the Front Range. There was a significant drop in individuals born in Saskatchewan and Alberta, and slight increase in those born at the Turtle Mountain Reservation.

After 1920, almost all the marriages were taking place in numerous towns across the northern regions of Montana, only occasionally at Turtle Mountain Reservation, the province of Saskatchewan, Washington, or the province of Manitoba, essentially in that order. The birth location of the couples after 1920 was usually Montana, from towns across the northern portions of the state. There were still a few partners born in the areas around the Turtle Mountain Reservation, lower Saskatchewan, and lower Alberta, in about equal numbers.

For the period from 1850 to the 1930's, these statistics provide evidence that the petitioner's marriages were occurring in multiple settlements throughout the northern plains, drawing on marriages partners who also originated from a multitude of settlements. Before 1880, most of these were Métis settlements, but the petitioner's ancestors constituted only a portion of each of them. After 1880, most of the settlements in Montana in which these marriages occurred were non-Indian. In none of these settlements did the petitioner's ancestors, or the individuals included within the "Little Shell Community Group," constitute the predominant population or form a group or groups that were distinct. Thus the Department could not consider these marriages as evidence of community because they were not occurring within a social group or groups.

The petitioner also provided data on all the claimed "in-group" marriages that occurred just in Montana between 1875 and 1985. The petitioner claimed these statistics showed the extent of marriages between and within the "core social areas" (see Little Shell Comments on PF 2005, In Marriage Within&Bet T&FR.xls). It did this by determining the local settlement of the partners before the marriage occurred through recorded events in genealogical program. Presumably, these statistics were provided at least in part to show the extent of "in-group" marriage between the two regions of settlement in Montana—the Triangle and the Front Range.

Yet these marriage statistics have the same methodological problems of the larger set of ones described above and more, since they were derived from that incomplete set. For example, the petitioner identified 415 such "in-group" marriages between 1875 and 1985. Yet these identified marriages constituted only 56 percent of the claimed in-group marriages (735) from 1875 to 1985, and only 15 percent of the overall claimed marriages (2,772). Further, during a significant portion of this period, 1875-1930, many of the marriages among the petitioner's ancestors were taking place outside of Montana, including Saskatchewan, Alberta, Manitoba, and North Dakota. A detailed breakdown of these statistics follows.

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For each decade, the OFA identified the overall number of total and “in-group” marriages by the figures in parentheses. Overall, only 19 percent (79) of these 415 Montana marriages, in which the petitioner proved able to identify some local settlement for both of the partners before marriage, were between people connected to the Front Range or the Triangle. When the analysis included the complete set of petitioner’s claimed “in-group” marriages it dropped to only 11 percent. And when it included all the petitioner’s claimed marriages, “in-group” or not, the percentage shrunk to just three percent, of what was already an incomplete data set. In addition, the available evidence did not indicate why these marriages occurring between people from different regions or in the same region should be considered those of a particular social group or groups. Here was the breakdown by decade and the number of claimed “in-group” marriages between the Front Range and the Triangle.

Decade	# of In-Group Marriages w/ Regions Identified	# of Interregional Marriages
1875-1879:	(98/49) <sup>9</sup>	9
1880-1889	(217/99)	35
1890-1899	(179/82)	26
1900-1909	(181/73)	31
1910-1919	(224/91)	66
1920-1929	(248/92)	70
1930-1939	(296/92)	79
1940-1949	(273/58)	41
1950-1959	(348/52)	33
1960-1969	(320/24)	12
1970-1979	(288/20)	11
1980-1985	(100/3)	2
	(2,772/735)	

Given the limited, incomplete nature of these statistics, the Department did not believe they constituted good evidence of community between or within the regions of settlement.

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<sup>9</sup> The first figure is the number of total marriages and the second number is the total number of those marriages that the petitioner designated as “in-group.”

## **Appendix VI**

### **Description and Analysis of Petitioner's Witnessing Data**

As evidence for community, the petitioner submitted a Microsoft Excel database titled Witnessing Data for witnessing events dated from 1870 to 1962, with the bulk of the events occurring after 1877. The data encompassed 1,431 witnessing events by 704 individuals the petitioner claimed as part of its "Little Shell Community Group." The database included the name of the witnessing individual, the individual's database reference number, the date of the witnessing event, the type of witnessing event (baptism or marriage), the location of the event, and region and sub-region of event. The same information was included for the first stable event in Montana for the witnessing individual before the witnessing event. The two main regions were the Triangle (Highline and Lewistown) and the Front Range (including rural and urban areas bordering the Rocky Mountain range). The petitioner claimed that these witnessing events, which usually took place at a Catholic Church or mission, occurred within and among the regions, although sometimes it was impossible to determine from the database which ones were cross-regional, because at times the first stable event occurred in a different region from the witnessing event, but often at a much earlier date and it was unclear if the witness was still living in that region. Nonetheless, only about 18 percent (260) of the witnessing events took place in the Front Range. About 66 percent of the witnessing in the Front Range (173 events) occurred before 1900. The petitioner stated this is due to a lack of church records on the Front Range other than St. Peter's Mission. Given the group's mobility within Montana, this was an unreasonable interpretation for the post-1900 period.

To test the validity of the petitioner's claims, the OFA sampled 50 records (mainly every 10th record from start of database; records number 1, 10, 20, etc.) to determine the accuracy of the data. Many of the people sampled were of Pembina Band ancestry. In many cases they were documented as having both Pembina Band ancestry and Turtle Mountain Band ancestry. In a few cases they showed only Turtle Mountain ancestry. Most, but not all of the individuals sampled have descendants in the modern membership.

The overall data showed the following:

There were 1,431 witnessing events  
260 were in the Front Range (18 percent)  
1,171 were in the Triangle (72 percent)

Most of the evidence of witnessing took place from 1880 to 1910, during the period of the most extensive migration by the petitioner's ancestors to northern Montana and elsewhere on the northern plains. As discussed before, the available evidence showed the petitioner's ancestors during this time were also located in Saskatchewan, Alberta, Manitoba, and North Dakota. The lack of witnessing data for these settlements indicated the witnessing occurring in Montana, disproportionately skewed to the Triangle as it was, involved only a small portion of the petitioner's ancestors. The witnessing also began to

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decline sharply at the very time, the 1930's, when the population of the claimed "Little Shell Community Group" in Montana stabilized.

The breakdown by decade is as follows:

Decade	Total Witnessing Events
1870's	104
1880's	86
1890's	214
1900's	270
1910's	354
1920's	293
1930's	55
1940's	42
1950's	7
1960's	6

The witnessing events were family-based rather than community based. The available evidence indicated the individuals were usually witnessing for nephews, nieces, close and extended cousins, grandchildren, grandnieces and grandnephews. Rarely was there witnessing for a family line not closely related.

**Appendix VII**

**Description and Analysis of the Petitioner’s “Little Shell Families”  
on the Federal Census Records**

As evidence for community, the petitioner also submitted Federal census data from 1880 to 1900 for what it described as “Little Shell families” living in Montana. In its 2005 narrative on community and politics, the petitioner made the argument that many of the areas and towns in Montana in which the claimed “Little Shell families” settled and became portions of were essentially “multi-ethnic co-residence units” (Little Shell Comments on the PF 2005, B & C 20th, 4).

The available evidence indicated these families were indeed portions of settlements with large non-Indian populations of multiple ethnicities. The evidence, however, did not demonstrate these LS families were a distinct group or groups within these settlements. With the exception of some Indian reservations where a few of the “Little Shell families” lived, the data showed these families were simply parts of settlements composed of native-born Americans and their families, or immigrants from several locations, including Mexico, Canada, and Europe, and their families. They were not part of Métis or Indian groups. Rather the data showed these individuals lived together in these multiple settlements as extended families among the general populace. The petitioner claimed many of these “Little Shell families” lived in “pairs,” defined as two or more families living in “close proximity,” or “clusters,” defined as three or more families living in “close proximity,” of “Little Shell families.”<sup>10</sup> The available evidence, however, showed these geographic groupings of families developed sporadically from the choices of extended families rather than any community-based effort.

The OFA also analyzed all the Federal census records in the record from 1880 to 1900 to determine the settlement patterns of those individuals and households the petitioner claimed as part of its “community” during this period (see 1880 and 1900 Federal Censuses; Little Shell Comments on PF 2005, Table 16 and 18 Fedcen.xls). The 1880 census recorded 70 of the petitioner’s “Little Shell families” with 353 individuals in Montana mainly in the Judith Basin (Lewistown) and at St. Peter’s Mission in Lewis and Clark County near Great Falls, but with smaller numbers in several settlements throughout the Highline section of the Triangle. All told, these families were found in 4 of the state’s 11 counties.

As described previously, the people at St. Peter’s Mission were mainly Métis families whose children were attending the mission school. Most of the Little Shell families at the mission were part of or closely tied to the family of Gabriel Azure. They made up about 18 of the 31 Métis households at the mission. These families stayed at the mission only

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<sup>10</sup> The petitioner claimed that 4,904 Little Shell individuals appeared on various censuses from 1880 to 1930. Of these 2,906 lived in “clusters,” while 828 lived in pairs. The petitioner stated that the rest did not live in such groupings or could not be determined (Little Shell Federal Census Report 2005, 1, 100).

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for a portion of the 1880's and then dispersed widely. The Azures moved to other parts of Montana or back to the Turtle Mountain Reservation where they become part of that federally recognized tribe.

At the Judith Basin the "Little Shell families" made up about 17 of the approximately 40 households in that settlement. The other 23 households were largely non-Indians. Although these "Little Shell families" were among the first to settle this area in 1879 to 1880, the census showed that in a very short time they were joined by a number of non-Indians, and they quickly became only a fragment of the people in what was largely a non-Indian settlement of people with varied ethnicities.

Yet the most striking feature of the petitioner's census data is that 30 percent of the households the petitioner claims to be part of its historical community group in Montana in 1880 did not have a spouse or head of household documented as having ancestry from the Pembina Band of Chippewa, the Indian group from which the group claims to have evolved. Indeed, the available evidence showed the petitioner often retroactively included a family as part of its claimed community group if a later descendant married an individual of Pembina Band ancestry. This was a flawed method for determining membership of a family within, or the social boundaries of, a historical community. It led to an artificial expansion of the group's historical numbers and to the description of an entity that can not fit the regulatory definition of a distinct community that existed since historical times.

By the 1900 census,<sup>11</sup> the petitioner's claimed "Little Shell families," had more than doubled to 107 with 788 individuals, and were found in 5 of the state's now 24 counties. Most were still living along the Highline and in the Lewistown area, but in the Front Range, the census recorded about 35 families in Choteau, Dupuyer, and the Blackfeet Indian Reservation. These data and other evidence indicated the "Little Shell families" probably settled the Front Range in the late 1880's and 1890's. None of the "Little Shell families" appeared on the censuses in Lewis and Clark County on the Front Range for 1900, although that county had 165 of them in 1880.

In 1900 as in 1880, the petitioner's "Little Shell families" were widely dispersed in these five counties and living as a small fraction of the general non-Indian population, although they usually made up most of the Indian or Métis families in these districts. The exceptions were the three Federal Indian reservations, where the petitioner's "Little Shell families" constituted only a very small percentage of the Indian population. These individuals were most likely in tribal relations with the people of those reservations and not part of a "Little Shell community." For the first time, the census also recorded the petitioner's "Little Shell families" in small towns like Harlem, Malta, and Havre, along the Highline.

For 1900, about 34 percent of the claimed Little Shell families on this census were headed by individuals who did not have any documented Pembina Band of Chippewa ancestry. Again, the available evidence did not indicate that these households were part

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<sup>11</sup> The schedules for the 1890 census no longer exist.

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of a “Little Shell Community Group” that had evolved out of the historical Pembina Band of Chippewa entity.

In summary, the census data and other evidence for 1880 to 1900 did not show a discernible form of group or chain migration for the petitioner’s ancestors. Mostly the available evidence revealed a family-based migration and resettlement, widely dispersed, both over space and time. A significant portion of the “Little Shell families” for each census year were not families of documented Pembina Band ancestry. In numerous cases, the petitioner had apparently listed an individual or household as part of a “Little Shell family” because of a future marriage to a person of Pembina Band ancestry rather than contemporary evidence of group interaction or relationships.

The available evidence did not show that the petitioner’s “Little Shell families” composed a significant part of any county’s population. In fact, they were only a small part of the enumeration districts examined. There did not appear to be any Métis or Indian enclaves of which the Little Shell families were a significant number. In almost all cases, the petitioner’s “Little Shell families” were simply a small component of the general population. Generally, they appeared in small groupings or pairs of extended families, surrounded mainly by non-Indians. Never did their numbers suggest the appearance of a community based on residence patterns alone. They were too dispersed, along the entire Highline, near Lewistown, and on the Front Range mainly in Teton and Lewis and Clark Counties, living mostly among much larger populations of non-Indians. The main exceptions were those few households listed on the census records of Indian reservations. Even in those cases, however, the petitioner’s “Little Shell families” were only a small fraction of the overall Indian population with which they were presumably in tribal relations.

Except for the Lewistown area, there were no settlements which the petitioner’s “Little Shell families” founded, or to which they chain migrated to as something resembling a group. Even the Lewistown area, however, was problematic. Initially, the 25 families that founded Lewistown split from a group of about 100 Métis families that were hunting buffalo along the Milk River in Montana in the late 1870’s. Many of the heads of these households signed the Riel Petition in 1880 asking for a reservation in Montana. These families possibly had the potential to become a mixed-blood community in Montana. But they did not get a reservation and the evidence showed they soon dispersed widely in a gradual, individualistic pattern. Some stayed in Montana at Lewistown, or along the Highline. Others relocated to Alberta, Saskatchewan, or Turtle Mountain and Pembina in North Dakota.

These 25 Métis families that settled Lewistown in late 1879, early 1880, were quickly joined by other non-Indian families transforming the town into a largely non-Indian settlement of multiple ethnicities, in which the petitioner’s “Little Shell families” were a tiny minority. These Métis families maintained some consistency in numbers up to the 1930’s, but there was no significant evidence that they formed a community or that they interacted with the widely dispersed “Little Shell families” elsewhere in Montana. They remained a group of extended families and little more. Nor did the available evidence

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show these Lewistown families were augmented by a chain migration of “Little Shell families” from elsewhere.

The census data revealed the bulk of the migration to Montana among the “Little Shell families” between 1880 and 1900 was widely dispersed. The petitioner’s “Little Shell families” began arriving in the Triangle region in the 1880’s and the Front Range sometime in the late 1880’s. The migration and settlement pattern was too diffuse and individualistic to be community based. There is no evidence of significant social interaction or relationships among these families as a group. Thus these settlement patterns do not demonstrate evidence of community under 83.7(b).

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### Appendix VIII

#### Statistical breakdown of the Little Shell Petitioner's Census Data, 1880-1930

The petitioner submitted an access database with census figures from the 1880, 1900, 1910, 1920, and 1930 Federal censuses. This data base contained information on 4,904 census entries on individuals the petitioner claims were members of "Little Shell families." The petitioner, however, did not provide an explanation of the how it determined a household was a "Little Shell family" for the purposes of inclusion in the database or why these households should be considered part of a community. Significant percentages of households claimed as Little Shell families had no documented Pembina Band of Chippewa ancestry. The OFA analysis did not indicate these "Little Shell Families" constituted a distinct subgroup or the predominant portion of any settlement in which they resided. The analysis, which used copies of the original census records from ancestry.com, revealed no significant group-based clustering in any of the enumeration districts.

#### 1. 1880 Federal Census

Total of "Little Shell" (LS) individuals claimed: 353

Total LS households: 70

Total LS households with Pembina ancestry: 49 (70 percent)

Total LS households without Pembina ancestry: 21 (30 percent)

Total LS households with descendants in modern membership (1982-2005): 48 (69 percent)

Total LS households without descendants: 22 (31 percent)

Total LS individuals by counties with primary enumeration districts (asterisks indicate districts where the most numbers of LS families were within the county). LS families were found in 4 of the state's 11 counties.

