

Summary under the Criteria and Evidence
for
Final Determination against Federal Acknowledgment
of the
St. Francis/Sokoki Band of Abenakis of Vermont

Prepared in response to a petition submitted to the
Assistant Secretary - Indian Affairs for Federal
acknowledgment that this group exists as an Indian
tribe.

Approved: June 22, 2007

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Carl J. Artman
Assistant Secretary - Indian Affairs

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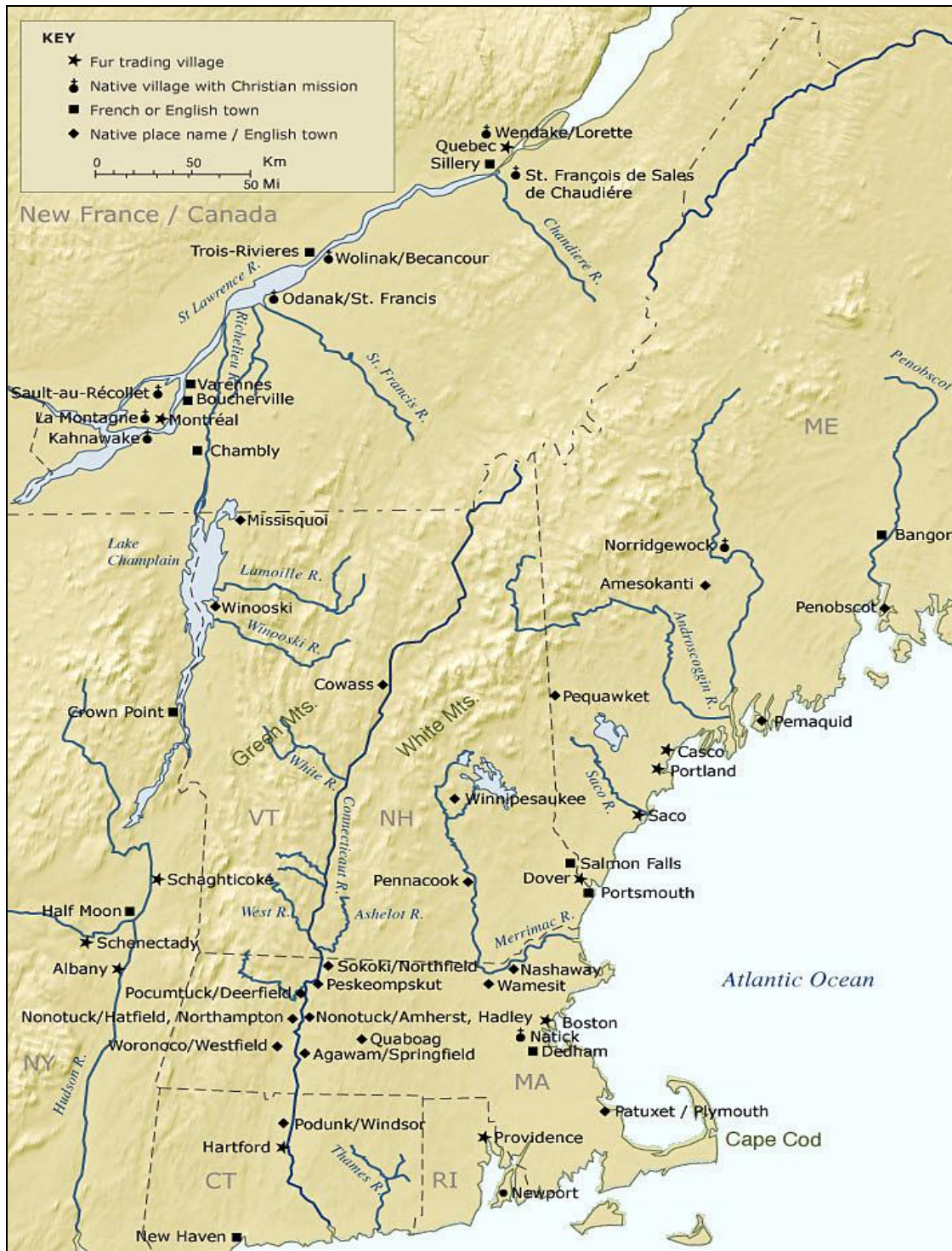
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ABBREVIATIONS AND/OR ACRONYMS USED IN THIS REPORT

AG	Attorney General
ADS	Associate Deputy Secretary
ARP	Abenaki Research Project
ASHAI	Abenaki Self-Help Association, Inc.
AS-IA	Assistant Secretary - Indian Affairs
ATC	Abenaki Tribal Council
BAR	Branch of Acknowledgment and Research
BIA	Bureau of Indian Affairs
CFR	<i>Code of Federal Regulations</i>
DVD	Digital Video Disk
FAIR	Federal Acknowledgment Information Resource
FD	Final Determination
FTM	Family Tree Maker™ genealogy software
IBIA	Interior Board of Indian Appeals
IORM	Improved Order of the Red Men
OD	Obvious Deficiency letter
OFA	Office of Federal Acknowledgment, formerly BAR
PF	Proposed Finding
SSA	St. Francis/Sokoki Band of Abenakis of Vermont, Petitioner #68
TA	Technical Assistance

U.S.	United States
VES	Vermont Eugenics Survey
VFW	Veterans of Foreign Wars (Association)

FIGURE 1: Map of the Colonial Northeast, circa 1660-1725



Colonial Northeast, circa 1660-1725 (Map adapted from Sweeny and Haefeli, *Captor and Captives: the 1704 French and Indian Raid on Deerfield*, 2003; <http://1704deerfield.history.museum/maps/northeast.html>)

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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 St. Francis/Sokoki Band of Abenakis of Vermont (SSA or Petitioner #68), located in the town of Swanton, Vermont. The SSA 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 acknowledgment regulations, 25 CFR Part 83, establish the procedures by which groups may seek Federal acknowledgment as Indian tribes entitled to government-to-government relationships with the United States. To be entitled to such a relationship, the petitioner must submit documentary evidence that the group meets each of the seven mandatory criteria set forth in section 83.7 of the regulations. The Department shall acknowledge the existence of 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), within the Office of the AS-IA, has responsibility to review, analyze, and evaluate the petition. This FD concludes that the petitioner does not meet four of the seven mandatory criteria and therefore is not an American Indian tribe within the meaning of Federal law.

The Department bases this FD upon all the evidence in the record that the SSA petitioner, the State of Vermont, and other third parties submitted, together with information that OFA researchers gathered for purposes of verification and evaluation. Most notably, this FD considers the material submitted during the comment and response periods that followed the Department's issuance of the Proposed Finding (PF). The FD also considers the evidence, arguments, and conclusions discussed in the PF; therefore, this FD report should be read together with the PF.

After the publication of the FD notice, 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 notice of the FD is published in the Federal Register. The FD will become effective as provided in the regulations 90 days from the publication unless the IBIA receives a request for reconsideration within that timeframe.

Summary of the Proposed Finding

The SSA petitioner claims to have descended as a group mainly from a Western Abenaki Indian tribe, most specifically, the Missisquoi Indians. During the colonial period (approximately 1600-1800), the Missisquoi Indians lived in northwestern Vermont, near the present-day town of Swanton. The available evidence indicates that by 1800 the disruption caused by colonial wars and non-Indian settlement had forced almost all the Western Abenakis in northern New England (including Vermont) to relocate to the Saint Francis River area of Quebec, Canada, and become part of the St. Francis, or Odanak, village of Canadian Indians. The petitioner, however, contends that its ancestors remained behind in northwestern Vermont after 1800, or moved to Canada until it was “safe” to return. The petitioner also maintains that its ancestors lived “underground,” hiding their Indian identity to avoid drawing the attention of their non-Indian neighbors, until the 1970’s. The petitioner did not explain the details of this claimed process of living “underground.” Some of the available documentation indicates that, over the course of the 19th century, some of the group’s ancestors moved from various locations in Quebec, Canada, to the United States. However, the available evidence does not demonstrate that the petitioner or its claimed ancestors descended from the St. Francis Indians of Quebec, a Missisquoi Abenaki entity in Vermont, any other Western Abenaki group, or an Indian entity from New England or Canada. Instead, the PF concluded that the petitioner is a collection of individuals of claimed but undemonstrated Indian ancestry “with little or no social or historical connection with each other before the early 1970’s” (Abenaki PF 2005, 44).

Administrative History of the Petition before the Proposed Finding

The SSA submitted a letter of intent on March 28, 1980, to petition for Federal acknowledgment as an Indian tribe. On October 22, 1982, the SSA submitted a documented petition to the Department. The Department conducted a formal technical assistance (TA) review of the petition, and on June 14, 1983, sent the first obvious deficiency (OD) letter to the petitioner. The petitioner responded to the first OD letter on May 23, 1986, with more documentation as discussed in the PF (Abenaki PF 2005, 4-5). The Department did not receive a certain “Addendum C” referenced by the petition, described as containing family histories, an oral history overview, and a pre-1800 historical work summary. On December 1, 1988, the Department informed the petitioner of its absence and asked the petitioner to provide it (Thompson 12/01/1988; Salerno 10/23/2001; Abenaki PF 2005, 5). As of the issuance of this FD, the Department still has not received a copy of this “Addendum C.”

The petition narrative also made frequent references to an unpublished 1979 work entitled “Missisquoi Abenaki: Survival in Their Ancient Homeland,” by John S. Moody, an individual with informed party status who was formerly a researcher for the petitioner. This manuscript, part of the petition record, made frequent references to primary and secondary sources, including a number of interviews, copies of which the petitioner did not submit to the Department for review, despite being requested to do so (Abenaki PF 2005, 5).

In December 1995 and January 1996, the group submitted a “Second Addendum” to its petition for Federal acknowledgment. On January 17, 1996, the Department placed the group on the

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“Ready, Waiting for Active Consideration” list. On February 4, 2005, the Department placed the petition on “active consideration” and assigned a research team to evaluate it. On September 9, 2005, the Department notified the petitioner of technical issues regarding the governing body’s certification of its membership list, governing document, and several other documents. The Department also stated that it was still “awaiting copies of the 1975 and 1983 membership lists.”