Choteau: 91 individuals located in the following districts:

Cut Bank

Fort Benton\*

Marias River

North Bank

Shonken Creek

Teton River

Dawson: 4 individuals located in the following districts:

District 9

Lewis and Clark: 165 individuals located in the following districts:

South Fork of Sun River

St. Peter's Mission\* (31 Métis households; 18 claimed LS families)

Meagher County: 93 individuals located in the following districts:

Judith Basin\* (Approximately 17 LS Families out of 40 households in general population)

South Musselshell Valley

#### 2. 1900 Federal Census

Total LS individuals claimed: 788 (population more than doubled in 20 Years)

Total LS households: 107

Total LS households with Pembina ancestry: 107 (66 percent)

Total LS households without Pembina ancestry: 55 (34 percent)

Total LS households with descendants in modern membership: 115 (71 percent)

Total LS households without descendants: 47 (29 percent)

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Total LS individuals by counties with primary enumeration districts: The petitioner claimed that 645 the LS individuals were listed on separate Indian schedules for this census. LS families were found in 5 of the now 24 counties in Montana.

Cascade County: 13 individuals located in the following districts:

- Cascade
- Cascade- Chestnut

Choteau County: 141 individuals located in the following districts:

- Big Sandy
- Fort Belknap Indian Reservation\* (6 LS families of out of 441 Indian families)
- Fort Benton
- Harlem
- Havre\* (6 LS families of 18 Indian families on Indian population schedule; 0 of 350 families on general schedule)
- Landusky
- Sweetgrass

Fergus County: 358 individuals located in the following districts:

- Gilt Edge\* (6 LS families on regular population schedule out of 193; 9 LS families out of 11 families on Indian schedule)
- Lewistown\* (3 LS families out of 400 families on regular population; 29 LS families out of 34 Indian families on Indian Schedule)
- Miscellaneous\*

Teton County: 154 individuals located in the following districts:

- Blackfeet Indian Reservation\* (14 LS families out of 452 Indian families)
- Choteau\* (3 LS families out of 304 families on regular schedules; 15 LS families out of 23 Indian families on Indian schedule)
- Dupuyer\* (6 LS families out of 7 Indian families on Indian schedule; 0 LS families out of 155 families on regular)

Valley County: 122 individuals located in the following districts:

- Malta\* (9 LS families out of 20 Indian families on Indian schedule; 0 LS families out of 192 families on regular)
- Fort Peck Indian Reservation
- Glasgow\* (3 LS families out of 332 families on regular schedule; 9 LS families out of 11 families on Indian schedule)
- Hinsdale

### **3. 1910 Federal Census**

Total LS individuals claimed: 993 (26 percent increase since 1900)

Total LS households: 184

Total LS households with Pembina ancestry: 132 (72 percent)

Total LS households without Pembina ancestry: 52 (28 percent)

Total LS households with descendants in modern membership: 140 (76 percent)

Total LS households without descendants: 44 (24 percent)

Totals by counties with primary enumeration districts: The petitioner claimed that 497 of these 993 claimed LS families were listed on separate Indian schedules for this census. LS families were found in 6 of the now 28 counties in Montana.

Cascade County: 103 individuals located in the following districts:

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Cascade-School District 3\*  
School District 20  
Little Belt Forest Preserve

Choteau County: 217 individuals located in the following districts:

South Wagner, School District 3  
Box Elder, School District 13  
Big Sandy, School District 1  
Cedar Creek, School District 1  
Clear Creek, School District 44  
Dodson, School District 45\*  
Fort Belknap Indian Reservation\*  
Gold Butte, School District 22  
Harlem, School District 22  
Have  
Lower Teton River  
School District 17  
School District 44  
Wagner, School District 35

Fergus County: 215 individuals located in the following districts:

District 27  
District 5  
Forest Grove  
Grass Range, School District 27  
Lewistown  
Maginnis, District 45\*  
School District 1\*  
School District 24  
School District 29  
Wheeler, District 54  
Wilder, District 29

Lewis and Clark County: 103 individuals located in the following districts:

Augusta, School District 11  
Dearborn Canyon, School District 23\*  
School District 14

Teton County: 160 individuals located in the following districts:

Belleview, District 16\*  
Blackfeet Indian Reservation\*  
Choteau, School District 1  
Dupuyer, School District 2  
School District 18

Valley County: 195 individuals located in the following districts:

Buggy Creek, School District 14\*  
Cowan, School District 12\*  
Fort Peck Indian Reservation (Poplar/Wolf Point)\*  
Malta, School District 2  
Mondak, School District 10\*  
School District 11  
School District 2  
School District 5  
Springdale, School District 6\*

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### 4. 1920 Federal Census

Total LS individuals claimed: 1,092 (an increase of only 99 since 1910)  
Total LS households: 191 (an increase of only 7 since 1910)  
Total LS households with Pembina ancestry: 153 (80 percent)  
Total LS households without Pembina ancestry: 38 (20 percent)  
Total LS households with descendants in modern membership: 140 (73 percent)  
Total LS households without descendants: 51 (27 percent)

Total LS individuals by counties with primary enumeration districts: LS families were found in 7 of the now 51 counties in Montana.

Blaine County: 177 individuals located in the following districts:

- Chinook
- Chinook, School District 10
- Chinook, School District 14\* (10 LS families out of 116 families in general population)
- Fort Belknap Indian Reservation (households not enumerated; 12 LS families out of many Indian families)
- Harlem
- School District 38
- School District 46

Cascade County: 23 individuals located in the following districts:

- Great Falls Precinct 21
- Great Falls Precinct 1

Fergus County: 220 individuals located in the following districts:

- Cruse, School District 113\* (3 LS families out of 16 families in general population)
- District 84
- District 98
- Lewistown City\* (mostly district 86; 5 LS families out of 434 families in general population)
- School District 1\* (10 LS families out of 279 families in general population)
- School District 127
- School District 193
- School District 42
- School District 46
- School District 49
- School District 5
- School District 74\* (3 LS families out of 128 families in general population)
- School District 94

Hill County: 127 individuals located in the following districts:

- Havre
- Rocky Boy Reservation\* (first appearance on this reservation; 12 LS families of 83 Indian families)
- School District 13
- School District 16
- Simpson, School District 7
- South Box Elder, School District 17

Lewis and Clark County: 155 individuals located in the following districts:

- Augusta, School District\* (11 LS families out of 277 in the general population)
- Brewer, District 35
- Flesher, School District 39
- Gilman, School District 1

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Helena  
Helena, 12<sup>th</sup> Precinct  
Helena, 13<sup>th</sup> and 14<sup>th</sup> Precinct  
Helena, School District (in Helena the LS families represented only a few families out of the general population)  
Hogan, School District 26  
School District 45  
Willard, District 29

Phillips County: 196 individuals located in the following districts:

Black Coulee, District 16  
District 29  
Dodson, School District 2  
Fort Belknap Indian Reservation\* (5 or 6 LS families out of many Indian families)  
Malta  
Malta, School District 14\* (5 or 6 LS families out of 128 in the general population)  
School District 19 and 1  
School District 2  
School District 26  
School District 34  
School District 5  
School District 6  
School District 7

Roosevelt County: 94 individuals located in the following districts:

Culbertson, School District 17  
Poplar  
School District 11  
School District 45  
School District 6  
School District 62  
Wolf Point, Ward 2\* (7 LS families out of 293 in general population)

Teton County: 83 individuals located in the following districts:

Choteau\* (8 LS families out of 341 in the general population)  
Choteau, District 1  
School District 1  
School District 16  
School District 37

Valley County: 17 individuals located in the following districts:

School District 2  
School District 37  
Vandalla, School District 17

### **5. 1930 Federal Census**

Total LS individuals claimed: 1,679 (an increase of 568 since 1920; over 50 percent)  
Total LS households: 341 (an increase of 150, 79 percent, since 1910)  
Total LS households with Pembina ancestry: 294 (86 percent)  
Total LS households without Pembina ancestry: 47 (14 percent)  
Total LS households with descendants in modern membership: 241 (71 percent)  
Total LS households without descendants: 100 (29 percent)

Total LS individuals by counties with primary enumeration districts: LS families were found in 10 of the now 57 counties in Montana.

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Blaine County: 232 individuals located in the following districts:

- Chinook, School District 10\* (10 LS families out of 318 families in the general population)
- Cleveland, School District 14\* (14 LS families out of 77 families in the general population)
- Cole, School District 9
- Harlem, School District 12 (actually Fort Belknap Indian Reservation; 10 LS families out of 121 Indian families)
- Lloyd, School District 24
- School District 10
- School District 14\* (7 LS families out of 104 families in general population)
- School District 17\* (8 LS families out of 109 families in general population)
- School District 18

Cascade County: 115 individuals located in the following districts:

- Cascade, School District 3
- Cascade, School District 3 (outside of town)
- Great Falls, Precinct 27
- Great Falls, Precinct 28\* (8 LS families out of 356 families in general population)
- Great Falls, Precinct 3
- Great Falls, School District 1
- Great Falls, Missouri and Sun Rivers outside of city\* (6 LS families out of 638 families in general population)
- Monarch, School District 23
- Spanish Coulee, School District 33
- St. Peter's Mission, School District 57

Choteau County: 22 individuals located in the following districts:

- Box Elder, School District 13
- Carter, School District 56

Fergus County: 246 individuals located in the following districts:

- Fergus, School District 127
- Lewistown, District 146\* (3 LS families out of 172 families in general population)
- Lewistown, School District 1\* (16 LS families out of 186 families in general population)
- Roy, School District 205
- Roy, School District 72
- Roy, School District 74\* (5 LS families out of 99 families in general population)
- School District 10
- School District 207
- School District 98
- Suffolk, School District 193
- Tyler, School District 180
- Tyler, School District 61\* (6 LS families out of 12 families in general population)

Hill County: 224 individuals located in the following districts:

- Box Elder, School District 13\* (4 LS families out of 57 families in general population)
- Havre
- Havre, School District 13, Rocky Boy Reservation\* (8 LS families out of 105 Indian families)
- Havre, School District 16\*
- Redwing, School 82
- South Box Elder, School District 17

Lewis and Clark County: 194 individuals located in the following districts:

- Augusta, School District 45\* (6 LS families out of 207 families in general population)
- Augusta, School District 45, West Portion
- Craig, School District 25
- Helena\* (about 6 LS families among numerous families in general population)

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Helena, School District 1  
Helena, School District 1, County Jail  
Hogan, School District 26  
School District 14  
School District 29  
Gilman, School District 31\* (7 LS families out of 36 families in general population)

Phillips County: 304 individuals located in the following districts:

Dodson, School District 2\* (6 LS families out of 62 families in general population)  
Landusky, School District 7\* (9 LS families out of 38 families in general population)  
Malta, School District 14\* (18 LS families out of 420 families in general population in 2 enumeration districts)  
Austin, School District 20  
School District 2  
School District 5\* (could not find on ancestry.com)  
School District 6\* (10 LS families out of 63 families in general population)  
Wagner, School District 4  
Whitewater, School District 1610  
Zortman, School District 5

Roosevelt County: 186 individuals located in the following districts:

Fort Peck, School District 11  
Poplar, School District 9  
School District 10  
School District 11  
School District 14  
School District 17  
School District 45\* (12 LS families out of 207 families total in general population)  
School District 9  
Wolf Point, School District 45\* (5 LS families out of 372 families in general population)

Teton County: 93 individuals located in the following districts:

Belleview, School District 16\* (8 LS families out of 24 families in general population; mainly workers on ranch)  
Belleview, School District 1  
Choteau, School District 1\* (5 LS families out of 250 families in general population)  
Deep Creek, School District 65  
Harmony, School District 69, Pendroy  
Kalma, School District 29  
Mahone, School District 3  
Pleasant Valley, School District 62  
Saterlie and Teton View, School District 46  
Spring Valley, School District 45

Valley County: 62 individuals located in the following districts:

Frazier, School District 2  
Glasgow, School District 1  
School District 1  
School District 13  
School District 22  
School District 9  
South of Milk River and West of Willow Creek, School District 1  
Tampico, School District 14

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**Overall Population Statistics for the Counties in which the Petitioner’s “Little Shell Families” Resided**

1880 Census				
County	Total	Indian	Claimed Little Shell	Percent of Total
Choteau	3,058	521	91	.03
Dawson	180	14	4	.02
Lewis and Clark	6,521	366	165	.02
Meagher	2,746	215	93	.03
Total:	12,505	1,116	353	.03
1900 Census				
Cascade	25,777	443	13	.0005
Choteau	10,966	1,429	141	.01
Fergus	6,937	365	358	.05
Teton	5,080	2,060	154	.03
Valley	4,355	1,793	122	.03
Total:	53,115	6,090	788	.01
1910 Census				
Cascade	28,833	96	103	.003
Choteau	17,191	1,209	217	.01
Fergus	17,385	122	215	.01
Lewis and Clark	21,853	105	103	.004
Teton	9,546	2,489	160	.02
Valley	13,630	1,774	195	.01
Total:	108,438	5,795	993	.009
1920 Census				
Blaine	9,057	1,102	177	.02
Cascade	38,836	85	23	.0006
Fergus	28,344	60	220	.007
Hill	13,958	401	127	.009
Lewis and Clark	18,660	49	155	.008
Phillips	9,311	340	196	.02
Roosevelt	10,347	1,516	94	.009
Teton	5,870	58	83	.01
Valley	11,542	288	17	.001
Total:	145,925	3,899	1,092	.007
1930 Census				
Blaine	9,006	1,325	232	.02
Cascade	41,146	190	115	.002
Choteau	8,635	92	22	.002
Fergus	16,531	98	246	.01
Hill	13,775	578	224	.01

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Lewis and Clark	18,224	249	194	.01
Phillips	8,208	430	304	.03
Roosevelt	10,672	1,938	186	.02
Teton	6,068	84	93	.01
Valley	11,181	384	62	.005
Total:	143,446	5,368	1,678	.01

**Appendix IX**

**Analysis of External Descriptions of the Petitioner's Ancestors in Montana  
1880's-1890's**

In its 2005 narrative, the petitioner discussed several documented recordings of groups of Métis families in Montana during the 1880's and 1890's, which included some of the petitioner's ancestors. While these descriptions of the Métis were of a much larger, highly mobile ethnic population, the petitioner claimed they provided evidence of social community for its claimed "Little Shell Community Group." The OFA analyzed these descriptions and found they did not demonstrate evidence of community for the petitioner under the regulations.

For example, in either late 1879 or early 1880, about 25 Métis families settled in the Judith Basin area of Montana after separating from a larger contingent of buffalo hunting Métis located on the Milk River, who, after the virtual disappearance of the buffalo, had dispersed to Canada, North Dakota, and various parts of Montana. These 25 Métis families, who came in three waves, constituted the founders of Lewistown, Montana (Swan 10/16/1984), although an influx of white settlers soon transformed the town into a predominately non-Indian community.

The OFA conducted an analysis of these families to uncover their origins and migration pattern. This analysis showed these families had largely originated from the Red River area settlements of Pembina County in North Dakota and St. Francis Xavier Parish in Manitoba. By the early 1880's they were hunting buffalo as part of a much larger contingent of Métis along the Milk River during the summers while wintering in Saskatchewan and Alberta. The family names were Berger, Ouellette, Wilkie, Kline, Daigneault, Laverdure, Latray, Janeaux, and Wells. Most of these individuals and their children remained in Montana around the Lewistown area, but some families, like some of the Wilkies and Ouellettes, moved to the Turtle Mountain Reservation in the 1880's and 1890's and became part of that band (Zellick and Foster 1980, 2-3; Foster 2006, 41-42, 49). Most of these other families had Pembina Band of Chippewa ancestry and have descendants in the current group.

The analysis revealed these people did not migrate as part of social group or form one once they arrived in the Lewistown area. Rather they were a small network of closely intermarried families, possibly as many as 10 (Foster 1980, 49). They seemed to migrate for individualistic, mainly economic reasons (Swan 10/16/1984, 1-9 Van Den Broeck 11/14/1925). These extended families maintained some cohesion in the Lewistown area. The available evidence, however, showed these individuals interacted as typical extended families, within a larger, general population filled with white settlers and homesteaders, rather than as part of a distinct social group (Flanagan 1985, 188-190). The available evidence did not show that there was any type of formal or informal group leadership among them. Their population was not augmented over time by any significant numbers of the petitioner's ancestors from elsewhere in Montana. Nor did the available evidence

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demonstrate significant group interaction or relationships between the petitioner's ancestors in Lewistown and those elsewhere.

As part of its 2005 narrative for community and politics, the petitioner also described a large gathering of Métis in the summer of 1880. This gathering took place when the Canadian Métis leader Louis Riel wrote a petition requesting a reservation in the United States to American military authorities, signed by 101 Métis, who with their families had been camped along the Milk River in Montana hunting buffalo. The petitioner claimed that 61 of the signers were members of the "Little Shell Community Group." Of the 85 signers for whom there was genealogical information, 41 were the petitioner's ancestors. Sixty-six of them had documented Pembina Band ancestry. Despite some initial support for the proposal, the Government turned down the request (Riel 8/20/1880; Miles 8/20/1880; Terry 9/24/1880).<sup>12</sup>

The OFA analyzed the 101 individual names to discover their origins and migration patterns (see also Flanagan 1985).<sup>13</sup> Fifty-eight of the signatories were born in Canada, 57 in one of the Métis Red River settlements, mainly St. Francis Xavier or St. Boniface Parishes. Thirty were born in North Dakota, 28 of these in the Métis settlement area of Pembina County. One was born in Montana, but baptized at St. Francis Parish. Twelve had no identifiable place of birth.

Their longest settlement of residence before their 1880 appearance in Montana showed 47 from Pembina County, 1 from Turtle Mountain Reservation, while 40 came from a Métis Red River settlement, mainly from St. Francis Xavier Parish. Three came from towns in Saskatchewan; 10 were unidentified. Thus, the Riel petitioners appeared to be roughly half Pembina and half St. Francis Métis in terms of their community affiliation and origins, but mostly Pembina Chippewa in terms of descent. There was no available evidence, however, that they were part of a "Little Shell Community Group," or that the petitioner's ancestors were a distinct sub-group among the signers or in the multiple Métis settlements from which they came.

Whatever potential social cohesion the petition signers may have had in 1880, they soon dispersed widely, throughout the northern plains, after the government rejected their request. Thirty-eight eventually went to various parts of Montana, over seven different counties. Nineteen went to North Dakota, 16 of these to Turtle Mountain Reservation and 3 to Pembina County. Twenty went to Canada, 14 of these to Saskatchewan, and 6 to Manitoba. Twenty four went to unidentified places. Thus, for many of the signatories this sojourn in Montana in the 1880's proved short-lived. While some stayed in Montana, almost all dispersed widely, many to Métis settlements in Canada, or to the Turtle Mountain Band in North Dakota. The petitioner's ancestors dispersed widely too, largely on an individualistic basis, forming small portions of much wider population

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<sup>12</sup> About two dozen of these men were from the Lewistown families just described.

<sup>13</sup> OFA researchers used the petition's genealogical database, augmented by OFA, and vital records in the documentary record to conduct this analysis.

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groups. Indeed, Thomas Flanagan, who studied the Riel petitioner's at length, described the dispersal of these Métis in this manner:

Systematic research has not been done to track the subsequent movements of the Métis petitioners, but they certainly dispersed. The Azures lived for some years near St. Peters Mission on the Sun River. But Antoine Azure, at least, later returned to the Turtle Mountain Reservation in North Dakota, as did Baptiste Belgarde and probably others. Joseph and Moise Ouellette returned to Canada, where they had reasonably well-established homes near Batoche on the South Saskatchewan River. The Berger and Laverdure clans settled in numbers in and around Lewistown, Montana, as did Benjamin Kline. Lewistown was in its early years almost a Métis community but gradually lost that character.

This geographical and social dispersion was matched by loss of legal identity. When the Métis settled as homesteaders, as around Lewistown, they were treated legally the same as white settlers. When they were accepted onto Indian reservations, it was under the legal fiction of being Indian. Thus the residents of Turtle Mountain are all legally considered Chippewa (Ojibwa) Indians, even though the majority are ethnically Métis. What had once been a cohesive and distinctive society centered at Pembina/St. Joseph had become a diaspora submerged within the larger American society. (Flanagan 1985, 189-190)<sup>14</sup>

Thus, the available evidence about the Riel petitioners did not provide evidence of community for a group of the petitioner's ancestors in 1880. The petition signers came from two separate Métis settlements, one in the United States and one in Canada, their

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<sup>14</sup> The petitioner appeared to acknowledge Flanagan's appraisal of the wide dispersal of the Riel signers. It claimed:

After the failure of their petition, some families stayed in the Judith Basin. At first, most of them were primarily buffalo hunters, although they would have also hunted small game and had kitchen gardens. After the buffalo were gone (by the summer of 1883), many of [the petitioner's ancestor's] tried to homestead. Others worked on ranches for white ranchers. Some of the Métis moved to St. Peter's where the missionaries were trying to start a Métis agricultural settlement—and many of the Judith Valley Métis children were sent to school at St. Peter's (Swan :16). Some, like Alexander Wilkie eventually returned to Turtle Mountain (Swan). Still others returned to the Milk River area and continued to try to lead their traditional life of hunting—at least until the buffalo disappeared. The latter families were pushed from place to place, first, by the military and, later by white residents. Much of the reservation land north of the Missouri was opened after 1888 for settlement. Then, like the Métis in the Judith Valley, their relatives along what became called the highline had to homestead or work for others. Many of them moved in groups from the fringes of one white town to another. They could also move to Canada and live in a Métis community there. However, if we follow the lives of the individual people, we find that many of the Métis moved from one option to another sequentially at least to the end of the century. (Little Shell Comments on the PF 2005, B & C 19th, 181-182).

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appearance in Montana proved temporary, and they quickly dispersed to a wide area on a largely individualistic basis.

The petitioner also claimed that records showing some of its ancestors appeared on the 1880 Federal census at the St. Peter's Mission in Lewis and Clark County provided evidence of community. It claimed 18 of the 31 Métis families at the mission were members of the "Little Shell Community Group."

The Department's analysis showed the people at St. Peter's were mainly Métis families whose children were attending the mission school. Thirteen of the 18 families have descendants in the current group, and most of the families were part of or closely connected to the Azure family associated with Gabriel Azure (b. 1824). They originated mainly in either the Métis settlement at Pembina in North Dakota or the St. Francis in Manitoba, and 14 of the 18 families had Pembina Band ancestry. These families mainly stayed at the mission only for a portion of the 1880's, but then dispersed widely. Eight of the families, mainly the Azures, migrated to North Dakota where they became part of that federally recognized Turtle Mountain Band rather than part of a group of the petitioner's ancestors. Ten families migrated elsewhere to Montana, primarily to areas on the Triangle, but a few went to Augusta on the edge of the Front Range. Most of these families settled among the general population in these settlements and were not part of any distinct group of the petitioner's ancestors, although two became part of the Rocky Boy's Reservation.

An example of the origin and migration of one of the petitioner's ancestors listed on the 1880 census at St. Peter's Mission was illustrative of the dispersed nature of their overall migration and settlement patterns. Francois Courchene was born in 1833 at the Métis settlement of St. Boniface Parish in Manitoba, Canada. By the 1850's, he was living in the Métis settlement area of Pembina County, North Dakota, and in the 1870s; he received scrip under the 1863 Pembina treaty. His wife, whom he married in 1860, was born in Pembina County and also had Pembina Band ancestry. Between 1860 and 1882, they had 15 children, born in various places in North Dakota (1860's), Saskatchewan (1870's), and Montana (1880's) respectively. He and his wife remained in Montana, and around 1917 became part of the federally-recognized Chippewa-Cree Indians of the Rocky Boy's Reservation in Phillips County on the Triangle, as did at least three of his children. Some of his other children lived in Augusta or near the Fort Belknap Reservation on the Triangle. One daughter moved to North Dakota, and her children could be found in that state, as well as Washington, Idaho, Montana, and Alberta.

Thus, the appearance of the petitioner's ancestors on the Federal censuses at St Peter's Mission in 1880 was not evidence of a LS community. While at the mission, the petitioner's ancestors were part of a large group of Métis families whose children were enrolled at a religious school. Their appearance there proved temporary, and they later dispersed widely, becoming only portions of other non-Indian communities or other Indian groups. The available evidence did not demonstrate they formed a distinct group of people either at St. Peter or afterwards.

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The petitioner also described two encounters some of their ancestors had with the U. S. Army in the early 1880's as evidence of community in Montana during that period. For example, in 1882, U. S. Army troops encountered a group of "half breed" families, numbering about 100 people, living along the Milk River. The troops proceeded to burn out their homes and force the families back into Canada. Apparently, the confrontation started when the leaders of the mixed-blood families kidnapped a local sheriff who was trying to collect taxes from them.

During his captivity, the sheriff made a list of the 20 individuals, identified as the "principal men of the settlement" (Healy 4/1882).<sup>15</sup> Only 15 of the names on the document were legible, and 10 of these individuals were the petitioner's ancestors.<sup>16</sup> An analysis of the 10 men showed they originated from the Métis settlements of Pembina County in North Dakota, or St. Boniface and St. Francis Parishes in Manitoba. Seven of the men or their spouses had mixed-blood Pembina Band ancestry, and many were living in the Métis settlement area of Pembina County from the 1840's to the 1860's. Most of them ventured into Montana from the late 1870's to early 1880's from their wintering area of Wood Mountain in Saskatchewan during buffalo hunting forays. Four of these men and their families returned to Montana after the Army expelled them, and one of those applied for Canadian Métis scrip in 1885, suggesting he viewed himself as part of a much larger ethnic group. In six instances, either they or close relatives wound up at the Turtle Mountain Reservation of North Dakota in the 1880's and 1890's suggesting a later affiliation with that group rather than a "Little Shell Community Group" in Montana. Four of them remained in Canada, mainly in Saskatchewan, and two of those applied for Canadian Métis scrip.

In the fall of 1883, U. S. Army troops also rounded up and deported several camps of small sets of "half breed" families in northern Montana that had stolen and killed some cattle. They probably numbered about 15 families, with 16 men, 24 women, and 71 children (from about 10 intermarried families).<sup>17</sup> The officer in charge of the Army detachment provided a list of the names for 30 adults (all but two were men).<sup>18</sup>

The petitioner claims 20 of them were part of the "Little Shell Community Group," although the spellings of certain names in the document compared to those of the individuals in the database left some room for error in identification in a few cases. In six cases, the OFA proved unable to identify the individuals. Possibly only 8 individuals

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<sup>15</sup> He identified Alex Brien (Brillen), one of the petitioner's ancestors, as the "chief" of the "half breed" settlement; he described another as "chief advisor."

<sup>16</sup> They were Alexander Brien (b. 1850; database reference # 5824), Leon Laverdure, (b. abt. 1844; #8223), Alex Fisher (b. abt. 1821; #9079), Alex Fisher (b. abt. 1841; 9126), St. Pierre Morin (b. abt 1845; #9732), Charles Joseph Morin (b. 1846; #9033), Alex Gardipee (b. 1842; #6673), Pierre St. Denis (b. bef. 1842; 5801), William Klyne (b. 1849; #7708), and Louis Belgarde (b. abt 1831; #4545).

<sup>17</sup> They were Belgarde, Amyotte, Decouteau, Rainville, Poitras, Klyne, Pelletier, Ouellette, Houle, and Lafournaise.

<sup>18</sup> See Bell 11/22/1883.

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have ancestors in the modern membership. These individuals originated from the Métis settlement areas of Pembina County in North Dakota and St. Francis Parish in Manitoba, coming into Montana via Saskatchewan. Twenty of them had documented Pembina-Chippewa ancestry. After their expulsion, as many as 15 of them, or their children, appeared on Turtle Mountain Reservation censuses in the 1880's and 1890's, suggesting they later viewed their affiliation to be with that group rather than a "Little Shell Community Group" in Montana. In eight other instances, the individual eventually settled in Canada, mainly Saskatchewan. As best as can be determined, only five returned to Montana, and one of them had previously applied for Canadian Métis scrip, suggesting he viewed his affiliation with that larger ethnic group.<sup>19</sup>

The petitioner also claimed as evidence of community for this period a September 19, 1893, petition to the Indian Division by 52 Métis in the "Missouri/Milk River area," in which they made an ultimately unsuccessful request for a reservation. The petitioner described this as a Métis petition, but pointed out that it

was attached at some point to another petition using identical wording, but addressed from Havre and with some 42 names listed. All the names on this latter list were Indian names translated into English. The chief of this latter set's name appears to be Little Big Bear. This is apparently Little Bear who also went by the name Little Wild Bear. It is not clear what relation the two groups had to each other, besides both being Indian bands roaming the same general area.

(Little Shell Comments on the PF, Criterion B & C 19th, 197).

In fact, the available evidence indicated both petitions were joined together and submitted as one request for a reservation under the authority of Little Bear, who was a Cree Indian from Canada. Little Bear and his band had fled from Saskatchewan after the 1885 Métis rebellion, and were taking refuge in Montana at the time. The petitioner claimed 27 of the 30 Métis names from this petition it was able to identify in its database were either in the "Little Shell Community Group," or married to someone who was. Yet it did not explain why these 27 individuals should be considered part of a distinct community of Pembina Band of Chippewa. Nor did the petitioner clarify why the other 25 Métis signers and the 42 Indians listed on the attached petition were not part of the "Little Shell Community Group."

To find an explanation, the OFA did an analysis of the 30 names in the database to determine their origins and settlement patterns. The analysis found that these individuals originated almost entirely from the Métis settlement of St. Francis Parish in Manitoba, and except for a few instances, had little or no residential connection to the Métis settlement area at Pembina County, North Dakota, despite 20 of them having some evidence of Pembina Band ancestry. Most had spent considerable time in Saskatchewan or Manitoba before entering Montana. Thirteen of the signers have descendants in the

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<sup>19</sup> In five cases, even individuals or close relatives who appeared on the Turtle Mountain censuses in the 1880's and 1890's applied for Canadian scrip in the 1880's.

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modern membership. Following the denial of the petition, only 11 of them remained in Montana, mainly all along the Highline. In the other cases, the final place of residence usually indicated Saskatchewan or was unavailable.

This evidence showed the 1893 petition signers were not part of a “Little Shell Community Group,” but members of Little Bear’s Cree group from Saskatchewan, who had little connection to Pembina or North Dakota during their lifetimes. Nor did the available evidence indicate that the petitioner’s ancestors who signed the petition were part of a distinct component within the Little Bear group that later evolved into a separate community in Montana. Rather it showed they dispersed widely and became parts of other settlements. Therefore, the 1893 petition was not evidence of community or politics for an antecedent group of the petitioner’s ancestors.

**Appendix X**

**Analysis of the Claimed Connection of the Petitioner's Ancestors  
to the Turtle Mountain Reservation**

Beginning in the 1880's, the Indian Office took the first steps to establish a reservation for the Turtle Mountain Band of Chippewa Indians, which evolved out of the Pembina Band of Chippewa Indians recognized in the 1863 treaty. The Government did not complete this process officially until 1904 (Little Shell PF 2000, TR, 34-41, 57-71, and 75-83).

The petitioner argued, as evidence for community during the late 19th century, that a portion of its ancestors and individuals connected to its claimed "Little Shell Community Group" were members of this band. It also claimed these individuals maintained social interaction with other relatives who were part of its community living in Saskatchewan, Alberta, and Montana (Little Shell Comments on the PF 2005, Criterion B & C, 198-199). To demonstrate this contention, the petitioner provided evidence that 517 individuals who were part of the claimed "Little Shell Community Group" were recorded on reservation records at Turtle Mountain in the later 19th or early 20th centuries after appearing on documents in either Saskatchewan or Montana.<sup>20</sup> To test this claim, the OFA conducted a separate analysis of the petitioner's data. It verified the claims for 431 of the individuals, about 122 (28 percent) of whom were direct ancestors of the modern membership. Only a small portion of the petitioner's ancestors were recorded on Turtle Mountain Reservation censuses in the 1880's and 1890's. While some of them remained affiliated with the Turtle Mountain Reservation, the rest dispersed widely to Saskatchewan, Alberta, North Dakota, and Montana. There is no available evidence that they retained social cohesion and the evidence shows they largely were absorbed into the general population elsewhere. In Montana, in particular, they mainly became part of multiple settlements stretched across the northern regions of the state inhabited mostly by non-Indians of various ethnicities.