On November 1, 2005, the Department received a response from the petitioner. In this response, the group’s governing body provided a letter dated October 11, 2005, separately certifying the group’s “2005b” membership list. The response included another letter from the group’s governing body, dated October 11, 2005, certifying the group’s recent governing document along with several other documents previously submitted to the Department that needed certification. These certification letters properly addressed the technical issues to which the Department alerted the petitioner in its September 9, 2005 letter. The Department analyzed these documents for the PF on the assumption that the petitioner was in the process of certifying them. This FD notes that the petitioner certified these documents.

In the submission that the Department received on November 1, 2005, the petitioner also enclosed copies of two additional membership lists: one list labeled as a 1975 list, and the other labeled as a 1983 list. The petitioner did not certify either of these lists as a submission. The Department received these documents too late to incorporate into the PF and instead considered them for the FD.¹

The Department issued a proposed finding on November 9, 2005, which concluded that the SSA petitioner did not meet four of the seven mandatory criteria—criteria 83.7 (a), (b), (c), and (e)—and therefore was not an Indian tribe within the meaning of Federal law. (See the PF for a detailed administrative history up to November 2005.)

Administrative History of the Petition since the Proposed Finding

The Department published a notice of the PF in the Federal Register on November 17, 2005 (70 FR 69776). The Federal Register notice stated that its publication initiated “a 180-day comment period during which the petitioner, interested and informed parties, and the public may submit arguments and evidence to support or rebut the . . . proposed finding,” and that the petitioner would have a minimum of an additional 60 days to respond to any third-party comments.

¹ The Department issued a notice on March 31, 2005, which provides guidance for how acknowledgment researchers should handle evidence. The notice, “Office of Federal Acknowledgment; Reports and Guidance Documents; Availability, etc.” (61 FR 16513), states that “[u]nsolicited submissions received [more than 60 days after a petition is placed on active consideration] . . . will be reviewed for the final determination and not for the proposed finding.” The notice also states that the “[a]cknowledgment staff may request additional information from the petitioner . . . prior to the proposed finding in order to clarify the arguments or evidence,” but that the “proposed finding . . . shall not be delayed to obtain this finding” (FR 16514). The Department received the 1975 and 1983 membership lists very late in the PF review process, only eight days prior to the issuance of the PF. In keeping with the intent of the directive, the Department did not delay the PF but instead chose to evaluate these two lists for the FD, as it would with unsolicited evidence.

The initial 180-day comment period closed on May 16, 2006. On May 15, 2006, the Department received a letter from the petitioner dated May 9, 2006. April St. Francis-Merrill, the leader of the SSA petitioner, and six additional council members, signed this letter requesting that the Assistant Secretary extend the comment period on the PF by an additional 180 days because a “shortage of staff” and “budgetary cutbacks” made it difficult for the petitioner to “compile the appropriate response.” The letter also included four brief essays by Frederick M. Wiseman that constituted a partial response to the PF.

Pursuant to 25 CFR 83.10(i), the Department has the discretion to extend the comment period upon finding of good cause. On June 2, 2006, the Department provided the SSA petitioner a partial extension to the comment period of 90 days. The Department explained that it granted extensions when merited by “good cause,” including, in this case, some explanation for why the petitioner did not complete the research and analyses in the required time, along with the specifics of future work. The Department noted that a 2001 report by the General Accountability Office “identified the need to instill a sense of urgency in the Department’s acknowledgment process.” In balancing these considerations with the request of the petitioner, the Department elected to reopen and extend the comment period by 90 days. However, the Department informed the petitioner that it could submit future requests for an additional extension, postmarked no later than July 31, 2006, and that it should include a description of a future work plan, together with a discussion of why that work remained uncompleted. If the Department did not receive such a request, the comment period would expire on August 14, 2006.

On May 15, 2006, the same day the Department received the letter from the petitioner requesting an extension of the comment period, the Department also received a mailing from John Moody, from Sharon, Vermont. The envelope, postmarked May 10, 2006, contained two letters. In the first letter, dated April 20, 2006, Moody requested interested party status in the 25 CFR Part 83 proceedings as they pertained to the SSA petitioner. The second letter, dated May 5, 2006, was entitled “Initial Response to Bureau of Indian Affairs, Office of Federal Acknowledgment Proposed Finding and Summary under the Criteria for the Proposed Finding on the St. Francis / Sokoki Band of Abenakis of Vermont, November 9, 2005.” The letter was nine pages in length and included an additional nine-page appendix. This letter commented on the PF and requested an indefinite extension of the comment period.

On June 2, 2006, the Department responded to the two letters from Moody. The Department denied him interested party status because he did not qualify as an interested party as defined in 25 CFR 83.1.² Moody requested interested party status in part to obtain copies of the documents upon which the Department based its decision for the PF. However, the Department emphasized he could obtain the same documents via a Freedom of Information Act (FOIA) request even without interested party status. Furthermore, the Department notified him of the 90-day

² According to the definition in 25 CFR 83.1, an “*interested party* means any person, organization or other entity who can establish a legal, factual or property interest in an acknowledgment determination and who requests an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific petitioner. ‘Interested party’ includes the governor and attorney general of the state in which a petitioner is located, and may include, but is not limited to, local governmental units, and any recognized Indian tribes and unrecognized Indian groups that might be affected by an acknowledgment determination.” Moody’s past research did not establish a factual interest within the meaning of the regulations.

extension to the comment period, provided him a preliminary inventory of the SSA petition to assist him with a FOIA request, and confirmed the receipt of his initial comments on the proposed finding.³

On May 17, 2006, the Department received a letter, dated May 9, 2006, and postmarked May 10, 2006, from Lester M. Lampman and several individuals associated with the petitioning group.⁴ The letter requested an extension of the comment period and contained comments on the PF. Attached to the letter were a photograph, a photocopy of a photograph, and 11 pages of documents to supplement their comments. The letter also alluded to “oral history” tapes in possession of the family, but the letter did not provide copies of the tapes or transcripts of them. Furthermore, the letter mentions documentation that was “left in files at the tribal office.” The Department responded to this letter on June 2, 2006, notifying the senders of the 90-day extension to the comment period and confirming the receipt of their initial comments on the proposed finding. Despite being notified of the additional 90-day extension to the comment period, neither Lester M. Lampman nor the cosignatories of the letter submitted copies of the “oral history” tapes allegedly in possession of the Lampman family, transcripts of the tapes, or copies of the documents that allegedly were “left in files at the tribal office.”

On August 22, 2006, the Department received a letter, dated August 11, 2006, and postmarked August 14, 2006, from the petitioner. This letter contained comments from the petitioner, consisting of a set of photocopied treaty documents, four Internet essays entitled “Abenaki History,” a DVD video presentation entitled “Against the Darkness,” and a collection of meeting minutes from the 1970’s, 1980’s, and 1990’s. There was no accompanying narrative explaining how the materials addressed the criteria. The letter also requested an additional extension of the comment period, indicating that staff shortages were hindering progress. The petitioner’s letter

³ The Department, on three subsequent occasions, addressed Moody’s requests to have interested party status and to extend the comment period. On August 14, 2006, the Department received a fax from Moody requesting interested party status and an extension of the comment period. The Department responded on August 31, 2006, stating in further detail that he was ineligible for interested party status, but that his ineligibility had not prevented him from commenting as an informed party on the PF during the original 180-day comment period or the additional 90-day comment period extension. The Department informed him that the comment periods had closed and that he could make requests for documents under the Freedom of Information Act. On September 13, 2006, the Department received a letter from the Honorable Bernard Sanders, Congressman from Vermont. Moody had asked Congressman Sanders to persuade the Department to extend the comment period and grant him interested party status. On October 16, 2006, the Department responded to Congressman Sanders, and explained its position on the matter. On December 22, 2006, the Department received a letter from the Honorable Patrick Leahy, Senator from Vermont, to whom Moody had appealed for assistance. On January 18, 2007, the Department responded and further explained how Moody did not qualify as an interested party.

⁴ The letter was from Lester M. Lampman; Mark Wayne Rollo, Sr.; Louise Lampman Larivee; Larry LaPan, Sr.; Colleen Brow Plante; and Lisa Lampman Rollo. Their letter begins with the assertion, “We are members of the St. Francis/Sokoki Band of the Abenaki Nation of Vermont.” However, only one of these individuals appears on the petitioner’s August 2005 “A1” list, the list that the petitioner’s governing body formally certified and the Department used to conduct its evaluation. The rest of these members appear on the petitioner’s “A2” list. In a letter the Department received on August 23, 2005, the petitioner defined the “A1” group as members with complete membership files. According to the petitioner, “A1” members are the only members eligible to vote in the group’s elections (ATC Minutes 08/12/1997, 2). The “A2” individuals are described as “Abenaki,” but cannot vote until they complete their files as requested” (St. Francis-Merrill to AS-IA 2005, 1). For more information on the “A1” and “A2” lists, see footnote 21 on p. 43 of this FD and the Abenaki PF 2005, pp. 88-89, 140-146.

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was not postmarked on or before July 31, 2006, as requested by the Department's June 2, 2006, letter, nor did it include a detailed work plan as the Department requested.

The Department responded to the petitioner on August 28, 2006, indicating that the petitioner had not filed its latest extension in a timely fashion and had not submitted a detailed work plan. However, the Department indicated that it would consider reopening the comment period if the petitioner submitted, as soon as possible, a "more thorough justification and description of the work you need to complete." Pending the receipt of such a request, the Department noted, the 60-day response period would close on October 13, 2006. During this response period, the petitioner could respond to comments on the PF made during the original and extended comment periods.

On October 13, 2006, the response period closed, without the Department having received either a response from the petitioner or a detailed request to reopen the comment period. During both the original comment period and the extended comment period, the petitioner did not submit critical materials that the PF requested. In particular, the petitioner did not submit any of the materials that would help the petitioner establish descent from a historical Indian tribe. Overall, given the petition's deficiencies in meeting criteria 83.7(a), (b), (c), and (e), together with the explicit requests in the PF, the petitioner's comments were few in number and did not substantively address the PF.

On November 6, 2006, the Department sent a letter to the petitioner, interested parties, and informed parties, stating that the comment and response periods had closed. The letter also stated that, in accordance with 25 CFR 83.10(k), the Department would consult with the petitioner and interested parties to establish an equitable timeframe for considering all comments and responses in preparation of its final determination. As part of this consultation, the letter stated that the Department anticipated beginning the final determination for the petitioner in January 2007.