Of the 517 individuals, the petitioner claimed 218 people first had a recorded event, such as a birth, baptism, or marriage, in Saskatchewan before an event at Turtle Mountain. The OFA was able to document 186 of these cases based on the available evidence.<sup>21</sup>

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<sup>20</sup> See LS Summary List of People Who Have an Event in Turtle Mountain after an Event in Montana, Qu'Appelle, Cypress Hills, And Wood Mountain 2005 (with accompany tables).

<sup>21</sup> The petitioner claimed 200 people had 1,072 events at Turtle Mountain after an event at Qu'Appelle; 51 people had 278 events at Turtle Mountain after an event at Wood Mountain, and 33 people had 181 events at Turtle Mountain after an event at Cypress Hills. OFA researchers eliminated the duplicates of people having more than one event in a different Saskatchewan location leaving 218 individuals with Saskatchewan events. In some cases, the OFA was unable to verify events in Saskatchewan because the petitioner provided only the year of the event sometimes making it difficult to find the corresponding documentary record. The 186 verified people had 981 events in Turtle Mountain after an event in Saskatchewan.

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Most of the events in Saskatchewan occurred in the 1870's and 1880's, and were usually baptisms and marriages.<sup>22</sup> Almost all the events at Turtle Mountain were appearances on reservation censuses during the 1880's and 1890's. Of these 186 individuals, there were 60 with descendants in the modern membership.

As best as can be determined by the available genealogical data, only 33 of the 186 individuals eventually migrated to Montana, doing so over a 34-year period (1886-1920). They apparently migrated to 10 different counties in Montana (mostly in the Triangle and Great Falls).<sup>23</sup> Only one of these counties was along the Front Range, while several were in the far eastern counties of Sheridan and Roosevelt. Possibly as many as 18 of the 33 individuals remained on the Turtle Mountain rolls, or had a spouse or children who did, indicating a continuing affiliation with the Turtle Mountain Band rather than a "Little Shell Community Group" in Montana. The breakdown of the eventual residence of the other 153 individuals after their event at Turtle Mountain was as follows: 140 remained at the Turtle Mountain Reservation; 7 migrated to Saskatchewan; 1 to North Dakota; and 5 to unidentified locations. Thus, the available evidence indicated the petitioner's ancestors who had events in Saskatchewan before an event at the Turtle Mountain Reservation either remained affiliated with that band or dispersed widely throughout the northern plains over a very gradual period. The available evidence did not indicate they migrated as a group, or maintained a connection with each other or to a Little Shell community, or communities, in Montana or elsewhere while doing so.

The petitioner also claimed 299 of the 517 individuals had events at Turtle Mountain after events in Montana. OFA researchers verified 245 of these individuals as having such events.<sup>24</sup> Of the 245 verified individuals, only 62 have descendants in the modern membership. About 116 of these 245 people had their event in Montana in or before 1880. For 114 of the 245 people, most of the Turtle Mountain events consisted of appearances on the tribal censuses in the 1880's and 1890's.

But for the other 131 individuals, their first and usually only documented event after an event in Montana was an appearance on the 1938 Turtle Mountain Reservation census. This reservation census occurred 11 years after some of the petitioner's ancestors formed their first formal political organization in Montana. Research showed these 131 people mainly were Turtle Mountain enrollees living in Montana. They either were born in that state, or were the children of residents who had moved there after 1900. This evidence indicated these 131 individuals remained affiliated with the Turtle Mountain Band rather

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<sup>22</sup> Twenty-two of the 186 verified individuals also had documented events in Montana before Turtle Mountain.

<sup>23</sup> The family surnames were Belgarde, Azure, Laverdure, Ouellette, Boyer, Poitras, Frederick, Brien, Desjarlais, Davis, Lafontaine, Lattergrass, Hamelin, Morin, Gladu, Allary, Decouteau, Beauchemin, Champagne, Boyer, Turcotte, and Bonneau.

<sup>24</sup> Twenty-eight of the 245 verified individuals also had events at Saskatchewan before events at Turtle Mountain. The 245 verified individuals had 656 events at Turtle Mountain. The 64 unverified individuals had 78 events at Turtle Mountain.

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than a “Little Shell Community Group” in Montana. Thus, the Department did not accept the information regarding these individuals as evidence of a community of the petitioner’s ancestors or a “Little Shell Community Group” in Montana.

Of the 245 verified individuals, 154 eventually settled in Montana. The final residence for the other 91 was as follows: 69 remained at Turtle Mountain; 5 migrated to Saskatchewan; 2 to North Dakota 1 to South Dakota; 1 to somewhere in Canada; and 13 to an unidentified area. Of the 154 individuals who migrated to Montana, 60 have descendants in the current group. But only 36 of these individuals with a final residence in Montana had appeared on the tribal censuses in the 1880’s and 1890’s. The other 118 individuals were all Turtle Mountain enrollees who had their first and only appearance on the Turtle Mountain censuses in 1938. Information regarding these 118 people did not provide evidence for the 1880’s and 1890’s of a distinct community for a “Little Shell Community Group” in Montana.<sup>25</sup>

The 36 people who did appear on the Turtle Mountain censuses in the 1880’s and 1890’s after an event in Montana eventually migrated to 11 different counties in Montana.<sup>26</sup> The migration occurred from 1880 to the early 1920’s. Thus, the available evidence indicated these 36 ancestors who had events in Montana before an event at the Turtle Mountain reservation dispersed widely throughout the northern plains over a very gradual period. The available evidence did not indicate they migrated as a group, or maintained a connection with each other or to a “Little Shell Community Group” in Montana or elsewhere while migrating.

One example of an ancestor included in the petitioner’s Turtle Mountain data showed the dispersed nature of the migration and settlement patterns of these individuals. Theodore Brien<sup>27</sup> was born about 1879 in Malta (along the Highline) in Phillips County. His father was Alexander Brien, born in the Turtle Mountain region of North Dakota around 1840. His mother Adelaide St. Denis was born in 1853. Her place of birth was unknown, but

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<sup>25</sup> Of these 118 Turtle Mountain enrollees, only 37 have descendants in the current group. For these people, the bulk of the Montana events were usually births or attendance at schools, occurring in the 1910’s and 1920’s. They comprised 24 family surnames. The family surnames of both those individuals with and without descendants in the modern group were: Allery, Azure, Belgarde, Berger, Boyer, Bradford, Brien, Decouteau, Delorme, Dionne, Doney, Gladu, Grandbois, Jerome, Lafontaine, Lambert, Martel, Morin, Poitras, St. Arnaud, St. Pierre, Smith, Turcotte, and Vallee.

<sup>26</sup> The family surnames were Dussome, Turcotte, Brien, McGillis, Ouellette, Azure, Laframboise, Berger, Lattergrass, Morin, Laverdure, Martel, Allary, Pelletier, Beauchman, Courchene, and Jerome. They mainly moved in the Triangle area and Great Falls. Several went to the far eastern counties of Sheridan and Roosevelt. Four, all Turtle Mountain enrollees, went to Lewis and Clark County near the Front Range. There were 23 with descendants in the group; 13 with no descendants in the current group. Sixteen were Turtle Mountain enrollees. Of the 16 with affiliation with Turtle Mountain, they represented 10 family surnames. They migrated to nine different counties (Hill, Roosevelt, Phillips, Choteau, Valley, Lewis and Clark, Fergus, Cascade, and Sheridan) from 1887 to 1920. Of the remaining 20 who had no known affiliation with Turtle Mountain the breakdown was as follows: They represented 11 family surnames, and migrated to 9 different counties in Montana (Blaine, Phillips, Valley, Choteau, Fergus, Cascade, Choteau, Roosevelt, Lake (Front Range)).

<sup>27</sup> Genealogical database reference number 1,001.

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may have been in St. Boniface or St. Francis Parishes. The Brien family was intermarried with the Azure and Pelletier families. These three families had connections to the Métis settlements of St. Boniface and St. Francis Parishes in Manitoba, and in Pembina County in North Dakota. In the 1860's and 1870's, members of all three families were documented on Pembina scrip and annuities, and during the 1880's and 1890's were recorded on Turtle Mountain Reservation censuses. The St. Denis family was more closely connected to St. Norbert and St. Boniface than Pembina, but they did trace to a Jerome family which had one member identified as a Pembina Band of Chippewa mixed-blood on annuities in the 1860's.

Theodore Brien's father was listed on the 1850 Pembina County census, but he spent most of his time moving between there and the Turtle Mountain region until the early 1870's when he married his wife at Wood Mountain, Saskatchewan. They had four children between 1873 and 1879, one born in Saskatchewan, two in Montana, and one in an unknown place. Adelaide Brien died in 1880 in Valley County, Montana. Theodore Brien's father married his second wife Helene Landry, originally from the Turtle Mountain region, in 1880 on the Milk River in Montana. Between 1882 and 1903 they had 11 children. The first four were born (1882-1890) in North Dakota near Turtle Mountain, six of the last seven (1892-1903) in Montana, mainly in Valley or Phillips County, while one was born in Saskatchewan. There are many descendants in the modern membership through both wives.

After Theodore Brien was born, his father, grandfather, and their families continued to move back and forth in the region of the Turtle Mountain Reservation and the Milk River in Montana, with excursions into Saskatchewan. Some portions of the extended Brien and Azure families went to the Turtle Mountain region, while some eventually settled in Montana. The descendants of this Brien line in the modern membership come from either Theodore Brien or just two of his half-siblings.

Theodore Brien's family probably spent much of the 1890's roaming around Montana, most likely with periodic stops at the Turtle Mountain Reservation. He married his wife, Rose Houle, on the Crow Reservation in Southern Montana in 1912. She was born in St. Joseph in 1896. The Houle Family was originally connected to the Métis settlement areas at Pembina County and St. Francis Parish, and portions of it were later documented at the Turtle Mountain Reservation.

Between 1912 and 1927, Theodore Brien and his wife had six children. The first was born in North Dakota. The next two were born in 1915 and 1917 on the Crow Reservation in southern Montana. A third was born in 1923 at Wolf Point Reservation in north eastern Montana in Roosevelt County. The fourth was born in 1924 at an unknown location. The final child was born in 1927 in Sweet Grass, Toole County, in north central Montana on the Canadian border, but baptized in Hingham in Cascade County on the edge of the Front Range near Great Falls. One year later, Theodore Brien died in Malta in Phillips County along the Highline. His wife Rose remarried a non-Indian. She had one child in 1936 in Havre in Hill County along the Highline. She died sometime after

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1936 in the same place, and has only a few descendants from her second marriage in the modern membership.

The Federal census data from 1900 to 1930 showed that Theodore Brien or his close family members were found in Malta (1900) in Valley County along the Highline, then in Wilder (1910) in Fergus County, then back to Malta (1920), and finally (1930) in Box Elder (1930) in Choteau County, Harlem in Blaine County, and Wolf Point in Roosevelt County, all of which were on the Highline. Most of these settlements were made up of large populations of non-Indians of varying ethnicities. In most cases, the Brien relatives were living among small collections of extended family members, sometimes among small groupings of other people of Métis ancestry. Yet the number and makeup of the Brien family members and relatives, and the Métis living near them, changed dramatically from one census year to the next. The available evidence did not show the migration and settlement pattern of the Briens was group based. Rather it indicated the migration and settlement was very individualistic and widely dispersed.

Thus, the information provided on the connection of the petitioner's ancestors and the "Little Shell Community Group" to the Turtle Mountain Reservation censuses did not show evidence of a distinct group. The small number of direct ancestors who were recorded on the reservation censuses in the 1880's and 1890's, either remained affiliated with that band, or dispersed widely in multiple settlements throughout the northern Plains in both the United States and Canada. Those who remained affiliated with Turtle Mountain were not part of a "Little Shell Community Group" in Montana. For those who dispersed and lost their connection to the Turtle Mountain Band, the evidence did not indicate they retained social cohesion as part of a group or groups in the many settlements to which they migrated.

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**Appendix XI**

**Land Ownership Patterns of Lewistown Homesteaders<sup>28</sup>**

Appears on Census =c

Appears on Census as owning land =x

Appears on Census as the heir of someone who owned land =\*

Name	Pet #	date	1900	1910	1920	1930
Berger, Isadore	9193	1889	cx	c#	c*	*
Berger, Isaih	9192	1892	cx	cx	*	*
Berger, John B	15475	1902	cx	c#	*	
	15475	1904				
Berger, Philomene	8597	1904	c	cx	c	
Charette, Mary	5780	1893		cx	c	
Daniels, Fred	9234	1911		c#		
Doney, Sarah	6513	1903	c	cx	c	
Fleurie, Antoine	8346	1889	cx		cx	
Gardipee, Eli	241	1908	c	c#	c	*
Janeaux, Francis	18309	1882	decd			
Janeaux, Odilon	18308	1904	c	cx		c*
Kline, Ben	7847	1900	cx	c	c	*
	7847	1907				
Langevin, Michael	10241	1889	c	cx	cx	*
Langvin, Mary V	9499	1905	c			
Laroque, Raphael	9149	1911	c	c#	cx	c*
Latray, Louis	7398	1911	c	cx		
Latray, Mose	5774	1915	c	cx	c	c*
Lavadure, Thomas	2068	1910		cx	x	x
Lavalle, Peter	10821	1899	decd?	*		
Laverdure, Daniel	878	1893	x	cx	x	x
	878	1908				
Laverdure, Peter	5711	1888	c			
Lefferts, Ellen Latray	2472	1920				cx
Quellette, Antoine	8461	1888	c		c	
Ouellette, Frances	9501	1905			cx	
Ouellette, Joseph	9498	1902	c			
Ouellette, Mose	9503	1904	c			
Ouellette, Teddy	1962	1904	c		c	

<sup>28</sup> Based on land records from the U. S. Department of the Interior, Bureau of Land Management, General Land Records website ([www.glorerecords.blm.gov](http://www.glorerecords.blm.gov)) and census information from 1900- 1930. A “c” indicates that the individual appeared on census but without information about land ownership. An “x” indicates that the individual appeared on the census and that the census information indicated that the individual owned his or her own land. An “\*” signifies that an heir of the individual noted in the left column owns land, however perhaps not the same land as that person’s ancestor.

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Paul, Elzear	7634	1899	cx	cx		c
Paul, Joe	569	1917	c			c
Rocheleau, Modeste	7623	1899	cx		cx	c
Swan Joseph	9281	1906		c		
	9281	1914		c		
Wells, Daniel	7535	1889	c			
Wells, Edward	9513	1892	cx		cx	
Wells, James	1197	1904	c			
Wells, Thomas	15839	1897	c			

**Appendix XII**

**Description and Analysis of Turtle Mountain Allotment Data  
as Evidence of Community in Montana**

The petitioner claimed that receipt of Turtle Mountain public domain allotments in Montana by some of its ancestors or members of the claimed “Little Shell Community Group” constituted evidence of a continued social connection to the Turtle Mountain Band, and thus social community, in the early 20th century (Little Shell Comments on the PF 2005, Criterion, B&C 20th, 48-49).

The petitioner supplied information on 289 Turtle Mountain public domain allotments in Montana provided for 233 of individuals it claimed were part of the “Little Shell Community Group” (Little Shell Comments on PF 2005, Tables 8 and 9).<sup>29</sup> The OFA conducted a separate analysis to test the petitioner’s claims. It found the date of issuance for the 289 allotments is unknown, but most likely occurred sometime between 1906 and 1917.<sup>30</sup> Using the available evidence, OFA researchers were able to determine the person’s allotment location, place of birth, probable residence at the time of the allotment, and if they had descendants among the modern membership.

The 233 individuals received their allotments in only six counties in Montana. The total number of Turtle Mountain allotments in Montana was 2,055 for 1,982 individuals across 13 counties (Summary of Turtle Mt. Allotments in MT 2005).<sup>31</sup> Thus, these 233 individuals constituted only 12 percent of the total allotment recipients in Montana. The available evidence indicated the 233 allotment recipients were not part of a “Little Shell Community Group,” but part of a much larger social group, the Turtle Mountain Band of North Dakota, which had members and allotment holders in North Dakota, South Dakota, and Montana. Of the 233 people, 121 (52 percent) were born in North Dakota; 41 (17

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<sup>29</sup> The petitioner claimed there were 250 allotment holders, 94 percent of whom it claimed was part of the “Little Shell Community Group.” OFA researchers eliminated duplicates and found 233. The petitioner used this methodology to determine which of its ancestors received allotments. It stated,

The original listing of allotment recipients contained hundreds of names and allotment locations. The list did not give the year in which allotments were secured, which made it difficult to ID an individual. We IDed an individual on the Turtle Mountain Allotment lists when (a) the first and last names matched a name in our Little Shell genealogy database; and (b) we found other close relatives of the person in question with Turtle Mountain Allotments in the same area. The combination of names and blood ties to other matching names from the list verified our ID process. Although many names matched, because of our criteria we could only identify a person when they also had relatives living in the area. (LS Comments on the PF 2005, TM Allotment Writeup, 1)

<sup>30</sup> The period for these allotments is unclear. Most allotment applicants, however, probably received them from 1906 to 1917. Most of them were patented and sold before 1930.

<sup>31</sup> Government records indicate that 1,586 were fee simple allotments; 446 were all or part trust land; 23 were United States owned.

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percent) in Montana; 25 (11 percent) in Canada; and 46 were unknown (20 percent). At the time of allotment receipt, 101 (43 percent) resided in Montana; 42 (18 percent) in North Dakota; and 90 (39 percent) were unknown. But only 39 (16 percent of the 233) of these individuals have descendants among the modern membership of the petitioner. These 39 were only 2 percent of the estimated population of the “Little Shell Community” and only 2 percent of the total allotment recipients in Montana.

The evidence also indicated these allotment holders were Turtle Mountain enrollees, born sometime between 1850 and 1920, who either migrated, mainly from North Dakota, to Montana in the early 1900’s, or were born in Montana in the early 1900’s following their parent’s migration to the state, or relocated to Montana after receipt.<sup>32</sup> By accepting Turtle Mountain allotments in Montana, they acknowledged affiliation with the Turtle Mountain Band and not to a “Little Shell Community Group” in Montana at that time, because receipt of such allotments depended on the applicant having Turtle Mountain membership. Thus, the receipt of Turtle Mountain allotments for the 233 individuals did not constitute evidence of a distinct “Little Shell Community group” for the petitioner. Instead, it demonstrated that a small number of the group’s ancestors were part of the Turtle Mountain Band of North Dakota. No evidence was presented that these individuals were a distinct part of the Turtle Mountain Band.

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<sup>32</sup> The family surnames were Allery, Azure, Beauchman, Belgarde, Bercier, Boyer, Bradford, Briere, Brunelle, Champagne, Davis, Decouteau, Delonais, Delorme, Desmarais, Doney, Falcon, Gourneau, Jerome, Lafontaine, Lafournaise, Laframboise, Lattergrass, Latrail (Latray), Martell, Martin, Morin, Parisien, Plante, Poitras, St. Clair, St. Pierre, Thomas, Turcotte, Vallee, (Lavallee) Walette (Ouellette).

**Appendix XIII**

**Evaluation and Analysis of the Petitioner's Model of "Historic Social Cores"**

In its comments on the PF, the petitioner presented a model of community suggesting that the Little Shell group is made up of two "historic cores" with several "historic" centers (Little Shell Comments on the PF 2005, B & C 20th, 113). The two "historic cores" consist of the Front Range and Triangle Regions of Montana. The petitioner's historic centers consist of towns within the two regions where the petitioner's ancestors first settled in the beginning of the 1900's. In a map entitled: "Little Shell Chippewa Communities in Montana: 1880 to Present" the petitioner lists these as including Babb, Dupuyer, Choteau and Augusta for the Front Range, Havre, Chinook, Malta and Glasgow for the Highline area of the Triangle and Flatwillow, Lewistown and Roy for the Judith Basin area of the Triangle. According to the petitioner, its members living within these areas of settlement were and continue to be connected by ties of kinship and friendship established before and during the 20th century (Little Shell Comments on the PF 2005, B & C 20th, 114). In its discussion of community, the petitioner only indicates that these are geographic areas where the petitioner's ancestors and their relatives settled, but does not provide any data indicating how the petitioner's ancestors or its current members comprised communities based on social interactions. Nor does the petitioner indicate how these towns were connected to each other within or across regions. The petitioner has not demonstrated how its ancestors and members living in geographic proximity interacted socially to form a community. Neither has the petitioner provided social and or economic information on the contexts that would tie its ancestors and current members together as members of a distinct community. In addition, while some of the petitioner's ancestors lived in towns characterized by the petitioner as "historic centers," they also lived elsewhere Montana and Canada. The petitioner has committed the fallacy of construct validation by omitting these other ancestors and the areas in which they were living from the samples. The petitioner did not provide evidence that there was a community of its ancestors in the towns, or that the ancestors in the towns were connected to those in the other towns or to those elsewhere in Montana and Canada.

**Appendix XIV**

**Description and Analysis of the Petitioner’s Model of Marriage  
Within and Between “Social Core Areas”**

In its comments on the PF, the petitioner submitted an analysis that it claimed measured “patterned in-marriages within and between the social core areas” (In Marriages Within and Bet T & FR; PA Out Within and Bet T & FR). The Department did not find this analysis provided evidence for social interaction for the following reasons. First, the petitioner did not successfully establish that “social core areas” existed within the petitioning group in part because it did not provide evidence that the group’s ancestral members moved and settled together in core areas. As noted above, the evidence showed that ancestors of current members moved as individual family and extended family units to a variety of locations, not as a community. Second, the petitioner did not establish the composition of the social group for any point in time. As was mentioned in the previous analysis of in-group marriage rates, without a baseline population, it was not possible to establish valid rates and percentages. (See Appendix V.) Third, the petitioner’s analysis of marriages within and across “social core areas,” did not distinguish between time periods. Thus it was not possible to determine when such marriages “within and between” “social core areas” occurred. Fourth, and most important, the petitioner’s analysis measured marriages between individuals. No data on socio-cultural, and or economic contexts was provided indicating why these marriages occurred. Thus the reasons for these marriages could have differed for each couple and for a variety of reasons not related to Little Shell group activities. These limitations preclude the marriages from being significant evidence under criterion (b).

**Appendix XV**

**Evaluation of the Petitioner's Data and Analysis of "Social Knowledge of Members in Other Areas"**

In its comments on the PF the petitioner submitted an analysis in which it suggested that current members living in one area of Montana have social knowledge of other members living in other areas (Little Shell Comments on PF 2005, B & C 20th, 126-133). In discussing the social knowledge members have of each other, the petitioner also noted the nature of the social interaction being discussed such as visits, phone calls, attendance and participation at funerals, weddings, and other celebrations. Using a coding system the petitioner noted the percentage of times different types of events were mentioned in interviews (Little Shell Comments on the PF 2005, Appendix 3).

The Department did not find that this type of analysis provided evidence for community for the following reasons. The petitioner's analysis did not measure or provide documentation of group interaction but rather measured interactions among individuals. For example, these interactions could have nothing to do with a Little Shell group but rather could be the result of having attended the same high school or lived in the same town, etc. The petitioner's analysis provided no data that these social interactions were related to Little Shell group connections, obligations, or community issues. Neither did the petitioner's data provide evidence of member participation in Little Shell community events such as funerals, reunions, or other types of social gatherings. As was found in the Department's analysis of the petitioner's kinship reunion submissions in 2007, many events such as weddings were confined to nuclear and extended families, while other events such as funerals were comprised of numerous individuals who were not part of the Little Shell membership. In addition its analysis of the petitioner's interview material on funerals, the Department found that the petitioner's coding analysis measured the number of times a type of event was mentioned, not the number of times an individual participated in such an event either within their own region or elsewhere. These analyses by the petitioner did not provide substantial evidence for community.

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

**Appendix XVI**

**Location of Petitioner's Members, 1992**

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<u>Montana</u>		2715 (70%)
Highline and Lewistown	738	
Havre	224	
Chinook	76	
Zurich	5	
Harlem	50	
Dodson	39	
Malta	59	
Glasgow	41	
Wolf Point (on Ft. Peck Reservation)	38	
Poplar (on Ft. Peck Reservation)	17	
Box Elder (on Rocky Boy's Reservation)	25	
Hays (on Ft. Belknap Reservation)	69	
Zortman	12	
Landusky	3	
Lewistown (including Roy and Hilger)	80	
Front Range	383	
Browning (on Blackfeet Reservation)	165	
Babb (on Blackfeet Reservation)	51	
Heart Butte (on Blackfeet Reservation)	9	
Cut Bank (near Blackfeet Reservation)	63	
Dupuyer	6	
Choteau	75	
Augusta	14	
Urban	1146	
Great Falls (incl. Black Eagle and Vaughn)	660	
Helena (incl. E. Helena)	178	
Butte	111	
Anaconda	47	
Billings	95	
Missoula	55	
Elsewhere in Montana	448	
Kalispell	52	
Libby	48	
Flathead Reservation	28	
Balance of the State	320	
 <u>Out of State</u>		1178 (30%)
Washington	400	
California	168	
Oregon	133	
Idaho	73	
Wyoming	62	
North Dakota	40	
Other	304	
	_____	_____
Total	3893	3893

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SOURCE: LSTCIM 1987, 1990, 1991, 1992 [Petitioner's membership lists]. (This table appeared in the Little Shell PF 2000, Technical Report, as table 14, pages 186-187.)

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

**Appendix XVII**

**Individuals the Department Found Who Have Pembina Band Ancestry  
(The Petitioner’s Direct Ancestors and Others): 507 Total**

<b>Name</b>	<b>Birth Date</b>	<b>Chart 1 or Chart 2 Ancestor</b>	<b>Descendants in the LS Membership</b>	<b>Evidence for Descent from the Historical Tribe: Received Annuities, Received Scrip per McIntyre Report, Listed on Pembina Band Treaty Schedules, or Identified as “Pembina Mixed-bloods” on other Chippewa Treaty Schedules</b>
AIKEN, Archibald	Jun 1841			Received Annuities
ALLARY, Andre	Mar 1827	Chart 1	X	Combined evidence to support Treaty Schedule remarks
ALLARY, Pierre Henry dit	Aug 1832		X	Combined evidence for mother's brothers who received annuities
AMYOTTE, Joseph	1822	Chart 1	X	Combined evidence to support Treaty Schedule and McIntyre Report
AZURE, Agathe	Abt. 1800	Chart 1	X	Received Annuities
AZURE, Amable Elise	1803		X	Combined evidence to support Treaty Schedule remarks
AZURE, Antoine	28 May 1825	Chart 1	X	Received Annuities
AZURE, Antoine LaBelle	Abt. 1794		X	Received Annuities
AZURE, Arsene	02 Nov 1833			Father & Siblings received annuities; verified with Combined evidence
AZURE, Charles	14 May 1841		X	Received Annuities
AZURE, Charles, Sr.	1816	Chart 1	X	Received Annuities
AZURE, Gabriel	01 Jan 1824	Chart 1	X	Received Annuities
AZURE, Joseph	1810		X	Received Annuities
AZURE, Joseph	Abt. 1830			Received Annuities & Father received annuities
AZURE, Josephte	05 Mar 1826	Chart 2	X	Father & Siblings received annuities; verified with Combined evidence
AZURE, Josette	15 Jul 1842			Father and siblings on annuity lists; verified with Combined evidence
AZURE, Margaret	1800			Sibling[s] Received Annuities; verified with Combined evidence
AZURE, Marie	19 Nov 1844			Sibling[s] Received Annuities; verified with Combined evidence
AZURE, Mary Ann	Abt. 1838			Father & Siblings received annuities; verified with Combined evidence
AZURE, Moise	07 Mar 1837			Father & Siblings received annuities; verified with Combined evidence
AZURE, Pauline	Abt. 1844			Received Annuities
AZURE, Pierre	Abt. 1788		X	Sibling[s] Received Annuities; verified with Combined evidence
AZURE, Pierre LaBelle	1818	Chart 1	X	Combined evidence to support Treaty Schedule remarks, widow also received annuities
AZURE, Rosalie	Abt. 1830			Father & Siblings received annuities; verified with Combined evidence
AZURE, William	Abt. 1801			Received Annuities
BELGARDE, Alexis	08 Apr 1862			Father: Combined evidence in Treaty Schedule remarks & grandmother

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

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BELGARDE, Alexis	13 Jan 1875			received annuities Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Alexis	Abt. 1822	Chart 2	X	Received Annuities & mother & sibling received annuities
BELGARDE, Alphonsine	Abt. 1871			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Antoine				Mother received annuities in 1868 & was enrolled on TMC
BELGARDE, Augustin	1837			Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence
BELGARDE, Avila	14 Dec 1872			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Elizabeth	Bef. 1880			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Euphrosine	1828	Chart 2	X	Received Annuities
BELGARDE, Francois 'Frank'	Mar 1863			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, George August	08 May 1862			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Gilbert	1843			Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence to support McIntyre report for brother
BELGARDE, Joseph	Abt. 1827	Chart 2	X	Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence to support McIntyre report & mother received annuities
BELGARDE, Josephte	1819			Received Annuities & Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence
BELGARDE, Louis	17 Jun 1857			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Louis	Abt. 1831	Chart 1	X	Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence to support Treaty Schedule remarks
BELGARDE, Louise	Abt. 1833			Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

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BELGARDE, Marguerite	Abt. 1817	Chart 2	X	Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence
BELGARDE, Marie Isabelle	Abt. Dec 1881			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Pierre	15 Nov 1859			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Roger	01 Jul 1877			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELGARDE, Sophie	1840			Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence to support McIntyre report for brother
BELGARDE, Theodore	1827			Mother received annuities in 1868 & was enrolled on TMC & Sibling[s] on annuity lists; verified with Combined evidence
BELGARDE, William	Feb 1883			Father: Combined evidence in Treaty Schedule remarks & grandmother received annuities
BELHUMEUR, Michel Monet dit	1802			Received Annuities
BERCIER, Alexis	Abt. 1808			Combined evidence to support Treaty Schedule remarks for brother Jean Baptiste Bercier
BERCIER, Jean Baptiste	1808	Chart 1	X	Combined evidence to support Treaty Schedule E remarks
BERCIER, Joseph	06 Jan 1818			Combined evidence to support Treaty Schedule remarks for brother Jean Baptiste Bercier
BERCIER, Marguerite	Abt. 1811	Chart 2	X	Combined evidence to support Treaty Schedule remarks for brother Jean Baptiste Bercier
BERCIER, Suzanne	1801	Chart 2	X	Combined evidence to support Treaty Schedule remarks for brother Jean Baptiste Bercier
BOTTINEAU, Basil	Abt. 1820			Sibling[s] Received Annuities; verified with Combined evidence
BOTTINEAU, Charles	Bet. 1815 - 1820			Received Annuities
BOTTINEAU, Francoise	Abt. 1815			Sibling[s] Received Annuities; verified with Combined evidence
Oke-Ne-Kih-Kwe				
BOTTINEAU, Isabelle Mi-ji-gi-si	1802			Received Annuities