On February 27, 2007, the Department telephoned the petitioner's contact person of record. The Department discussed with her a schedule for completing the FD. This schedule would begin consideration of the comments and responses on March 1, 2007, and tentatively produce the FD on June 15, 2007. The Department then faxed a letter describing this schedule to the petitioner, and mailed copies of that letter to the petitioner, interested parties, and informed parties.

SUMMARY EVALUATION UNDER THE CRITERIA

The following summary under the criteria for the FD is the Department's evaluation of all the evidence in the administrative record to date. This FD concludes that the available evidence is insufficient to satisfy four of the seven mandatory criteria: criteria 83.7(a), (b), (c), and (e). The PF concluded, based on the available evidence, that the petitioner did not meet these same four criteria. Therefore, this FD affirms the PF's conclusions, and the Department finds that the St. Francis/Sokoki Band of Abenakis of Vermont is not an Indian tribe within the meaning of Federal law.

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

The PF concluded that the evidence in the record was insufficient to demonstrate by a reasonable likelihood that external observers had identified the SSA petitioner as an American Indian entity on a substantially continuous basis since 1900. Consequently, the petitioner did not meet criterion 83.7(a). More specifically, the PF found that for the period from 1900 to 1975, no evidence in the record provided an external identification of either the petitioning group or a group of the petitioner's ancestors as an American Indian entity on a substantially continuous basis. From 1976 afterward, however, the PF found sufficient evidence that external observers identified the petitioning group as an American Indian entity. (See the Abenaki PF 2005, 22-43, for a complete description of these identifications.)

The task for the petitioner during the comment period, therefore, was to submit evidence of external observers identifying the petitioner or an antecedent group as an American Indian entity on a substantially continuous basis from 1900 to 1975.

Summary of the Comments on the Proposed Finding

The Department received three sets of comments on the PF's conclusions that apply to criterion 83.7(a). One set of comments came from the petitioner as part of its August 14, 2006, submission. In its cover letter, the petitioner states that it was "sending a [DVD] disk with a full interview with Alice Roy." This DVD is entitled "Against the Darkness."⁵ On the same DVD is a second interview, an interview with Dr. James Petersen, that addresses the PF's conclusions in a way similar to the Roy interview. Although the petitioner did not directly instruct the Department to interpret it as a comment, the Department examined both the Petersen interview and the Roy interview under criterion 83.7(a) and the other criteria.

A second set of comments came from Lester M. Lampman and several individuals associated with the petitioning group. The Department received these comments on May 17, 2006. These comments included a 6-page letter that discussed some of the senders' concerns with the PF and other issues, as well as a photograph, a photocopy of a photograph, and 11 pages of documents to supplement their comments.

⁵ The video does not contain standard publication and production information, but the DVD has the handwritten date "2-19-06" on its face and, when played, indicates that it is the "Build 37 Working copy." This DVD appears to be an updated version of the "Against the Darkness" video that the Department received in VHS format for consideration with the PF. On April 15, 2005, the Department received a document that contained both an introduction to the "Against the Darkness" video and the video's script. The documents state that Frederick M. Wiseman, Ph.D., wrote both the introduction and the script.

A third set of comments came from John Moody, an informed party, in his letter that the Department received on May 15, 2006. Among other things, Moody contested the PF's analysis of one of eight unnumbered pages of a Vermont Eugenics Survey (VES) "Pedigree" file, compiled around 1927 to 1930, as it applied to criterion 83.7(a).

Analysis of the Comments

The petitioner instructed the Department to evaluate a DVD interview with "Alice Roy." A video segment entitled "Stories of Visiting the Abenakis . . . Vermont Oral History of 1910-1918," contains a recent but undated interview with Mrs. Gerard Roy, a non-member who apparently was a young girl in Vermont in the early 20th century.⁶ A transcription of the interview is as follows:

[Mrs. Gerard Roy speaking (n.d., all text *sic*):] When I was 9 years old, I would bring my books home, and my father was very interested in it, and I told my father that we were studying about Indians. And he said, "You know my girl, there is Indians in Vermont here." He says, "I want to tell you." He says, "My father and I, we took a buggy from Barre, Vermont, and we went to the northern part of Vermont to see what they had called a *savage*, but they were Indians." And he says, "I was going to . . . was curious enough to know that I want to see for myself that they weren't dangerous. So we left from Barre to see the Indians." And he says, "We rode around, and we saw the way they lived." And he said, "We saw their fires, and we saw their . . . the wigwam—the way they lived." And he says, "We were very satisfied." and then he said, "We took the buggy back home." And he said, "We got home very late." ("Against the Darkness" 2006)

This interview, on its own, does not constitute identification by an external observer of the petitioner—or a predecessor group—as an American Indian entity for the following reasons:

- 1.) Mrs. Gerard Roy did not observe the "Indians in Vermont." It was her father and her grandfather, not Mrs. Gerard Roy herself, who supposedly observed the "Indians in Vermont." Mrs. Gerard Roy's account, therefore, is not an observation; it is an account of one of her father's stories.
- 2.) Although the interview referenced "Indians in Vermont," it did not identify an *entity*. According to the interviewee, her father recalled seeing multiple Indians, but it is unclear whether he saw a few individuals, a family or two, or a larger group. It is difficult to discern much about these Indians, especially when the interviewee stated that "the Indians" (plural) her father observed lived in "the wigwam" (singular).⁷ Perhaps these

⁶ The petitioner's August 14, 2006, letter specifically directs the Department to examine an interview with *Alice* Roy, but the interview on the DVD video is with Mrs. *Gerard* Roy of Barre, Vermont; the Department presumes that Alice Roy and Mrs. Gerard Roy are the same person. Additionally, the DVD interview does not indicate when Mrs. Gerard Roy was born, how old she was when at the time of the interview, or any other specific information that would allow the Department to approximate the date on which her father observed the "Indians of Vermont."

⁷ Another concern with this interview is that the photographs accompanying the video interview are undated and unattributed; it is uncertain how reliable it is as evidence. There is a photograph of several individuals outside a

Indians all belonged to a single family. Regardless of this uncertainty about “the wigwam,” the Department does not accept “[r]eferences to individual Indian descendants or Indian families” as satisfactory identifications of an American Indian entity (Burt Lake Band PF 2004, 34), and there is not enough specific information in this interview that describes any particular entity.

- 3.) As the PF noted, the interview did not provide “the name of any particular town in the area, or any tribal identification for the Indians he is supposed to have visited” (Abenaki PF 2005, 67). The town of Barre, Vermont, is about 60 miles southeast of Swanton, the claimed geographic center of the petitioner. However, without further information about the approximate location of the supposed Indians, the Department cannot establish that Mrs. Roy was referring to the petitioner’s claimed ancestors⁸ who lived in or near Swanton. There was no mention of Swanton in the interview; these Indians could have been itinerant Indians (see the upcoming discussion on the Dr. James Petersen interview), perhaps temporarily visiting “the northern part of Vermont” from Canada, Maine, Upstate New York, or elsewhere.⁹

This interview, therefore, is not an external identification of an American Indian entity ancestral to the petitioner.

The second interview on the petitioner’s “Against the Darkness” video presentation that the Department evaluated under criterion 83.7(a) is an interview with the late Dr. James Petersen of the University of Vermont’s anthropology department. The interview is entitled “Stories of Vermont Basketmakers.” In this interview, Dr. Petersen discussed a basket that was:

obtained by my grandmother from an itinerant basket-seller during the years of the Depression, presumably in the 1930’s. And my grandmother, when she gave it to me, said that it was obtained . . . she got the basket in return for feeding a couple of gypsies—as she called them—but then laughed and said, “of course you know they’re native people, they were native people who traveled up and down

house or a barn, and this photograph is displayed on the screen when Mrs. Gerard Roy is talking about a “wigwam;” this contradiction of oral evidence and visual evidence introduces another level of uncertainty into the petitioner’s argument.

⁸ The term “claimed ancestor” is a term used in the PF and the FD to refer to an ancestor who is claimed by at least some of the petitioner’s current membership. These claims may or may not be factually accurate, and these claims may or may not be consistent. In short, the term “claimed ancestor” is a problematic term. See footnote 12 on p. 14 of this FD for a further discussion on this point.

⁹ The PF established that, by the late 19th century, itinerant Indians from other areas traveled through northern New England. As the PF stated, “the petitioner and the State both submitted evidence which demonstrated that Western Abenakis from Odanak and Passamaquoddy and Penobscot from Maine traveled to the large summer resort hotels throughout the region, selling baskets and other crafts to tourists,” and that “[b]y the 1880’s, Abenaki Indians from Quebec and Passamaquoddy and Penobscot Indians from Maine were beginning to manufacture baskets specifically for the summer tourist trade” (Abenaki PF 2005, 68). Thus, the “Indians in Vermont” to which Mrs. Gerard Roy alludes may have been itinerant Indians who were traveling through the area, but who lived somewhere other than northern Vermont.

old Route 7,” and visited her from time to time in her hometown of Salisbury, Vermont. (“Against the Darkness” 2006)

There is no available evidence to conclude that this interview refers to the petitioner’s ancestors. This interview shares some characteristics of the Roy interview, and it does not constitute identification by an external observer of the petitioner, or a predecessor group, as an American Indian entity for the following reasons:

- 1.) Dr. Petersen did not observe “native people.” His grandmother, not Dr. Petersen himself, who supposedly observed the “native people who traveled up and down old Route 7.” Dr. Petersen’s account, therefore, is not an observation; it is an account of one of his grandmother’s stories.
- 2.) Although Dr. Petersen claims his grandmother identified “native people who traveled up and down old Route 7,” she did not identify an *entity*. Dr. Petersen’s grandmother did recall seeing “a couple of gypsies, as she called them,” but, as stated above, references to individual Indian descendants or Indian families are not satisfactory identifications of an American Indian entity.
- 3.) These “native people” may have “traveled up and down old Route 7” and visited Dr. Petersen’s grandmother in Salisbury, Vermont, a town that is about 75 miles south of Swanton, the petitioner’s claimed geographical center. However, the interview does not discuss where these itinerant Indians actually lived. They may have lived in Canada, Maine, or Upstate New York. The evidence does not show that the interview referred to the petitioner’s ancestors, and it is especially difficult to determine that the Indians in the interview were ancestors of the petitioner without additional specific geographic information, a specific discussion of the itinerant Indians’ tribal identification, and other descriptive material.

This interview, therefore, is not an external identification of an American Indian entity ancestral to the petitioner.

The May 2006 submission from Lester Lampman contains several pieces of evidence that might constitute external identifications of an American Indian entity. Most of the documents, however, relate to the petitioner’s affairs after 1975. It is not necessary to evaluate each of these submissions with respect to criterion 83.7(a) because the PF has already concluded that there was sufficient evidence to satisfy criterion 83.7(a) after 1975.

An exception that may refer to the period before 1975 is a photograph of the “Grandma Lampman Site Maquam Shore Project” memorial, which is a commemorative plaque affixed to a rock. The Lampman letter provided no description of who “Grandma Lampman” was, how she descended from a historical Indian tribe, or how she is related to the petitioner.¹⁰ The memorial

¹⁰ The petitioner’s FTM genealogical database lists a “Martha Ann Morits” who was Leonard M. Lampman’s grandmother. According to the FTM genealogical database, Martha Ann Morits was born in 1866 in Bedford, Quebec, Canada, and died in 1943 in Swanton, Vermont, after living for 35 years in the United States. Martha Ann Morits allegedly descends from the Morice family, and the PF notes that the available evidence did not demonstrate

was dedicated in 1995. The location of the memorial and the author of the plaque's text are unspecified. If a member of the SSA group authored the text of the plaque, it would be a self-identification and thus not be evidence acceptable under the criterion. Otherwise, the memorial might, based on the dates of "Grandma Lampman's" life, arguably constitute a pre-1975 identification of "Grandma Lampman" as an "Abenaki woman." The memorial also references "her children and grandchildren." However, as stated earlier, references to individual Indian descendants or Indian families are not satisfactory identifications of an American Indian entity. When the memorial's text states, "This site will always be known as Grandma Lampman's by the Abenaki Community and others," it is unclear when or where this "Abenaki community" existed. However, the best estimate is that the "Abenaki community" is contemporary with the memorial itself, which was dedicated in 1995. Any additional post-1975 identifications of an Indian entity are unnecessary because the PF already determined that the petitioner met criterion 83.7(a) after 1975.

John Moody also commented on the PF's evaluation under 83.7(a). Moody disagrees with the Department's interpretation of a statement regarding Mr. Bartoo, a Vermont high school principal, printed in a Vermont Eugenics Survey "Pedigree" file. The VES statement, compiled around 1927 to 1930, is as follows:

Mr. Bartoo says that Back Bay, Swanton, was settled by the French when they thought they were settling in Canada. The result is a French and Indian mixture. He says the St. Francis Indians are a French and Indian mixture. (Bartoo n.d., 1; see also Moody 5/5/2005, 6; Abenaki PF 2005, 27)

In its PF, the Department did not accept this as an external observation of an American Indian entity for two principal reasons. First, Bartoo's first two sentences characterize the ethnic composition of Back Bay, Swanton, rather than an American Indian entity. Second, the Department's reading of the available evidence concluded that Bartoo's use of the term "St. Francis Indians" was "most likely a reference to the historical tribe at Odanak, Quebec, . . . rather than a contemporary Indian entity in Swanton" (Abenaki PF 2005, 27).

In his comment, Moody concedes that "more research is needed" to accurately interpret this statement, but disputes the Department's second reason for not accepting it as satisfactory evidence. Moody argues that, rather than referring to the historical St. Francis Indians in Canada, Bartoo's statement refers to "the large St. Francis family and their numerous Abenaki relatives in Back Bay in Swanton in the 1920's and 1930's." He did not provide new evidence to corroborate his claim. In contrast, the PF noted that the VES "Pedigree" file identified this family as French-Canadian, not Indian.¹¹ However, even if Moody's statement were demonstrably true—that "the St. Francis Indians" in the VES text were a family—it would not satisfy criterion 83.7(a) because the Department does not accept references to individual Indian descendants or Indian families as satisfactory evidence for criterion 83.7(a).

that the Morice family descends from a historical Indian tribe (Abenaki PF 2005, 128-132). Whether or not "Grandma Lampman" descended from a historical Indian has no bearing on the evaluation of the memorial under criterion 83.7(a).

¹¹ Furthermore, the PF found that "none of the individuals in this file was identified by the Eugenics Survey as Indian" (Abenaki PF 2005, 27).

Final Determination's Conclusion on Criterion 83.7(a)

The PF concluded, based on the available evidence, that the petitioner did not satisfy criterion 83.7(a) for the period 1900 to 1975, but that the petitioner did satisfy the criterion from 1975 to the present. During the comment period, the Department received no new evidence that an external observer identified the petitioner or an antecedent group before 1975 as an American Indian entity on a substantially continuous basis. Two interviews in the "Against the Darkness" video provide vague secondhand accounts of unspecified Indian individuals living in, or at least traveling through, Vermont in the first third of the 20th century. However, they are not firsthand observations of an American Indian *entity*, and the evidence does not demonstrate that the observed Indians were either the petitioner or an antecedent group. Therefore, these two interviews are not identifications of an American Indian entity as required under criterion 83.7(a). The Lampman letter contains material that might constitute external identifications of an American Indian entity. However, this material relates to the petitioner's affairs after 1975, a period during which PF already concluded that there was sufficient evidence to satisfy criterion 83.7(a). John Moody's comment that disputed one aspect of the PF's interpretation of the VES is plausible, especially if corroborating evidence were available. Even if Moody's interpretation were true, it would not be an identification of an American Indian entity. In summary, material the Department received during the comment and response periods did not, together with rest of the available evidence, demonstrate that external observers identified the petitioner as an American Indian entity on a substantially continuous basis from 1900 to 1975.

Based on the available evidence, the FD concludes that there is sufficient evidence of external identifications of the petitioner as an as Indian entity during the period since 1975. External observers, however, did not identify the petitioner or an antecedent group as an American Indian entity before 1975. Because the available evidence is insufficient to demonstrate substantially continuous identification of the petitioner as an American Indian entity from 1900 to the present, the petitioner does not meet the requirements of criterion 83.7(a).

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

The PF determined that the available evidence did not show that a “predominant portion” of the petitioning group comprised a “distinct community” that has existed from “historical times to the present.” Instead, based on the available evidence, the PF concluded, “the petitioner is a collection of individuals . . . with little or no social or historical connection with each other before the early 1970’s.” The PF also concluded that these claimed ancestors¹² “did not maintain at least a minimal distinction” from the population of northwestern Vermont and the surrounding area from historical times until the present (Abenaki PF 2005, 44). Consequently, the petitioner did not satisfy criterion 83.7(b) at any point in time.

The PF evaluated the petitioner’s case under criterion 83.7(b) over five distinct periods: (1) first contact to 1800; (2) 1800 through 1900; (3) 1900 through 1940; (4) 1940 through 1970; and (5) 1970 through the present (Abenaki PF 2005, 45-90).

During the first of these periods, from first contact to 1800, the PF concluded there was an Abenaki entity in or around northwestern Vermont through the late 18th century. However, the available evidence did not demonstrate that these 17th and 18th century Abenaki Indians were the petitioner’s ancestors.¹³

During the second of these periods, 1800-1900, the PF concluded that the available evidence did not support the petitioner’s contention that an Abenaki community, comprised of the petitioner’s ancestors, remained in northwestern Vermont after 1800, or that the petitioner descended from an Abenaki group that migrated from Canada to northwestern Vermont in the 19th century.

¹² The Department uses the term “claimed ancestors” because of continued uncertainty over what constitutes the petitioner’s claimed historical community. In its 1986 petition submissions, the petitioner claimed its historical community in the 19th century included 25 “central” families, 30 “other” families, 131 “small” families, and 93 “ancestral” families, for 279 families overall. According to the petitioner, “[a]ll of the Central families, half of the Other and one quarter of the small families [. . .] in the present membership” appeared in the Franklin and Grand Isle County records they referenced from 1790 to 1910. And “over fifty of the ancestral families” referenced had “known Abenaki Indian origins and/or ties to the 18th century Missisquoi Abenaki community” (SSA 1/17/1996 [Part B Appendix 1A]). The petitioner did not identify what those origins or ties were, nor did it explain why only 50 of the 93 ancestral families had those connections. In 1995, the petitioner, however, claimed only 20 “core” families for purpose of descent and not 93 as claimed nine years before (SSA 12/11/1995 [Second Addendum], 10; see criterion 83.7(e) for further details). See also Abenaki PF 2005, 56, 113, 128-132. The PF and the FD generally refer to those 20 “core” families as “the petitioner’s claimed ancestors.”

¹³ For further explanation of the how the petitioner did not connect to any pre-1800 Abenaki Indians in Northwestern Vermont, see the discussion of the register at Fort Saint-Frédéric and the 1765 “Robertson’s Lease” on pp. 44-45 of this FD and pp. 17, 93, 117-119, and 132 of the Abenaki PF.

Instead, the PF concluded that, based on the available evidence, the petitioner's claimed ancestors did not move to Vermont as a group. The PF concluded that the petitioner's ancestors came to Vermont "as individual, unrelated families from different or unknown origins over an extended period of time" (Abenaki PF 2005, 62). Additionally, the available evidence did not demonstrate the petitioner's claimed ancestors who lived during the 19th century comprised a community that was in any way distinct from the wider society in northwestern Vermont. Furthermore, the available evidence did not demonstrate that a "predominant portion" of the petitioner's claimed ancestors maintained "consistent interactions and significant social relationships" as required by the definition of *community* in the regulations.¹⁴ Finally, the petition relied upon an unpersuasive "family-name variation" methodology developed by the petitioner to identify "Abenaki" Indian families in northwestern Vermont in the 19th century. The PF concluded that this methodology is not acceptable for identifying 19th century individuals of Abenaki descent.¹⁵ One of the problems with this methodology as it pertains to criterion 83.7(b) is that it uses "unsupported family-name variations to construct a historical community rather than evidence of actual consistent interactions and significant social relationships" (Abenaki PF 2005, 61). In other words, the petitioner's description of its alleged 19th century community is speculative; the facts from the documentary records do not support it.