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

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BOTTINEAU, Jean Baptiste	Abt. 1843			Received Annuities
BOTTINEAU, Jonas	Abt. Feb 1847			Sibling[s] Received Annuities; verified with Combined evidence
BOTTINEAU, Joseph	24 Mar 1841			Received Annuities
BOTTINEAU, Joseph	1811	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
BOTTINEAU, Marguerite	1811	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
BOTTINEAU, Pierre	17 Jan 1817		X	Received Annuities
BOTTINEAU, Pierre, Jr.	Abt. 1838			Father received annuities and "Good" on McIntyre Report, if he was old enough, but he had died
BOTTINEAU, Severe	Bet. 1814 - 1822			Sibling[s] Received Annuities; verified with Combined evidence
BRELAND, Marie Marthe	Nov 1822			Received Annuities
BRIEN, Adele	Abt. 1859			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Alexandre	05 Jan 1850			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Antoine	Bef. 1820	Chart 1	X	Combined evidence to support Treaty Schedule remarks
BRIEN, Antoine	28 Oct 1852			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Gregoire	07 Apr 1862			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Isaie	06 Apr 1871			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Jenoir	Jan 1868			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Joseph	22 Feb 1860			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Josephthe	04 Jul 1851			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Marie Eloise	02 Feb 1874			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Marie Josephine	01 Aug 1858			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Marie Ste.Anne	11 May 1872			OK thru both parents; Father Treaty Schedule & Combined evidence,

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BRIEN, Pierre	Abt. Apr 1856			mother's brother & Father received annuities OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
BRIEN, Theodore	29 Aug 1854			OK thru both parents; Father Treaty Schedule & Combined evidence, mother's brother & Father received annuities
CABRIE, Joseph Smith dit	20 Mar 1833			Received Annuities
CADOTTE, Marie Anne	1832		X	Received Annuities
CAPLETTE, Alexandre	15 Apr 1861			Father received annuities & scrip
CAPLETTE, Antoine	Bet. 1810 - 1820			Received Annuities
CAPLETTE, Denis	01 Dec 1823	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
CAPLETTE, Jean Baptiste	Abt. 1821	Chart 1	X	Combined evidence: McIntyre Report and supporting evidence
CAPLETTE, Jean Baptiste	1859			Father received annuities & scrip
CAPLETTE, Joseph	09 Aug 1851			Father received annuities & scrip
CAPLETTE, Joseph	Abt. 1810			Sibling[s] Received Annuities; verified with Combined evidence
CAPLETTE, Josephpte	1805	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
CAPLETTE, Justine	03 Jul 1870			Father received annuities & scrip
CAPLETTE, Louis	20 Nov 1872			Father received annuities & scrip
CAPLETTE, Louis	Abt. 1814			Received Annuities
CAPLETTE, Madeleine	1818	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
CAPLETTE, Marie	Abt. 1817			Received Annuities
CAPLETTE, Marie Louise	1837			Received Annuities
CAPLETTE, Modeste	1867			Father received annuities & scrip
CAPLETTE, Roger	Abt. 1853			Father received annuities & scrip
CHAMPAGNE, Emmanuel	Abt. 1823	Chart 1	X	Received Annuities & Treaty Schedule remarks
CHAMPAGNE, Jean Baptiste Sr.	Feb 1831			Sibling[s] Received Annuities; verified with Combined evidence
CHAMPAGNE, Josephpte Beaugrand dit	12 Jun 1828			Sibling[s] Received Annuities; verified with Combined evidence
CHAMPAGNE, Lucie	Dec 1841			Sibling[s] Received Annuities; verified with Combined evidence
CHAMPAGNE, Marguerite Beaugrand dit	Jun 1827			Sibling[s] Received Annuities; verified with Combined evidence
CHAMPAGNE, Marie	1839			Sibling[s] Received Annuities; verified with Combined evidence

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Beaugrand dit CHAMPAGNE, Maxime	14 Aug 1845			Sibling[s] Received Annuities; verified with Combined evidence
Beaugrand dit CHAMPAGNE, Pierre	16 May 1833			Sibling[s] Received Annuities; verified with Combined evidence
Beaugrand dit CHARETTE, Adelaide	05 Dec 1852			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Alexander	04 Oct 1841			Received Annuities
CHARETTE, Catherine	Jul 1815			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Eliza	Abt. 1863			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Francois Xavier	24 Nov 1857			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Jean Baptiste	1843		X	Received Annuities
CHARETTE, Jean Baptiste	Abt. 1810	Chart 1	X	Received Annuities & Treaty Schedule remarks & McIntyre Report
CHARETTE, Joseph	14 Dec 1850			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Marguerite	Abt. 1845			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Marie Ann	Abt. Jul 1804	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Marie Anne	29 Nov 1848			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Mathias	1855			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Moise	02 Jul 1862			Sibling[s] Received Annuities; verified with Combined evidence
CHARETTE, Xavier	11 Aug 1859			Sibling[s] Received Annuities; verified with Combined evidence
COLLINS, Antoine	Abt. 1830	Chart 1	X	Received Annuities
COLLINS, Jean Baptiste	Bef. 01 Aug 1832			Received Annuities and on treaty schedule
COLLINS, Louise	Apr 1832	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
COLLINS, Susanne	25 Oct 1825	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
COURCHENE, Cecelia	1865			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Frances	1878			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Francois	Bef. 14 Aug 1834	Chart 1	X	Combined evidence to support Treaty Schedule remarks & McIntyre report
COURCHENE, Francois 'Frank'	Abt. 1866			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities

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COURCHENE, Hormidas	22 Mar 1871			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, James Sr.	1870			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Jean Louis	12 Apr 1862			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Joseph	1880			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Josephte COURCHENE, Leonide	1826 24 Feb 1861	Chart 2	X	Sibling[s] Combined evidence from McIntyre & Treaty Schedule remarks thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Mary Ann	10 Oct 1860			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Rosalie	08 Oct 1875			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, Sarah	1874			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
COURCHENE, William John	1882			thru both parents; Father McIntyre & supporting evidence; mother's siblings received annuities
DAUPHINAIS, Baptiste	Nov 1828			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Caroline Genthon dit	Abt. 1845			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s]
DAUPHINAIS, Charlotte Genthon dit	Bef. 1814	Chart 2	X	Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Delciede	Abt. 1835			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Francois Xavier	01 Jan 1815	Chart 2	X	Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Joseph	Abt. 1828			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Josephte Genthon dit	1813			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]

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DAUPHINAIS, Marguerite	Abt. 1826			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Marie	Abt. 1818			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Maxime	Abt. 1826			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
DAUPHINAIS, Michel	Abt. 1831			Combined evidence supports treaty Schedule remarks
DAVIS, Baptiste	Abt. 1849			Father and Siblings on annuity lists; verified with Combined evidence
DAVIS, Jerome	Abt. 1847			Received Annuities
DAVIS, Julie	Abt. 1862			Father & Siblings received annuities; verified with Combined evidence
DAVIS, Michel	1852			Received Annuities & Father & brothers received annuities
DAVIS, William	Abt. 1823			Received Annuities
DAVIS, William	Abt. 1844			Received Annuities
DEASE, John Warren	14 Feb 1823			Received Annuities
DECOUTEAU, Augustin	Abt. 1849			Received Annuities
DECOUTEAU, Joseph	01 Jan 1829			Received Annuities
Ducharme dit				
DECOUTEAU, Louis Sr.	Abt. 1817			Received Annuities
DECOUTEAU, Marguerite	Abt. 1847			Mother & Sibling[s] received annuities; verified with Combined evidence
Ducharme dit				
DECOUTEAU, Pierre	Abt. 1839			Received Annuities
DELORME, Bazile	Abt. 1803			Received Annuities
DELORME, Elizabeth	1843			Received Annuities
DELORME, Joseph	Abt. 1815			Received Annuities
DELORME, Joseph Jr.	Mar 1838			Received Annuities
DELORME, Judith	Bef. 1828		X	Received Annuities
DELORME, Nancy	Abt. 1841			Received Annuities
DESJARLAIS, Francois	30 Sep 1832		X	Received Annuities
DESMARAIS, Francois	Abt. 1807		X	Received Annuities
DONEY, Joseph, Sr.	Bef. 1821	Chart 1	X	Combined evidence to support Treaty Schedule remarks
DONEY, Marguerite Lionais	Abt. 1810		X	Received Annuities
DUCHARME, Julie	Abt. 1809			Received Annuities
DUFORT, Marguerite	1794		X	Received Annuities

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

<b>Name</b>	<b>Birth Date</b>	<b>Chart 1 or Chart 2 Ancestor</b>	<b>Descendants in the LS Membership</b>	<b>Evidence for Descent from the Historical Tribe: Received Annuities, Received Scrip per McIntyre Report, Listed on Pembina Band Treaty Schedules, or Identified as “Pembina Mixed-bloods” on other Chippewa Treaty Schedules</b>
DUSSOME, Joseph	Abt. 1843	Chart 1	X	Combined evidence thru McIntyre Report and supporting evidence
FAGNANT, Angele	25 Dec 1847			
FAGNANT, Catherine	02 Jul 1829		X	Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Elise	05 Sep 1840			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Genevieve	Abt. 1835			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Isabelle	31 Mar 1838		X	Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Jean Baptiste	30 Jan 1836			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Joseph	10 Aug 1825			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Josephte	10 Aug 1825		X	Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Madeleine	1825		X	Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Marguerite	May 1826		X	Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Marie	Abt. 1840			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FAGNANT, Philomene	26 Sep 1843			Combined evidence for mother's brothers who received annuities & remarks on treaty schedules supported
FLEURY, Antoine	Nov 1829		X	Received Annuities
FREDERIC, Joseph	1844			Sibling[s] Received Annuities; verified with Combined evidence
FREDERIC, Louison	1836	Chart 1	NONE	Received Annuities
FREDERIC, Marguerite	Abt. 1820	Chart 1	X	Received Annuities
FREDERIC, Marie	15 Aug 1843	Chart 2	X	Sibling[s] received annuities; verified with Combined evidence
FREDERICK, Joseph	Abt. 1822			Received Annuities
GAGNON, Judith or Julie	11 Jan 1844			Received Annuities
GARDIPEE, Francois	Abt. 1824			Received Annuities & mothers' brother[s] received annuities

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GARDIPEE, Joseph	Bef. 1841			Received Annuities
GARDIPEE, Pierre	1826		X	Received Annuities & mothers' brother[s] received annuities
GENTHON, Catherine	Abt. 1840	Chart 2	NONE	Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
GENTHON, Suzanne	1838			Sibling[s] Combined evidence from treaty schedules or McIntyre for sibling[s] or parent[s]
GERVAIS, Francois	08 Aug 1822			Received Annuities
GERVAIS, Rose	Abt. Jul 1846			Father received annuities
GINGRAS, Antoine Blanc	Abt. 1821			Received Annuities
GLADEAU, Anthony	1817	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
GLADEAU, Charles	Abt. Oct 1830		X	Received Annuities
GLADEAU, Charlotte	Abt. 1806	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
GLADEAU, Isabell	Abt. 1823			Received Annuities & brother Michel received annuities
GLADEAU, Louise	Abt. 1800	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
GLADEAU, Michel	10 May 1830			Received Annuities
GLADEAU, Pierre	09 Sep 1838			Received Annuities
GODON, Joseph	1839			Received Annuities
GODON, Marguerite	Jul 1847			Sibling[s] Received Annuities; verified with Combined evidence
GONNEVILLE, Adele	25 Mar 1857			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Alexis	29 Oct 1837			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Alexis	Abt. 1817		X	Sibling[s]: Combined evidence for siblings & Gonnevill family members on annuity lists and residence supports Pembina
GONNEVILLE, Angelique	08 Oct 1853			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Antoine	19 Oct 1838			Received Annuities
GONNEVILLE, Charles	13 Dec 1845			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Elisabeth	Abt. Mar 1847	Chart 2	X	Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Esther	02 Jan 1856			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC

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GONNEVILLE, Isabelle	19 Jan 1840			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Josephte	14 Aug 1841			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Lucie or Louise	20 Sep 1851			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Marguerite	03 Jun 1849			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GONNEVILLE, Marie	31 Jul 1843			Sibling[s] Received Annuities & both parents have siblings on annuity lists, parents on TMC
GOSSELIN, Marguerite	Abt. 1830			Received Annuities
GOSSELIN, Marguerite	Jan 1816			Received Annuities
GOSSELIN, Paul	Bef. 1839			Received Annuities
GOURNEAU, Angelique	Abt. 1828			Sibling[s] Received Annuities; verified with Combined evidence
GOURNEAU, Gaspard Louis	Abt. Dec 1824		X	Received Annuities
GOURNEAU, Isabelle	Abt. 1818			Received Annuities
GOURNEAU, Joseph	Abt. 1790	Chart 1	X	Combined evidence for Pembina; is either a Full or half-blood; a noted historical figure
GOURNEAU, Joseph	Abt. 1825		X	Received Annuities
GOURNEAU, Marguerite	Abt. 1820		X	Received Annuities
GOURNEAU, Suzanne	Abt. 1823			Combined evidence on Gourneau family, married & children b. Pembina & self on TMC
GRANT, Charles	Abt. 1824			Received Annuities
GRANT, Charles Cuthbert	28 Dec 1835			Received Annuities
GRANT, Eliza	Abt. 1821	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
GRANT, James	22 Mar 1837			Received Annuities
GRANT, Jean Baptiste	Abt. 1806	Chart 1	X	Sibling[s] Received Annuities; verified with Combined evidence
GRANT, Julie	06 Jan 1844			Received Annuities
GRANT, Marguerite	Abt. 1790	Chart 2	X	sibling[s] Combined evidence; half-brothers received annuities & have the same Chippewa mother
GRANT, Marguerite	04 Aug 1833	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
GRANT, Marie Rose	Bet. 1828 - 1832	Chart 2		Sibling[s] Received Annuities; verified with Combined evidence

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GRANT, Nancy	Abt. 1823	Chart 2	X	Sibling[s] received annuities; verified with Combined evidence
GRANT, Suzanne	Abt. 1805			Sibling[s] Received Annuities; verified with Combined evidence
HOULE, Antoine	06 Apr 1826			Received Annuities
HOULE, Antoine	Abt. 1781	Chart 2	X	Sibling[s] on treaty schedule; verified with Combined evidence
HOULE, Antoine	28 Dec 1812			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents & self on TMC
HOULE, Charles	1798	Chart 1	X	Combined evidence to support Treaty Schedule remarks
HOULE, Charles	13 May 1833			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Francois	01 Apr 1805			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Francoise	Abt. 1794			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents & self on TMC
HOULE, Jean Baptiste	Abt. 1831			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Josephite	Abt. 1816			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents & self on TMC
HOULE, Louis	Abt. 1824			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Louise	Bet. 1812 - 1818			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents & self on TMC
HOULE, Madeleine	Abt. Jun 1818			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Marguerite	1831			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
HOULE, Therese	Abt. 1805			Sibling[s]: Combined evidence from treaty schedules or McIntyre for sibling[s] and parents
JEROME, Andre	14 Dec 1829			Received Annuities & Father & brothers received annuities
JEROME, Angelique	Abt. 1826			Received Annuities & sibling & Father on Annuity lists
JEROME, Daniel Sr.	Abt. 1841			Received Annuities & Father & brothers received annuities
JEROME, David	Abt. 1837			Received Annuities & Father & brothers received annuities
JEROME, Elie	Abt. 1848			Father & Sibling[s] Received Annuities; verified with Combined evidence

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JEROME, Elise	15 Jun 1843			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Elizabeth	Abt. 1856			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Jean-Baptiste	Abt. 1827			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Jerome	Abt. 1835			Received Annuities & Father & brothers received annuities
JEROME, Joseph	01 Aug 1832		X	Received Annuities & Father & brothers received annuities
JEROME, Josephthe	Abt. 1848			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Louis	02 Oct 1851			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Louis	19 Jan 1834			Received Annuities & Father & brothers received annuities
JEROME, Marie	1834			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Marie Louise	Abt. 1803	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Martin	Abt. 1828			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Martin	Abt. 1800	Chart 1	X	Received Annuities
JEROME, Paul	Aft. 1831			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Roger	Sep 1846			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Rose	Abt. 1845			Father & Sibling[s] Received Annuities; verified with Combined evidence
JEROME, Virginie	25 Feb 1854			Father & Sibling[s] Received Annuities; verified with Combined evidence
KIPLING, Paul	Abt. 1822	Chart 1	X	Received Annuities
LAFOND, Marguerite	Bef. 1845			Received Annuities
LAFOURNAISE, Gabriel	Abt. 1820	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
LAFOURNAISE, Jean Baptiste	Abt. 1815	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
LAFOURNAISE, Joseph	1826	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
LAFOURNAISE, Marguerite	Abt. 1848			mother's brothers received annuities & Father's siblings also received annuities
LAFOURNAISE, Marie	Abt. 1822	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
LAFOURNAISE, Marie Anne	Abt. 1810	Chart 1	X	Received Annuities
LAFOURNAISE, Suzanne	1818	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
LAFRAMBOISE, Joseph	Abt. 1826		X	Received Annuities
LAFRAMBOISE, Louis	1824			Received Annuities
LAMERE, Caroline	10 Sep 1871			Mother's brother Joseph received annuities 1868 & supported by other data
LAMERE, Francois	01 Aug 1865			Mother's brother Joseph received annuities 1868 & supported by other data
LAMERE, Jean	10 Jun 1876			Mother's brother Joseph received annuities 1868 & supported by other data