The PF evaluated school records, church records, Federal census records, and vital records and, in contrast to the petitioner's claims, concluded that many of the petitioner's variously claimed ancestral families:

. . . came from unconnected points of origin, mainly from Quebec and other areas of Canada, and moved to northwestern Vermont over a very long time. Such a collection of disconnected individuals, never described by outsiders before the 1970's as a group with at least some minimal distinction from others, and unknown to most of its members, does not meet the definition of a community under 83.1, which in part requires that a group's members be differentiated and identified as distinct from nonmembers. (Abenaki PF 2005, 56.)

The PF noted that much of the available evidence from the 19th century demonstrated that the Abenakis of Northern Vermont left the state by around 1800, it did not support the petitioner's assertions about the existence of its claimed 19th century community. Many of the 19th-century documents discussing Abenaki Indians referred to 18th-century Abenaki Indians, who moved to Canada, not Abenaki communities that existed contemporaneously with their 19th century authors. The following is an example of how the PF evaluated a document that the State of Vermont submitted:

In 1883, Hamilton Child, in the *Gazetteer and Business Directory of Franklin and Grand Isle Counties, Vt.*, wrote that in 1755, "the northern parts of Lake

¹⁴ The term *community* is defined as follows in 25 CFR 83.1: "[c]ommunity means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. Community must be understood in the context of the history, geography, culture, and social organization of the group."

¹⁵ This problematic "family-name variation" methodology is discussed as it applies to 83.7(b) on pp. 47-48, 58-61 of the Abenaki PF, and in general on pp. 133-139 of the Abenaki PF and pp. 46 of this FD.

St. Francis/Sokoki Band of Abenakis of Vermont (Petitioner #68)

Champlain were in the possession of the St. Francis tribe of Indians, . . . and as late as the time of the Revolutionary War, a branch of this tribe had a village at Swanton, consisting of about fifty huts, with a church, Jesuit missionary, and had some land under cultivation.” It appears, however, these Indians were no longer living there in 1798, when the “Caughnawaga” Indians advanced a claim for the area (Child 1883, 38). The author did not describe an Indian community of the petitioner’s claimed ancestors as residing in the Franklin County area in 1883. In fact, he indicated that the last Indian entity in the region had left in 1798. According to the petitioner’s estimates its claimed ancestors around Franklin County should have numbered over 1,000 in the early 1880’s. (Abenaki PF 2005, 54.)

The PF also noted that the population of Franklin County in 1880 was 30,225 but, in contrast to the petitioner’s claims that 1,000 of its “Abenaki” ancestors lived in the area, the 1880 Federal census of Franklin County, Vermont, identified no one as “Indian” (US Census Bureau 1901). Much of the evidence in the petition suggests that the Abenaki Indians of northwestern Vermont migrated to Canada in the late 18th century and that there was no distinct “Abenaki” community in the 19th century in or near Swanton, Vermont.

For the period 1900 to 1940, the PF concluded the available evidence did not demonstrate that a distinct community composed of the petitioner’s ancestors existed in or near Swanton, Vermont. The petitioner submitted various claims about the character of its early 20th century community. The petitioner alleged that it based its claims on the documentary record, but often submitted abstracts of documents to support those claims, rather than copies of the documents themselves. The PF encouraged the petitioner to submit photocopies of original documents, rather than abstracts of the documents (Abenaki PF 2005, 62). The State of Vermont, in contrast, submitted copies of original documents, and the PF observed that, “when these records are examined, they do not support the petitioner’s claims” and that “the petitioner’s arguments are often demonstrably erroneous when the original documents are examined” (Abenaki PF 2005, 64).

For this same period, the petitioner submitted a “catalog” of “artifacts” that the petitioner claimed helped demonstrate the existence of an early 20th century “Abenaki” community in and around Swanton, Vermont. The PF rejected the claims associated with these artifacts for lack of supporting evidence. One of these objects was a picture postcard of a man fishing in a boat. The postcard was captioned “Chief of the Wabanacus, Highgate Springs, Vt.” However, the PF concluded that the provenance of this postcard was uncertain and the available evidence did not show that this man was an ancestor of the petitioner. The petitioner also submitted materials that discussed the manufacture of “Abenaki” baskets. The PF noted that the available evidence showed that other Indians or non-Indians might have made the baskets. In particular, the PF stated that “Western Abenakis from Odanak and Passamaquoddy and Penobscot [Indians] from Maine traveled to the large summer resort hotels throughout the region, selling baskets and other crafts to tourists,” and that by the 1880’s, these Indians “were beginning to manufacture baskets specifically for the summer tourist trade” (Abenaki PF 2005, 68). The PF also stated the available evidence did not show that “the baskets were made by members of a Swanton-based Abenaki community” (Abenaki PF 2005, 69). The PF also discussed evidence that the petitioner submitted describing a pocket watch with the inscription, “Presented to Arthur Stevens May 16

1918 from the Abenaki Tribe for Faithful Work.” The petitioner claims this watch indicates the presence of an “Abenaki” tribe in the early 20th century. However, the PF noted the uncertain provenance of this pocket watch and the possibility it was a commemorative item from the Improved Order of Red Men (IORM) voluntary association, which had chapters throughout the United States, including “Abenaki” chapters in Pennsylvania, Ohio, and New York (Abenaki PF 2005, 70-71). The PF concluded the petitioner did not demonstrate that the material culture objects in its “catalog” are “necessarily indicative of a community, Abenaki or otherwise, populated by its claimed ancestors,” and encouraged the petitioner to submit evidence that would strengthen its case (Abenaki PF 2005, 71).

The petitioner also claimed that social and economic relationships linked its claimed ancestors during the early 20th century, but the PF concluded that the petitioner needed to substantiate these assertions with additional evidence (Abenaki PF 2005, 73-74). The petitioner further claimed that its ancestors were victims of discrimination; however, these unsubstantiated claims did not demonstrate that the alleged discrimination occurred because its ancestors were Indian, or that the petitioner’s ancestors comprised a community that received treatment distinct from other people in the area. In particular, the petitioner claimed that the Vermont Eugenics Survey persecuted its ancestors, calling them “river rats,” “pirates,” and “gypsies,” and even targeting them for sterilization because they were Indians. However, the PF concluded that these claims “are unpersuasive because there is no evidence in the materials that the claimed ancestors of the petitioner were targeted because they were Indians” (Abenaki PF 2005, 79).

Finally, the PF observed a contradiction that repeatedly presented itself in the petitioner’s documents. On the one hand, the petitioner claimed that its ancestors hid “underground” to avoid anti-Indian discrimination in the early 20th century; this, the petitioner argues, explains the paucity of documents attesting to the presence of an “Abenaki” community in or near Swanton, Vermont. On the other hand, however, the petitioner also claims that “many people” in the area knew and acknowledged a separate “Abenaki” community (Abenaki PF 2005, 67-68, 78).

For the period 1940 to 1970, the PF concluded the available evidence was insufficient to demonstrate that the petitioner or an antecedent group comprised a distinct community, or that others regarded them as distinct from other residents of Swanton, Vermont. The petitioner claimed that the Veterans of Foreign Wars (VFW) club bar in Swanton became an “Indian bar” after World War II. However, the available evidence did not substantiate this claim, and the Department encouraged the petitioner to submit additional information demonstrating the “Indian” character of the bar and the social functions associated with it (Abenaki PF 2005, 81).

The petitioner also made claims regarding the social importance of a wildlife refuge and the Swanton “hemp yards.” Because the available evidence did not sufficiently support petitioner’s claims, the Department encouraged the petitioner to submit additional evidence and explanation (Abenaki PF 2005, 81-82).

The petitioner also submitted four oral interviews it claimed showed the existence of a distinct “Abenaki” community. The PF noted these interviews identified a few people as informal leaders and discussed some of the activities people engaged in, such as hunting, fishing, and berry picking. However, the PF pointed out that the petition did not contain discussions of other

activities attended by a wide range of group members, such as birthdays or holiday gatherings (Abenaki PF 2005, 82), and, in general, did not provide sufficient evidence of a community as required by the regulations. Furthermore, the petitioner submitted a “catalog” of material objects, arguing that the existence of these objects, like baskets, a fish spear, a beaded headband, a cradleboard, and a toy canoe, attested to the existence of an “Abenaki” community in Vermont during this period. However, the PF stated that the petitioner must submit “much more information regarding the social context of the creation and usage of these objects if it wishes to demonstrate that they are indicative of the material culture of a Swanton-based American Indian entity” (Abenaki PF 2005, 84). A few objects of material culture that have unknown provenances and questionable relevancy do not demonstrate the existence of a distinct community. The PF concluded that the available evidence did not demonstrate that the petitioner met criterion 83.7(b) between 1940 and 1970.

For the period 1970 to the present, the PF noted that, there “is no question that, after 1975, the group now known as the ‘St. Francis-Sokoki Band of Abenaki’ became active socially” (Abenaki PF 2005, 84). People from the SSA organized a number of activities, including “fish-ins,” “Heritage Days” celebrations, a “College of Missisquoi” program at Burlington College, “Harvest Suppers,” an “Operation Santa Clause” program, and a pageant. SSA members worked with the University of Vermont to rebury skeletal remains and grave objects. They also obtained funding to establish new headquarters and the opened a small cultural museum. In addition to establishing an SSA “council” in the early 1970’s, members of the SSA established an organization called the Abenaki Self-Help Association, Incorporated (ASHAI), in 1975. This organization remained active at the time of the PF, and has provided various services such as tax preparation assistance and a food pantry. The SSA even established a relationship with the St. Francis Abenakis at Odanak in Quebec, Canada, although the nature of that relationship is uncertain (Abenaki PF 2005, 84-87). The PF requested further evidence from the petitioner about the structure and scope of these activities. In particular, the PF noted that the petition was missing 17 years of meeting minutes from the ASHAI, and requested that the petitioner submit these meeting minutes and other ASHAI documents (Abenaki PF 2005, 85).

The PF also noted that “[o]ne of the most consistent problems with the SSA petition is the lack of a definition of community membership” (Abenaki PF 2005, 87). When the SSA group formed in the 1970’s, the membership criteria were apparently very open. The available evidence did not show how the SSA organization vetted claims of Indian ancestry. Instead, membership was “based on the approval of prospective members by the group’s governing body” (Abenaki PF 2005, 87).