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LAMERE, Marie Florestine	10 Apr 1874			Mother's brother Joseph received annuities 1868 & supported by other data
LAMERE, Norbert	02 Aug 1867			Mother's brother Joseph received annuities 1868 & supported by other data
LAMERE, Patrick	1864			Mother's brother Joseph received annuities 1868 & supported by other data
LAMERE, Pete	28 Dec 1860			Mother's brother Joseph received annuities 1868 & supported by other data
LANGER, Edouard	Abt. 1824		X	Received Annuities
LANGER, Jean Baptiste	Abt. 1821			Received Annuities
LANGER, Joseph	Abt. 1827	Chart 1	X	Received Annuities
LARIVIE, Adelaide	Abt. 1835			Received Annuities
LARIVIE, Victoire	Abt. 1830			sibling[s] received annuities; verified with Combined evidence
LATTERGRASS, Ellen	1856			Sibling[s] Received Annuities; verified with Combined evidence; Father a full blood Indian
LATTERGRASS, Genevieve	Abt. 1815			Combined evidence from annuity lists & LATTERGRASS family
LATTERGRASS, Jean Baptiste	Abt. 1815			"Indian" per Treaty Schedule B: Combined evidence, son received annuities
LATTERGRASS, John Baptiste	Aug 1847			Sibling[s] Received Annuities; verified with Combined evidence; Father a full blood Indian
LATTERGRASS, Nancy	Bef. 1846	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence; Father a full blood Indian
LAVERDURE, Angelique	Abt. 1842			Combined evidence: self & Father on treaty schedules & Father Joseph & his siblings received annuities
LAVERDURE, Angelique	Abt. 1810			Received Annuities
LAVERDURE, Antoine	Abt. 1858			Combined evidence: self & Father on treaty schedules & Father Joseph & his siblings received annuities
LAVERDURE, Elise	17 Oct 1849			Received Annuities & Combined evidence for Father & his siblings
LAVERDURE, Eliza	Bef. 1847			Sibling[s] Received Annuities; verified with Combined evidence
LAVERDURE, Francois Xavier	Abt. 1842		X	Received Annuities
LAVERDURE, Helene	07 Sep 1853			Combined evidence: self & Father on treaty schedules & & his siblings received annuities
LAVERDURE, Isabel	13 Jun 1855			Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVERDURE, Joseph	Jul 1834		X	Combined evidence: self & Father on treaty schedules & his siblings received annuities

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LAVARDURE, Joseph LAVARDURE, Josephthe	Abt. 1814 Abt. 1856	Chart 1	X	Sibling[s] Received Annuities; verified with Combined evidence Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVARDURE, Leon	Abt. 1844			Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVARDURE, Louise	Bet. 1845 - 1850			Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVARDURE, Marie	Abt. 1837			Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVARDURE, Marie Anne	Abt. 1843			Combined evidence: Father on treaty schedules & his siblings received annuities
LAVARDURE, Pierre LAVARDURE, Pierre	Abt. 1815 Jun 1838	Chart 1	X	Combined evidence to support Treaty Schedule remarks & McIntyre report Combined evidence: self & Father on treaty schedules & his siblings received annuities
LAVARDURE, Suzanne LETENDRE, Agathe	Abt. 1820 Abt. 1790	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Andre	1837			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Angelique	Abt. 1808			Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Antoine LETENDRE, Baptiste	1840 Abt. 1839			Received Annuities & "Good" per McIntyre Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Francois Xavier	08 Mar 1841			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Helene	1847			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Jean Baptiste	Abt. 1790			Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Joseph	Abt. 1800			Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Josephthe	06 Dec 1829			Father: Combined evidence from treaty schedules or McIntyre for Father &

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LETENDRE, Josephte	Abt. 1798	Chart 2	X	sibling[s] Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Louis	Abt. 1801	Chart 1	X	Combined evidence to support Treaty Schedule remarks
LETENDRE, Louis	30 Jul 1833			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Marguerite	Aug 1826			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Marie	1824			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Marie	1790			Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
LETENDRE, Sophie	01 Nov 1846			Father: Combined evidence from treaty schedules or McIntyre for Father & sibling[s]
LETENDRE, Sophie	Abt. 1795			Sibling[s]: Combined evidence to support Treaty Schedule remarks for brother Louis
MARON, Marguerite	Abt. 1810			Received Annuities
MARTEL, Angelique	Abt. 1836			Received Annuities
MARTEL, Jean Baptiste	01 Oct 1846	Chart 1	X	Received Annuities
MARTEL, Jean Baptiste	Abt. 1810			Received Annuities
MCGILLIS, Angus	24 Nov 1837			Mother’s brothers received annuities
MCGILLIS, Marguerite	04 Dec 1832			Mother's brothers received annuities
MCGILLIS, Marie	Abt. 1830			Mother's brothers received annuities
MCGILLIS, Modeste	26 Feb 1846			Mother’s brothers received annuities
MCGILLIS, Rose	10 Sep 1847			Mother's brothers received annuities
MONET, Andre dit Belhumeur	07 Feb 1805			Received Annuities
MONET, Josephte dit Belhumeur	Abt. 1825			Father received annuities & possibly [widow] Josette Charette on 1869 list; Received Annuities
MONET, Josephte dit Belhumeur	1805	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
MONTOUR, Abraham	18 Mar 1832			Received Annuities
MONTREUILLE, Alexis	Abt. 1829			Received Annuities

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MONTREUILLE, Francois	Abt. 1840			Received Annuities
MONTREUILLE, Joseph	Abt. 1824			Received Annuities
MORIN, Jean Baptiste	21 Nov 1834			Received Annuities and supporting evidence
MORIN, St. Pierre	Abt. 1845		X	Received Annuities
NOLIN, Angelique	1787			Received Annuities
NOLIN, Charlotte	1810		X	Received Annuities
OUELLETTE, Francois	07 Aug 1832		X	Received Annuities
OUELLETTE, Isidore	02 Apr 1830		X	Received Annuities
OUELLETTE, Jacques	Abt. 1793			Sibling[s] Received Annuities; verified with Combined evidence
OUELLETTE, Joseph	Abt. 1799	Chart 1	X	Received Annuities
OUELLETTE, Marie	Abt. Jan 1847			Sibling[s] Received Annuities; verified with Combined evidence
OUELLETTE, Victoire	Abt. 1790	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
PAGE, Marguerite	05 Dec 1841			mother's brothers received annuities
PAQUIN, Antoine	Abt. 1835			Received Annuities
PAQUIN, Jean Baptiste	Abt. 1805	Chart 1	X	Received Annuities
PARISIEN, Angelique	Abt. 1837	Chart 2	X	sibling[s] on treaty schedule; verified with Combined evidence
PARISIEN, Genevieve	Dec 1834	Chart 2	X	Sibling[s] on McIntyre report; verified with Combined evidence
PARISIEN, Hyacinthe or Ignatius	1825			Received Annuities & on TMC
PARISIEN, Madeleine	09 Jan 1832			Sibling[s] on McIntyre Report; verified with Combined evidence
PARISIEN, Marguerite	Abt. 1829	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
PARISIEN, Nancy	Abt. Apr 1849	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
PELLETIER, Alexis	Abt. Apr 1813			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Alphonse	28 Sep 1838			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Anastasie	01 Feb 1841			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Antoine	Abt. 1824			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Benjamin	1829			Received Annuities
PELLETIER, Cecile	06 Jun 1842			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data

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PELLETIER, Charles	1822			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Charlotte	03 Jan 1833			Received Annuities
PELLETIER, Cuthbert	Abt. 1846			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Edouard	01 Feb 1836			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Joseph	Abt. 1829			Received Annuities
PELLETIER, Marie Josephte	Abt. 1851			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Nancy	23 Mar 1843			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Pierre	18 Mar 1829			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Suzanne	22 Mar 1849			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PELLETIER, Therese	Bef. 1843			Brother Joseph received annuities 1868 & Mother's brother on Treaty Schedule B remarks supported by other data
PETIT, Angelique	Abt. 1820	Chart 2	X	Sibling[s] received annuities; verified with Combined evidence
PETIT, Isabel dit Thomas	Abt. 1852			Father and Sibling[s] Received Annuities
PETIT, Joseph	19 Nov 1846		X	Received Annuities
PETIT, Julienne	17 Jan 1859			Father and Sibling[s] Received Annuities and self on TMC
PETIT, Louis	Jan 1819	Chart 1	X	Received Annuities
PETIT, Marguerite dit Thomas	03 Aug 1854			Father and Sibling[s] Received Annuities
PETIT, Thomas	18 Nov 1856			Father and Sibling[s] Received Annuities and self on TMC
PETIT, Thomas	1824			Sibling[s] Received Annuities; verified with Combined evidence
POITRAS, Charles	28 Feb 1843	Chart 1	X	Mother's brothers received annuities; Combined evidence - enrolled TMC & allotted; but not the man on Treaty Schedule who was over 50 in 1868-1870
POITRAS, Henry	Abt. 1794			Received Annuities
POITRAS, Henry	Abt. 1823			Received Annuities
POITRAS, Joseph	30 Apr 1855			Combined evidence; mother's siblings received annuities & and both parents & a brother on TMC

**Little Shell Tribe of Chippewa Indians of Montana (Petitioner #31)**

<b>Name</b>	<b>Birth Date</b>	<b>Chart 1 or Chart 2 Ancestor</b>	<b>Descendants in the LS Membership</b>	<b>Evidence for Descent from the Historical Tribe: Received Annuities, Received Scrip per McIntyre Report, Listed on Pembina Band Treaty Schedules, or Identified as “Pembina Mixed-bloods” on other Chippewa Treaty Schedules</b>
POITRAS, Marie	11 Apr 1841			Combined evidence; mother's siblings received annuities & and both parents & a brother on TMC
POITRAS, Marie Madeleine	08 Jan 1840	Chart 2	X	Combined evidence; mother's siblings received annuities & and both parents & a brother on TMC
POITRAS, Suzanne	Abt. 1844	Chart 2	X	Combined evidence: mothers' siblings received annuities & and parents & brother on TMC
POITRAS, Zacharie	07 Jun 1848			Combined evidence; mother's siblings received annuities & and both parents & a brother on TMC
RAINVILLE, Adelaide	Abt. 1848			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Francois RAINVILLE, Francois	1815 1837	Chart 1	X	Combined evidence from McIntyre & Treaty Schedule remarks
RAINVILLE, Genevieve	Apr 1843			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Hilaire	26 Jan 1851			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Jean Baptiste	06 Oct 1848			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Joachim	07 Aug 1853			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Jonas	16 Jun 1856			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Joseph	Abt. 1813		X	Combined evidence regarding possible siblings, residence and birthplace of children & on TMC
RAINVILLE, Marguerite	Abt. 1841			Received Annuities & Father [scrip & residence] and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Marie	Abt. 1843			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
RAINVILLE, Rose de Lima	Abt. 1858			Combined evidence: Father received scrip, Pembina resident, and maternal grandmother Marguerite Dufort received annuities
ROCBRUNE, Jean Baptiste	Bef. 1825			Received Annuities
ROLETTE, Joseph	Abt. 1847		X	Received Annuities

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<b>Name</b>	<b>Birth Date</b>	<b>Chart 1 or Chart 2 Ancestor</b>	<b>Descendants in the LS Membership</b>	<b>Evidence for Descent from the Historical Tribe: Received Annuities, Received Scrip per McIntyre Report, Listed on Pembina Band Treaty Schedules, or Identified as “Pembina Mixed-bloods” on other Chippewa Treaty Schedules</b>
SHORT, Louise	15 Aug 1847		X	mother's brothers received annuities
SMITH, Jean Baptiste	1830			Father & Sibling[s] Received Annuities
SMITH, Judith	27 Dec 1840			Father & Sibling[s] Received Annuities
SMITH, Louis	Bef. 21 Mar 1833			Father & Sibling[s] Received Annuities
SMITH, Louis dit Cabry	Abt. Oct 1803	Chart 1	X	Received Annuities
SMITH, Marguerite	Abt. 1839			Father & Sibling[s] Received Annuities
SMITH, Marie Victoire	05 Jun 1859			Father & 1/2 Sibling[s] Received Annuities
SMITH, Richard	Abt. 1840			Father & Sibling[s] Received Annuities
SMITH, Rosalie	Abt. 1836			Father & Sibling[s] Received Annuities
ST.ARNAUD, Alexandre	07 Feb 1842	Chart 1	NONE	Combined evidence from McIntyre
ST.ARNAUD, Charles	25 Jan 1840	Chart 1	X	Combined evidence to support McIntyre Report remarks
ST.ARNAUD, Jean Baptiste	22 Dec 1847			Sibling[s] Combined evidence to support McIntyre Report remarks
ST.ARNAUD, Josephthe	04 Mar 1834			Sibling[s] Combined evidence to support McIntyre Report remarks
ST.ARNAUD, Marguerite	06 Apr 1845			Sibling[s] Combined evidence to support McIntyre Report remarks
ST.ARNAUD, Marie	1831	Chart 2	X	Sibling[s] on McIntyre report; verified with Combined evidence
ST.ARNAUD, Rosalie	09 Sep 1852			Sibling[s] Combined evidence to support McIntyre Report remarks
ST.ARNAUD, Salomon	Apr 1857			Sibling[s] Combined evidence to support McIntyre Report remarks
ST.PIERRE, Angelic Ayimatch	Abt. 1845	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
ST.PIERRE, Francois	Abt. 1836			Received Annuities
ST.PIERRE, Francoise	Bef. 1837			Sibling[s] on annuity lists
ST.PIERRE, Genevieve	1825			Sibling[s] on annuity lists & remarks about self on treaty schedules
ST.PIERRE, Isabella	1847			Sibling[s] on annuity lists
ST.PIERRE, Josephthe	1828	Chart 2	X	Sibling[s] Received Annuities; verified with Combined evidence
ST.PIERRE, Louis	21 Jul 1831		X	Received Annuities
ST.PIERRE, Marie	1815			Combined evidence of siblings and later residence on TMC
ST.PIERRE, Marie Louise	Abt. 1844	Chart 1	X	Sibling[s] Received Annuities; verified with Combined evidence
THOMAS, Louis	1834		X	Received Annuities
TROTTIER, Andre	Nov 1816			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Antoine	08 Dec 1834			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Baptiste	1824			Received Annuities
TROTTIER, Bazile	Abt. 1819	Chart 2	X	Sibling[s] on treaty schedule; verified with Combined evidence