The number of SSA members also varied without explanation. In 1982, the petitioner claimed 1,685 members, and in 1995, the petitioner claimed 1,248 members. The petitioner did not submit its membership rolls from 1975 and 1983 in time for the Department to evaluate them for the PF. The petitioner did not explain the circumstances and criteria that influenced the composition of its membership lists. Consequently, the PF concluded that it was “nearly impossible to determine continuity for the group since 1975,” and that the “lack of a consistent standard of membership and the difficulties in identifying members on the group’s membership lists make it impossible to define what the petitioner means when it refers to ‘the community’” (Abenaki PF 2005, 88-89). The PF encouraged the petitioner to provide more information that

would allow the Department to understand the nature and composition of its “community” (Abenaki PF 2005, 89).

For the period following 1970, the PF noted that despite the SSA’s various activities, the available evidence was insufficient to demonstrate that the group, as defined by its membership, was a community within the meaning of criterion 83.7(b). The PF concluded that the SSA’s “social and cultural activities are of recent introduction, and there is not enough information to indicate that these events are of more than symbolic value to the group as a whole, rather than to a few involved members” (Abenaki PF 2005, 90). The PF also reported that although the SSA arranged events that allowed members to congregate, “the petitioner has not demonstrated that a significant portion of its membership regularly associate with each other” (Abenaki PF 2005, 90).

Comments on the Proposed Finding

On November 1, 2005, the Department received copies of two additional membership lists from the petitioner. One list is labeled as a 1975 list, and the other labeled as a 1983 list. The petitioner did not certify either of these lists as a submission. The Department received these documents too late to incorporate into the PF and instead considered them for the FD.

On May 15, 2006, the Department received a letter from the petitioner, which April St. Francis-Merrill, the leader of the SSA petitioner, and six additional council members signed. The letter requested an extension of the comment period, but also included four brief essays that constituted a partial response to the PF. These four essays came from Fred M. Wiseman, who is identified as the chair of the Department of Humanities at Johnson State College, are principally about 20th century material culture, and Wiseman addressed them to criterion 83.7(b). The essays are entitled: “The Case of the Missisquoi Abenaki Baskets,” “The Case of the Missisquoi Tapered-Lead Fish-Spears,” “The Case of the Abenaki Pocketwatch,” and “The Case of the ‘Chief of the Wabanacus’ Post Card.”

On August 22, 2006, the Department received comments from the governing body of the petitioner, many of which relate to criterion 83.7(b). These comments included a set of four Internet essays entitled “Abenaki History,” the DVD video entitled “Against the Darkness,” an unannotated map of Swanton, Vermont, and a collection of meeting minutes from the 1970’s, 1980’s, and 1990’s.

On May 15, 2006, the Department received comments from John Moody. His submission included nine pages of comment and discussion. He also submitted ten pages of photocopies of primary sources, more specifically, an excerpt from the Journals of the Continental Congress, an 1835 newspaper article from the *Green Mountain Democrat*, an excerpt from a 20th century Vermont Eugenics Study “Pedigree” file, and three letters from Dr. Gordon Day, an ethnologist at Canada’s National Museum of Man. Two of these letters do not address the PF, but the third appears to do so.

Analysis for the Final Determination

For clarity, the FD will present its findings for criterion 83.7(b) using the five periods of analysis in the PF. These five periods are: (1) first contact through 1800; (2) 1800 through 1900; (3) 1900 through 1940; (4) 1940 through 1970; and (5) 1970 through the present.

Social Community, First Contact through 1800

In its August 2006 submission, the petitioner included comments that pertain to the Abenaki Indians in the period before 1800. These comments include the set of Internet essays from the “Manataka American Indian Council”¹⁶ on Abenaki history and culture during the 16th, 17th, and 18th centuries. Despite the fact that these essays contain much specific information, they contain no citations or bibliographies. The only attribution on the documents states: “From the Archive of Little Mother,” and “Our thanks to Blue Panther, Keeper of Stories.” These essays do not contain standard citations or bibliographic information that identify their sources. The Department issued a notice on March 31, 2005, which, among other things, provides guidance for how acknowledgment researchers should handle evidence. The notice, “Office of Federal Acknowledgment; Reports and Guidance Documents; Availability, etc.,” says:

Section 83.6(a) of the [25 CFR Part 83 Federal acknowledgment] regulations states that a petition may be “in any readable form that contains detailed, specific evidence.” In some instances, materials submitted by the petitioner or a third party are poorly organized, do not identify the sources or even the nature of the documents provided, or cannot be identified from the source cited in the text submitted by the petitioner or third party. The Department may consider such materials, either in whole or in part, as not being in a “readable form” within the meaning of the regulations, and acknowledgment researchers shall not expend more than a reasonable amount of time attempting to identify the source or sources of the document materials. (70 FR 16515)

Because these “Manataka American Indian Council” essays do not identify their sources, the Department can afford them only little weight within the meaning of the regulations.

Furthermore, these essays are not annotated in any way to assist the Department in interpreting them. More important, these essays focus on the Abenaki Indians in general, such as those who moved to Canada and the Abenaki Indians of Maine, rather than Indians from whom the petitioner demonstrably descends. These documents do not discuss any of the petitioner’s known ancestors, and the documents do not connect the petitioner to the historical Abenakis of the 16th, 17th, and 18th centuries. Consequently, these essays appear to support the PF’s conclusion that there was an Abenaki entity in or around northern Vermont prior to 1800, but the available evidence does not show that the petitioner’s known ancestors were among those 18th-century Abenaki Indians. Therefore, these essays do not provide evidence for this petitioner under criterion 83.7(b).

¹⁶ The petitioner did not provide any information about the character, history, mission, organizational structure, or institutional credentials of the “Manataka American Indian Council.” A review of the manataka.org website suggests that this “council” is located in Arkansas.

In the same August 2006 submission, the petitioner included several copies of treaty and proclamation documents from the 18th century. For the most part, the petitioner did not annotate these documents and did not discuss how these documents relate to specific Indian individuals from whom the petitioner demonstrably descends. Furthermore, most of the Indians mentioned in these documents belong either to other Indian tribes or are mentioned as a generic “Indian” ethnic or political category, rather than as specific Indian tribes or groups—as in the case of the Treaty of Amity, Commerce, and Navigation, for example. The one exception to this is in an 1859 book by Frederic Kidder. It stated that “[t]he Sokokis,” which is one of the names the petitioner has applied to itself, “inhabited the country bordering on the Saco River,” and after a “sanguinary battle” in 1725, “the remainder of the tribe, dispirited by their misfortune, retired to Canada” (Kidder 1859, 235-236). The available evidence not demonstrated that the petitioner descends from a historical Indian tribe, and therefore has not demonstrated that the particular Sokoki Indians who fled to Canada were its claimed ancestors.¹⁷

In his May 2006 comments, Moody discusses two sets of documents that were allegedly created in the late 18th century but, at present, either are not locatable or do not exist. Moody speculates that, if found, these documents might help describe an Abenaki entity in northwestern Vermont during the 18th century that constitutes a community as required by criterion 83.7(b). Moody’s speculations, however, cannot be verified and thus do not provide evidence for the purposes of 83.7(b). As this FD discusses elsewhere, the Department makes its decisions based on available evidence (see criterion 83.7(e) for a further discussion of these documents and their unavailability).

Social Community, 1800-1900

For the period from 1800 to 1900, there are two pieces of information related to criterion 83.7(b). One is a copy of the Treaty of Ghent, which the petitioner submitted to the Department in its August 2006 letter. This 1814 treaty secured peace between the United States and Great Britain following the War of 1812. Article IX of the treaty discusses matters pertaining to Indians, but uses only the generic terms “Indian,” “tribe,” and “nation” to refer to Indian entities. The treaty makes no specific reference to an Abenaki entity or an Indian community in northwestern Vermont. Therefore, the Treaty of Ghent does not provide any useful evidence to help the petitioner meet criterion 83.7(b).

The second piece of evidence submitted for this period is an April 3, 1835, newspaper article “An Indian Encampment in Connecticut,” from the *Green Mountain Democrat of Fayetteville*, Vermont. The PF fully discussed the article. Nothing in John Moody’s comments regarding this article specifically addresses or rebuts any of the Department’s concerns that this article describes “only a brief, first-time sighting of a small group of mostly unidentified Indians, sighted far away from [the petitioner’s claimed ancestral homeland], who then disappeared from the record” (Abenaki PF 2005, 50). Furthermore, although the article does suggest that a “part of

¹⁷ This historical text appears to misidentify the Eastern Abenaki on the Saco River as Western Abenaki who were Sokoki. For a discussion of scholarly views on Western Abenaki group names, see the Abenaki PF, pages 11-16. The Kidder document also discusses the St. Francis Indians, but they, too, went to Canada, as was discussed in the PF.

the tribe of the Missisquoi” led a “wandering life on the eastern shore of Lake Champlain,” neither Moody nor any other party has demonstrated that these wandering Missisquoi are ancestral to the petitioner. This submission does not address the deficiencies with this article noted by the PF, and therefore it does not provide any useful evidence to help the petitioner to satisfy the criterion for this period.

Social Community 1900 to 1940

During the comment period, the petitioner submitted only a few documents related to criterion 83.7(b) between 1900 and 1940. The petitioner’s “Against the Darkness” video made some claims of social community. The petitioner also submitted four essays written by Fred M. Wiseman: “The Case of the Missisquoi Abenaki Baskets,” “The Case of the Missisquoi Tapered-Lead Fish-Spears,” “The Case of the Abenaki Pocketwatch,” and “The Case of the ‘Chief of the Wabanacus’ Post Card.”

The “Against the Darkness” video and Wiseman’s essays contend that a few items of apparent Abenaki material cultural demonstrate that an Abenaki community composed of the petitioner’s ancestors existed in the Swanton area during between 1900 and 1940. The PF analyzed an earlier “Against the Darkness” video presentation and other submissions, and advised the petitioner to substantiate its claims regarding these items by submitting supporting documentation. The PF stated:

The petitioner has presented descriptions and photographs of several items that it maintains demonstrates the vitality of its ancestral community during the early 20th century. These items are included in a “catalog” of artifacts in the petitioner’s museum that it maintains were made by Abenaki Indians. It is not clear, however, that anyone other than the petitioner has identified these articles as “Abenaki.” However, the petitioner has not demonstrated these items originated in a Swanton-based community, rather than a collection of objects manufactured by Abenaki. (Abenaki PF 2005, 66)

The PF stated, “a few Indians described by external observers in Vermont from 1800 to 1975 were usually isolated individuals or groups traveling seasonally to the area to hunt, fish, or to sell baskets and crafts. These Indians are usually unidentified by name or point of origin, and the petitioner did not establish a connection to these people” (Abenaki PF 2005, 18). The petitioner discussed some members of the Obomsawin and Phillips families making and selling baskets, but did not document these families as being associated with a local community as defined under criterion 83.7(b).

Cultural artifacts, or items of material culture, like those described by the petitioner, such as surviving baskets, paddles, and other materials, are not usually significant evidence of social interaction and relationships. While such evidence may show that Indians with a certain kind of material culture lived in a particular area, they provide little evidence to demonstrate social community among the claimed ancestors of a petitioning group. The petitioner did not demonstrate their claimed material culture showed the existence of a historical community that with significant evidence of social interaction among its members.

Wiseman states that one of the petitioner's claimed ancestral family lines, the Lapans, made Abenaki baskets (Wiseman 5/15/2006). In his paper, "The Case of the Missisquoi Abenaki Baskets," Wiseman states:

Abenaki basketry has been long known to be very important signifier of native status. . . . When I was a child, an extended Swanton Abenaki family, the Lapans, was known for both their fishing prowess and their quality basketry. . . . There remains an extensive oral history in Swanton of the Lapans, which can be directly tied to their material culture production. . . . I believe that these data refute the unfounded assertions on p. 69 of the BAR/BIA summary. (Wiseman 5/15/2006)

Wiseman's statements did not establish any provenance for the baskets, and this FD emphasizes that a few individuals making and selling baskets do not show the existence of a community as required by the regulations. The petitioner did not document that these cultural objects or basket-making constituted "a significant degree of shared or cooperative labor or other economic activity among the membership" as defined under criterion 83.7(b)(1)(v).

Other comments related to this period focused on descriptions of fish-spears as evidence of community. In his essay, "The Case of the Missisquoi Tapered-Lead Fish-Spears," Wiseman states:

Although the oral history accompanying the fish spear is unclear as to the maker, Mr. Hakey was a skilled woodworker in the native style, who made a canoe cup for the author in the 1950's, so it is entirely possible that he made the spear. Even if Mr. Hakey did not make the fish spear, the distinctive trident style with the lateral "leads" requires an entirely distinct and native tradition-based spearing style; . . . The Highgate spear, which descended in the Franco-Abenaki Beor family, is based on the same double lead/central spike, only translated into metal, requiring the same distinctive (and Native) gross motor movements. This practice is operationally different from the Euroamerican strike and remove technique used with the five-tined "pike spear" also used during the first half of the 20th century. Such operational differences would be considered good ethnic identifiers to intellectually unbiased scholars.

. . . In discussing the Hakey and Highgate fish spears with Nicole Obomsawin and Patrick Cote of the Musée des Abenakis at Odanak, they pointed out that there are no extant Odanak Abenaki fish spears with which to compare the Abenaki examples. . . . Therefore, without comparative material or even any documentation of their use at Odanak, the BAR/BIA is intellectually disingenuous to assert that the fish spears are of Odanak origin. (Wiseman 5/15/2006)

The available evidence for both the PF and the FD does not demonstrate these fish-spears were Abenaki in origin or that they came from a historical community. The available evidence did not demonstrate that these fish spears were the product of cooperative labor that involved significant

social interaction on the part of its ancestors. Furthermore, the available evidence did not demonstrate that these fish-spears were unique to a distinct historical community—Abenaki or otherwise.

The essay, “The Case of the Abenaki Pocketwatch,” by Fred Wiseman, was a response to part of the PF’s conclusions regarding this artifact. The pocketwatch was “purchased from a New Jersey estate sale” (Wiseman Catalog 2005).

The catalog of artifacts submitted for the PF states that this watch probably is:

. . . the most important object in the collections from this time period. The fact that the watch is an American Waltham Watch Co., and the engraved message is in English is indicative of an American, rather than Canadian origin. Furthermore, the included elaborate American Flag watch-fob has a fringe type that was commonly made by Native People in the late 19th and early 20th Century. This indicates both the presence of an “Abenaki Tribe” and the collective resources to purchase a 14k gold watch to give to the bearer of a Euroamerican name. (Wiseman Catalog 2005)

The watch was inscribed “Presented to Arthur Stevens May 16, 1918, from Abenaki Tribe for Faithful Work.” In his essay that commented on the PF, Wiseman stated:

I believe that rather than accept the logical possibility that the watch may be what it seems, an Abenaki tribal gift; the Bureau of Indian Affairs researchers distorted data and inference to discredit the inscription and provenance, perhaps without really understanding the data that they were using to question the watch’s inscription. (Wiseman 5/15/2006, npn)

The PF concluded the “petitioner offered no explanation regarding who ‘Arthur Stevens’ was or why he would have received such an elaborate gift from the alleged ‘community’ in and around Swanton. . . . The petitioner also did not include any interviews or oral histories describing Stevens or the awarding of the watch” (Abenaki PF 2005, 70).

“The Case of the Abenaki Pocketwatch” essay also disputed the PF’s suggestion that the watch may have come from a non-Indian fraternal group known as the Improved Order of Red Men. Despite some of the issues raised in the PF, the petitioner did not provide new evidence to identify Arthur Stevens or explain why he might have received such a gift. The petitioner did not provide newspaper articles or other documents that described any ceremony or social setting presenting the watch, or what “faithful work” Stevens did. Furthermore, the petitioner did not submit interviews or oral histories describing Stevens or the awarding of the watch. Without corroborating documents to support the petitioner’s claims, the watch by itself does not provide evidence of a community of the petitioner’s ancestors as defined under criterion 83.7(b), and without further information, the watch’s origin is speculative. The watch does not provide significant evidence of social interaction and relationships among the claimed ancestors of the group for this period.

The available evidence from the comments also suggests material items may not have actually come from petitioner's members. Included in the April 9, 1996, "tribal council" minutes was a March 28, 1996, newspaper article concerning Mr. Wiseman (ATC 4/9/1996). Part of the story stated that Wiseman: ". . . has converted part of his home into the Wobanakik Heritage Center. . . . Some of the artifacts [Abenaki] were handed down by his parents, but many were purchased from antique dealers. . . . The displays also include replicas [Abenaki] made by Wiseman's students" (*Country Courier* 3/28/1996). During the comment period, the petitioner did not submit documentation on whether the material items discussed in the submissions for consideration in the petition came from antique dealers or were replicas.

The petitioner's "Against the Darkness" video presentation includes an interview with a non-Indian, non-group member. This interview applies to criterion 83.7(b). In the material reviewed for the PF, the petitioner included references to an interview with "Alice Roy" of Barre, Vermont. The PF encouraged the petitioner to provide the transcript of this interview, along with other documentation that would identify the "Abenaki community" that the petition referenced, their location, and an explanation of how they related to the petitioner's claimed ancestors (Abenaki PF 2005, 67-68). In the interview, Mrs. Gerard Roy of Barre, Vermont, recalled a day trip sometime between 1910 and 1918, during which her father and grandfather allegedly visited "Indians in Vermont" and saw their "wigwam." However, Mrs. Roy did not name any of the Indians visited or the town(s) where the Indians lived, nor did petitioner provide supporting documentation of this visit to the "Indians in Vermont." The interview provides no evidence that the "Indians in Vermont" were the petitioner's ancestors. See the FD's discussion of the Alice Roy interview in criterion 83.7(a) for further discussion of this interview. The petitioner's contention that the Roy interview demonstrates that "the Abenaki community was widely known, at least to the Vermont Francophone community" remains unsubstantiated (Abenaki PF 2005, 67). This claim seems contrary to the petitioner's assertion that its ancestors hid "underground" to avoid anti-Indian discrimination in the early 20th century.¹⁸ By itself, the interview does not provide evidence of a community in the early 1900's as defined under criterion 83.7(b), and, when read with the available evidence, it does not demonstrate the existence of a community of the petitioner's ancestors as required by 83.7(b).

In the material it submitted for the PF, the petitioner claimed that a sterilization program associated with the Vermont Eugenics Survey affected the members of its claimed historical community. The petitioner argued the VES deliberately targeted and sterilized petitioner's ancestors because they were Indians, and that the group's ancestors hid their ancestry to avoid detection by the VES (Abenaki PF 2005, 79). During the comment period, John Moody made several comments concerning the VES in the mid-1920's.

The eugenics records of Vermont, or any other state, are definitely not considered reliable sources of unbiased genealogical or ethnohistorical data. I am sure that the BIA OFA staff must have read the racist cant written in the same time period about virtually every other Native community in the east!

. . . However, the reference to 'St Francis Indians' in the St Francis family 'pedigree' in the Vermont eugenics records [see here below and copy appended],

¹⁸ See the Abenaki PF, pp. 67-68, 78, and p. 17 of this FD for further discussion of this point.

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which the OFA team quoted and is missed [SUTC p 27], also could, in fact, be a telling comment about the Abenaki ethnicity of the St. Francis family and other, related Abenaki families living in the well-documented Back Bay, neighborhood in Swanton, Vermont during the 1920's and 1930's as required by 25 CFR PART 1 [*sic*], 83.7(a), (b), & (c). (Moody 4/20/2006)

Moody alleges that the VES statement “could” be a “telling” comment about the “ethnicity” of the “St. Francis family” and other “related Abenaki families.” However, criterion 83.7(b) focuses on social community, as defined by the regulations, rather than the ethnic backgrounds of families. Neither Moody’s comments nor the particular VES statement he referenced provides additional evidence that helps demonstrate that the petitioner’s ancestors were a community as defined by the regulations.¹⁹

Social Community 1940 to 1970

The PF requested additional documentation describing how the petitioner and the petitioner’s ancestors functioned as a community during the middle of the 20th century. In its submissions reviewed for the PF, the petitioner claimed that its ancestors formed roaming bands of families traveling the roads of Vermont or were a part of communities distinct in some manner from non-Indians in northwestern Vermont. The petitioner also described its ancestors hiding themselves to survive and preserve their identity by avoiding outsiders. The PF stated the petitioner did not explain adequately the social processes that maintained both a “dispersed, family band existence” and a “large, tenacious network of families and neighborhoods” centered in the Missisquoi delta as the petitioner alleged (Abenaki PF 2005, 46). The petitioner did not respond to the PF’s request to document the composition of these family groups during different periods nor did it submit comments to explain how such groups of Indians could have entirely escaped the notice of non-Indians.