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TROTTIER, Catherine	Abt. 1831			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Charles	04 Dec 1839	Chart 1	X	Combined evidence to support Treaty Schedule remarks
TROTTIER, Francois Joseph	04 Nov 1836			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Jean Baptiste	Abt. 1825			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Joseph	Abt. 1828			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Josephte	Jul 1812	Chart 2	X	sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Madeleine	1822	Chart 2	X	Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Marguerite	1825			Sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Margueritte	Abt. 1828			Received Annuities
TROTTIER, Marie	Bef. 1831	Chart 2	X	sibling[s] on treaty schedule; verified with Combined evidence
TROTTIER, Michel	07 Jun 1832			Combined evidence for self & Sibling[s] on treaty schedule; verified with Combined evidence
VALLEE, Jean Baptiste	1810			Received Annuities
VALLEE, Jean Baptiste	27 Jan 1839			Received Annuities
VALLEE, Joseph	Abt. 1814			Received Annuities
VALLEE, Suzanne	1833			Sibling[s] on McIntyre report; verified with Combined evidence
VIVIER, Emilie	Abt. 1825			Sibling[s] on treaty schedule; verified with Combined evidence
VIVIER, Francois	1819			Combined evidence to support Treaty Schedule remarks
VIVIER, Louis	1840			Received Annuities
VIVIER, Marie	Abt. 1813			Sibling[s] on treaty schedule; verified with Combined evidence
WELLS, Allan Alkmund	18 Jan 1844			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Bazel	Abt. 1847			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Daniel	May 1830	Chart 1	X	Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Donald	Bef. 27 May 1840			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Edward	Bet. 1812 - 1815	Chart 1	X	Combined evidence to support Treaty Schedule remarks
WELLS, Edward	1838		X	Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Gregoire Alphonse	Bef. 28 Apr 1853			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Jean	06 Oct 1858			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Jean	Abt. Nov 1838			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, John	20 Dec 1848			Father & Siblings on McIntyre &/or see Treaty Schedule remarks

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<b>Name</b>	<b>Birth Date</b>	<b>Chart 1 or Chart 2 Ancestor</b>	<b>Descendants in the LS Membership</b>	<b>Evidence for Descent from the Historical Tribe: Received Annuities, Received Scrip per McIntyre Report, Listed on Pembina Band Treaty Schedules, or Identified as “Pembina Mixed-bloods” on other Chippewa Treaty Schedules</b>
WELLS, John Thomas	1834			
WELLS, Marie	28 Dec 1841			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Marie Rose	07 Feb 1861			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Marie Virginie	24 May 1851			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WELLS, Priscille	15 May 1847			Father & Siblings on McIntyre &/or see Treaty Schedule remarks
WILKIE, Agathe	Nov 1844			Father received annuities, Pembina in 1850
WILKIE, Alexander	Sep 1831			Received Annuities
WILKIE, Antoine	03 Sep 1848			Father received annuities & at Pembina in 1850, & self on TMC
WILKIE, Augustin	Abt. 1829		X	Received Annuities
WILKIE, Cecilia	Abt. 1843			Father received annuities, Pembina in 1850
WILKIE, David	07 Sep 1853			Father received annuities & at Pembina in 1850,
WILKIE, Elizabeth	Aug 1836		X	Received Annuities
WILKIE, Elizabeth	Abt. 1809			Sibling[s] Received Annuities; verified with Combined evidence
WILKIE, Jean Baptiste	1801	Chart 1	X	Received Annuities
WILKIE, Jean Baptiste	Aug 1824			Received Annuities
WILKIE, Judith	01 Nov 1817		X	Received Annuities
WILKIE, Madeleine	Abt. 1837			Father received annuities,
WILKIE, Marie Catherine	24 Nov 1834			Father received annuities, Pembina in 1850
WILKIE, Marie Marguerite	Abt. 1845			Father received annuities & at Pembina in 1850,
WILKIE, Mary	Abt. 1849			Father received annuities & at Pembina in 1850,
WILKIE, Philomene	1863			Father received annuities

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**Appendix XVIII**

**Petitioner's Chart 1 or Chart 2 Ancestors Lacking Pembina Band Descent: 25 Total**

<b>Name</b>	<b>Birth date</b>	<b>Tribe</b>	<b>Petitioner's Chart 1 or Chart 2 Ancestor</b>	<b>Department's Explanation</b>
BERGER, Pierre	Abt. 1820	Circe/Sarsee from North of Calgary, Alberta, Canada through maternal grandmother	Chart 1	Approved on Schedule B as "Pembina Mixed-blood," but the remarks are not supported; McIntyre says "bad" not Chippewa & from the Rocky Mts.; maternal grandmother was Circe/Sarsee from North of Calgary
BERGER, Rosalie dit Laframboise	Abt. 1815	Circe/Sarsee from north of Calgary, Alberta, Canada through maternal grandmother	Chart 2	Sister of Pierre Berger, Circe/Sarsee from north of Calgary
COLLINS, Joseph [son of Richard Collins & Genevieve Bruyere]	Abt. Apr 1835	Saulteaux/Saulteus through paternal grandmother & Serpente through maternal grandmother	Chart 1	Petitioner's ancestor, is NOT the same as Joseph/Jean Bpt. Collins on Schedule B, a beneficiary under the Pembina and Red Lake Treaty
COLLINS, Richard [son of Richard Collins & Genevieve Bruyere]	Bef. 1839	Saulteaux/Saulteuse through paternal grandmother & "Serpente" through maternal grandmother	Chart 2	This is NOT the brother of the Joseph/Jean Baptiste Collins on Treaty Schedule B, , a beneficiary under the Pembina and Red Lake Treaty
DAGNEAU, Francois [son of Isaac Dagneau and Genevieve Cos]	Abt. 1837	Cree according to 1900 census, both parents born in Canada	Chart 1	Treaty Schedule B "Mixed-blood Pembina" not supported by the evidence; not on Pembina censuses 1850-1870, none of his children enrolled at TMC, he is not on annuity lists, but was living at Fort Garry & "Bad" per McIntyre
DELORME, Urbain Henault dit	1800	Saulteaux/Saulteus through mother. No evidence connects him to Pembina Band; Basil Delorme [Pembina mixed-blood] may be a half-brother, not a full brother	Chart 2	Treaty Schedule E: Delorme, Urbain; "Heard of him there J. B. Bottineau. Knew Urbain Delorme at White Horse Plains, a mixed-blood; don't know of what band, and about seventy years old." Well known historical figure; never resided at Pembina
DUMONT, Vital	1830	Canadian Treaty Indian, belonging to the Band of Tu-po-wyan (Bobtail)	Chart 1	Also identified as Half-blood Assiniboine through maternal grandmother:

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FLAMAND, Joseph [son of Joseph Flamand & Marguerite Moreau]	1817	Cree through paternal grandmother; Unknown Indian maternal grandmother	Chart 1	There are 2 different Flamand families: the petitioner's ancestors in the RRS and the Pembina descendants that went to White Earth. Petitioner's ancestor Joseph Flamand was at St. Boniface 1870-1875 & is NOT the Joseph on Treaty Schedule B (b. 1837 & went to White Earth) or on the McIntyre Report
FLAMAND, Olivier [son of Joseph Flamand & Marguerite Moreau]	04 Jul 1832	Cree through paternal grandmother; Unknown Indian maternal grandmother	Chart 2	Two men have the same name; the Treaty Schedule B "Rejected, came to Saint Cloud on RR train, folks from Red Lake, same as Antoine" may be petitioner's ancestor, but he did not reside at Pembina or have Pembina descent.
FLAMAND, Pierre [son of Joseph Flamand & Marguerite Moreau]	19 Oct 1841	Cree through paternal grandmother; unknown Indian maternal grandmother	Chart 1	There are 2 different Flamand families: the petitioner's ancestors in the RRS and the Pembina descendants that went to White Earth: the Pierre Flamand on Schedule L was at White Earth
GARDIPEE, Bonaventure	02 Mar 1825	Cree or Red River Half-blood; Mother was from White Horse Plains (Grantown, Manitoba)	Chart 2	Rejected on McIntyre as Cree, no other record puts him or children at Pembina
GARDIPEE, Jean Baptiste	07 Jul 1832	Cree or Red River Half-blood; Mother was from White Horse Plains (Grantown, Manitoba)	Chart 2	His brother is on Schedule B, but rejected on McIntyre as Cree, no other record puts him or children at Pembina
GARDIPEE, Louis	Abt. 1828	Cree or Red River Métis; Mother was from White Horse Plains (Grantown, Manitoba)	Chart 1	"Approved" on Treaty Schedule B, but the comments were all negative, except he built a house at Pembina in 1868. He did not stay, and was at RRS in 1870. Identified as Cree
GLADEAU, Marie	1805	Unknown: Mother identified as Indian woman Elise, father as French Canadian	Chart 2	Identified by her son as "half-blood," but no tribe; Her half-brother Michel rec'd annuities, but had he a different mother
HALLETT, Genevieve Ljikay	Abt. 1796	Cree through mother	Chart 2	Schedule B statements that James and Henry were Pembina are not supported by censuses, annuities, US scrip (1880), or Canadian Scrip applications
HALLETT, Henry, Jr.	Abt. 1799	Cree through mother	Chart 2	Schedule B statements that James and Henry were Pembina are not supported by censuses, annuities, US scrip (1880), or Canadian Scrip applications

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HAMELIN, Jean Baptiste [son of Jacques Hamelin & Angelique Tourangeau]	20 Jun 1799	Unknown: maternal grandmother was "sauvage natif de la Riviere"	Chart 2	More than 1 Hamelin/Amline family: Petitioner's ancestor was not on any Pembina censuses, no siblings at Pembina or TMC but were in Canada
HAMELIN, Joseph [son of Jacques Hamelin & Angelique Tourangeau]	Abt. 1810	Unknown: maternal grandmother was "sauvage natif de la Riviere;"	Chart 1	There are 2 Joseph Hamelins: Treaty Schedule C 1868 rejected, living in Pope County, Minnesota, brother of Solomon of Ft. Garry, abt 45 yr old; and Treaty Schedule N 1870: approved conditionally; Petitioner's ancestor was not on any Pembina censuses, no siblings at Pembina or TMC but were in Canada
HAMELIN, Louis [son of Jacques Hamelin & Angelique Tourangeau]	Abt. 1807	Unknown: maternal grandmother was "sauvage natif de la Riviere"	Chart 1	More than 1 Hamelin/Amline family: Petitioner's ancestor was in Canada & not on any Pembina censuses; no siblings at Pembina or TMC; probably came from the Red River area. The man on Treaty Schedule N was rejected as he had scrip issued under 1854 & he appears to be in Minnesota in 1870's
KLYNE, Francois [son of Michel Klyne & Suzanne France]	Abt. 1819	Unknown tribe: his mother was born in Canadian North West Territories	Chart 1	No documented ties to Pembina Band, but Treaty Schedule B comment "approved, is 60-70, Pembina mixed-blood" and Francois was on censuses 1850-1870 at Pembina or Fort Totten, but
KLYNE, Michel son of Michel Klyne & Suzanne France]	1811	Unknown tribe: his mother was born in Canadian North West Territories	Chart 2	No documented ties to Pembina Band; was identified as half-blood, but lived in Canada except when on the 1850 Pembina census
PARENTEAU, Joseph Daudais	28 Oct 1837	Unknown: "Half-blood" on Canadian scrip applications, says he was born at St. Boniface	Chart 2	Conflicting information, cannot support identifications as Pembina
PARISIEN, Louise	Sep 1841	Métis: Saulteuse/Saulteux through paternal grandmother	Chart 2	Self-identified as white on all censuses; married at Pembina in 1858
ROCHON, Josephthe	1819	Cree; identified both parents as half-blood	Chart 2	Her half-brother Louis Gardipee was on Schedule B, but see comments for the Gardipees
VIVIER, Charles	15 Mar 1847	Saulteaux/Saulteux through maternal grandmother & unknown through paternal grandmother	Chart 2	Identified as Half-blood on Canadian scrip application

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**Appendix XIX**

**Petitioner’s “Criterion E Progenitors”**

<b>Name</b>	<b>Birth Date</b>	<b>Department’s Analysis of Tribe or Origins</b>
AMYOTTE, Francois	Abt. 1776	Unknown Tribe or Métis: “Plains Hunter”
ANGELIQUE	Abt. 1769	Unknown Tribe
ASSINIBOINE, Josephte		Assiniboine
AZURE, Antoine	Abt. 1801	Unknown Tribe or Métis:: Wife was Assiniboine
CARIBOU, Marie Sauvage	Bef. 1755	Unknown Tribe: "sauvage natif de la Rivière"
CHIPPEWA, 'The Buffalo'	Bef. 1775	Chippewa or Saulteuse/Saulteaux
CIRCE, Josephte Carey or	Bef. 1772	Circe/Ciries/Sarcee: North of Calgary, Alberta, Canada
COLLINS, Jean Baptiste	1800	Chippewa: Lake Superior or Saulteaux
COS, Genevieve		Unknown Tribe: Chippewa or Cree
DAZE, Josephte	Bef. 1784	Chippewa: Red Lake
DUSSOME, Joseph	Abt. 1843	Chippewa: Pembina
GEORGE, Marguerite	Abt. 1800	Chippewa: Pembina
GRANT, Genevieve	Bef. 1805	Unknown Tribe or Métis: probably Chippewa
INDIAN, Angélique	1770	Unknown Tribe
INDIAN, Angélique	Abt. 1773	Unknown Tribe
INDIAN, Elise	Bef. 1782	Unknown Tribe
INDIAN, Françoise	Abt. 1785	Unknown Tribe
INDIAN, Josephte		Assiniboine
INDIAN, Josephte	1770	Cree
INDIAN, Nowanankwee	Abt. 1777	Chippewa
KAMIKITS, Kotawa	Bef. 1805	Saulteuse/Saulteaux
LAFRANCE, Suzanne	Abt. 1790	Unknown Tribe: Always Lived in Canada
LAMBERT, Marguerite		Unknown Tribe or Métis
LAROQUE, Marguerite		Unknown Métis
LATTERGRASS, Mr.	Bef. 1795	Unknown Tribe: Probably Chippewa
LAURENT, Josephte	Abt. 1800	Unknown Métis
LECLAIR, Susanne	Abt. 1786	Cree or “Carcie”
MA-NA-E-CHA, Lizette	Bef. 1774	Chippewa: Pembina
ME-HA-KA-MAY-KI-JI-KOK	Bef. 1783	Chippewa: Pembina
MONTAGNAISE, Louise 'Lizette'		Unknown: Probably Montagnais from Eastern Canada
MONTOUR, Mr.	Bef. 1767	Chippewa: Probably Lake Superior
MUNRO, Suzanne		Unknown Tribe or Métis
NOTINIKABON, Marguerite	Abt. 1780	Saulteuse/Saulteaux
PAQUIN, Jean Baptiste	Abt. 1805	Chippewa: Pembina
PLOUFE, Marguerite		Chippewa: Lake Superior
RAINVILLE, Francois	1815	Chippewa: Pembina
ROSS, Marguerite	Abt. 1784	Unknown Métis
SANGRAY, Charlotte	Abt. 1785	Unknown Métis
SAULTEAUX, Isabelle 'Lizette'	Abt. 1783	Saulteuse/Saulteaux
SAULTEAUX, Louise		Saulteuse/Saulteaux
SAULTEAUX, Madeleine		Saulteaux/Saulteaux
SAULTEUSE, Betsy	Abt. 1783	Saulteuse/Saulteaux
SAULTEUSE, Josephte		Saulteuse/Saulteaux
SAULTEUSE, Josette	Abt. 1787	Saulteuse/Saulteaux
SAULTEUX, Marie (Marguerite)	Abt. 1794	Saulteuse/Saulteaux or Nation of Serpente
SONGAB, Margaret Ah-dick	Abt. 1775	Chippewa: Lake of the Woods or Lake Superior
VILLEBRUN, Josette	Abt. 1787	Unknown Tribe or Métis
WOMAN, Catherine Indian	Abt. 1775	Cree

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WOMAN, Cree	Bef. 1770	Cree
WOMAN, Indian	Bef. 1770	Cree or Assiniboine
WOMAN, Indian		Unknown Tribe

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**Cowlitz PF**

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**Death Valley Shoshone PF**

1982 Summary of Evidence for Proposed Finding for Federal Acknowledgment of the Death Valley Timbi-Sha Shoshone Band of Indians of California  
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**Duwamish PF**

1996 Summary under the Criteria for Proposed Finding against Federal acknowledgment of the Duwamish Tribe  
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**Eastern Pequot PF**

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Hyde 1928.03.03	1928.03.03	Hyde, James H.	Letter
Hyde 1928.03.24	1928.03.24	Hyde, James H.	Letter
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Turtle Mountain Census 1894.07.00a	1894.07.00	Hall, Ralph	Tribal Census
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