In its submissions for the PF, the petitioner referred to the local VFW club in Swanton as an “Indian bar,” and an important social place for the local “Abenaki” Indians during this period. The PF advised the petitioner to document its claim of a VFW “Indian bar” existing in Swanton. The documentation needed to include the names of members and/or their claimed ancestors who frequented the club, descriptions of members holding any official leadership positions in the VFW organization, and to cite any oral histories and other sources describing how and when the VFW became an “Indian bar” (Abenaki PF 2005, 81).

In its August 2006 comments, the petitioner stated:

We are working on getting the VFW, Post 778 Frank DaPrato in Swanton materials to send. We have an appointment to see if we can get copies of their Charters (Post, Ladies Auxiliary, and the Sons of the VFW) which have several Abenaki names on them. Also, we are asking for the information on Past & Present Post Officials to show how the Abenaki are involved in the VFW. (Merrill 8/11/2006)

¹⁹ See p.12 of this FD for a transcription and discussion of the VES statement about the St. Francis family.

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The petitioner did not submit any further documentation to support the claim of a VFW “Indian bar” in Swanton, Vermont.

In its August 2006 comments, the petitioner also claimed that unnamed outside observers described a Back Bay enclave in Swanton, Vermont. The petitioner stated:

We are sending a map of Back Bay. The work on this continues as we are finishing up on Title Searches for said area. So that we can show the Abenaki families that lived in the Back Bay area from 1900 to present time. More time is needed to finish up this part of the petition. (Merrill 8/11/2006)

The petitioner submitted black and white map that had numbers assigned to various houses; however, the materials did not explain the meaning of the numbers, or what the numbers are supposed to indicate. This unannotated map did not demonstrate the petitioner’s claim of an “enclave” in the part of Swanton known as “Back Bay.” Neither the petitioner’s comments nor the map provided evidence of a distinct community within Swanton consisting of the claimed ancestors of the group, or that those ancestors constituted a “community-within-a-community” among the Catholic families in the town of Swanton.

Social Community, 1970 to the present

In the 1970’s some individuals formed a non-profit organization and council, which later became the SSA petitioner. These organizations provided social services to potential members, and they attempted to establish social relations with other unrecognized groups and recognized Indian tribes. The available evidence indicates that the petitioner introduced these social activities only after the creation of these organizations. Other evidence for both the PF and the FD shows the petitioner began recruiting its membership after the 1970’s. The available evidence, particularly council minutes submitted as comments, does not indicate the petitioner existed as an entity before the 1970’s.

At several early ‘tribal council’ meetings, the petitioner sought to increase its membership. On June 8, 1982, with six members including the group leader and four council members in attendance, applications for membership became the first order of business (ATC Minutes 6/8/1982). The group approved 54 individuals for membership and rejected 39 until they provided further proof of ancestry. On May 18, 1983, those in attendance, seven council members and group leader Homer St. Francis, declared, “our tribe is made up of 6 tribal council members and a chief.” They stated that one of its goals was to reach out to “Native Americans who are members of the Abenaki Nation” through “mail outs and canvassing.” They also defined membership as: (1) a person who is “registered on a band or tribal list,” (2) a person being “of the full age of 18 years” [changed to 15 years in January 12, 1984, minutes], and (3) person who was “not disqualified from voting at band, tribal, or national elections.” They estimated a potential 1,500 members as children came of age (ATC Minutes 5/18/1983).

The council met on December 7, 1995, with 11 people in attendance: seven council members, the group leader, and three guests. Carol Nepton, a guest, stated she was “not comfortable” with the “lack of documentation” on some of the petitioner’s families. She stated, “[w]e recommend to

you that we go with all the core families, the social core and at this point the Abenaki families whether we got good documentation or not in hopes that we have when we get reviewed. We are doing this for a couple of reason to establish that we are the Abenaki families and send them down later we will get our statement on the social core. I believe if we go for broke and send as many people down right now we're taking a risk because some of those people . . . [sentence becomes unreadable]" (ATC Minutes 12/7/1995).

The council met on March 12, 1996, with 10 people in attendance: seven members, the group leader, and two guests. Those in attendance conducted a discussion of reauthorizing the membership of thirty families occurred. According to the Abenaki Research Project (ARP) report presented at the meeting, these re-authorizations were necessary because many membership cards had been "issued to people who are clearly not Abenaki." Others were "clearly Abenaki" but lacked "substantive support that would be required by the BIA." According to the report, the petitioner had numerous new applications arriving, or "coming out of the woodwork" (ATC Minutes 3/12/1996). During the next meeting, held on April 19, 1996, members discovered that several people were not Abenaki, and that they had broken from the group and were spreading "misinformation" (ATC Minutes 4/19/1996).

The council met on September 10, 1996, with nine people in attendance: seven members, the "chief," and a guest, Carol Nepton. At the meeting, the council "re-authorized" 39 families and mailed letters to fifty "potential citizens." These "potential citizens," Nepton stated, had been "selected more-or-less at random from the genealogy computer and the phone book. I tried to hit several parts of families rather than everybody in the family—hoping that talk with the families will do some of our work for us. There are still a lot of potential citizens to contact" (ATC 9/10/1996).

On July 8, 1997, a joint meeting of ASHAI and the "tribal council" occurred. The ARP report stated:

As of this date we have 2,128 adults, and children on our Citizenship Roll. Of these 1,514 adults. Of this number, only 573 files are considered complete with the remaining 941 files in need of birth certificates, new forms or both. Some of the difficulty in completing these citizens' files continues to be the lack of current address. One hundred sixty-one (161) citizens sent letters have had the mail returned to us. This large number of "missing" citizens will cause us problems when we are under active review. (ATC and ASHAI 7/8/1997)

These minutes provide evidence the group first created and organized itself in the 1970's, and established its membership rules after that period. They also show the group lacked a clear understanding of its membership or knowledge of who its members were.

In November 2005, the petitioner submitted two older membership lists, one from 1975 and one from 1983 (see the discussion under criterion 83.7(e) of this FD for a complete description of these lists). The 1975 list contains the names of 308 individuals of unknown age, mainly from the Swanton area of Franklin County. The petitioner provided no explanation of the membership rules used to include these people as its group members. The Department conducted an analysis

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of this list that revealed that 96 of the 308 names, or 31 percent, were not part of the groups' current genealogical database (SSA Membership List 1975). The petitioner provided no explanation as to what happened to these members.

The 1983 list contains the names of 1,670 adults and children who were members of the group. These individuals came from throughout Vermont and the surrounding states, a broader geographic distribution than appeared on the 1975 list. The petitioner provided no explanation for this rapid expansion both in the number of members and in their geographical location. The Department conducted an analysis of this list that revealed that 610 of these 1,670 individuals, or 36 percent, were not part of the group's current genealogical databases (SSA Membership List 1983). The petitioner supplied no explanation as to what happened to these members.

These large fluctuations in the group numbers, and difficulties in identifying members over time, as discussed in the PF and as demonstrated by the new evidence, make it impossible to define what the petitioner refers to as "the community" (Abenaki PF 2005, 89). The evidence provided did not support the petitioner's claims of community.

In the PF, the Department encouraged the petitioner to document changes in the composition of the group, such as submitting a list of people who have withdrawn voluntarily from the SSA and the date these withdrawals took place. It also asked the group to compile a list of people removed involuntarily from the group's roll, the date of removal, and the reason for the removal (Abenaki PF 2005, 89). The petitioner did not submit such documentation.

Generally, the petitioner was able to document some activities of the ASHAI and the group council, but did not document the existence of an interacting social community. The fluidness of its membership, the lack of evidence of social interaction, the claiming of hundreds of individuals whose Abenaki connection remain unproven, and the inability to define the location of its claimed community, demonstrate that the petitioner does not have a social community as defined by the regulations. The regulations in 25 CFR 83.3(c) do not allow for the acknowledgment of associations, organizations, corporations, or groups of any character, such as the SSA petitioner, which formed in recent times.

The PF reviewed the history of the Missisquoi, Sokoki, and the St. Francis Abenaki of Odanak, Quebec, Canada by Gordon Day. Gordon Day was an ethnohistorian at the National Museum of Man, in Quebec, Canada, and an authority on the Western Abenaki. Day estimated the pre-contact population of the Western Abenaki was about 5,000 before plague and wars severely reduced their numbers (Day 1978a, 152-153). Day states:

A small village still existed at Missisquoi in 1786 after the war. Only some twenty persons remained in 1788, and these may have stayed on to contribute to the present-day Indian group at Swanton, but most of the Missisquoi had left by 1800 (Day 1981, 65).

John Moody submitted a copy of an 1986 letter by Gordon Day regarding Abenaki Indians at Swanton. Day's letter stated:

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It is indeed my opinion that the Abenakis of Swanton meet the requirement of “a virtually unbroken chain of occupation and use of land from before white settlement to the present.” I may add that I agree with the statement of Christine A. Doremus in the Vermont Law Review, volume 10, page 417, which states that “Abenaki Indians have lived in the area on a permanent basis since before the arrival of Europeans.” (Day 2/27/1986)

Neither Day nor Moody provided an explanation or delineated the evidence to support Day’s statement. As described in detail in the PF, Day’s published works argued that “most” of the Western Abenaki had migrated to Canada by 1800 (Abenaki PF 2005, 14). Day’s statement does not demonstrate that a group of Abenakis stayed in Vermont and remained a distinct community, comprised predominantly of the petitioner and its ancestors, from historical times until the present. This letter does not provide evidence of a community, or significant social interaction among identified persons. Its lack of specificity limits its usefulness to help the petitioner meet the criteria.

For criterion 83.7(b), the petitioner generally did not follow the requests for additional information and clarification made in the PF and did not support its claims with relevant new evidence or documentation during the comment and response periods. Overall, the available evidence does not demonstrate the petitioner had a historical or social connection to any American or Canadian Abenaki Indian entity. As stated in the PF, from the 19th century until the 1970’s, the petitioner did not show that a community made up of petitioner’s ancestors existed distinct from the surrounding population in the Swanton area, nor did it demonstrate the continuous existence of a historical Abenaki group in Vermont. Instead, the available evidence for both the PF and the FD shows the petitioner is a collection of individuals who had little or no social connection with each other before the early 1970’s. After 1975, the group now known as the “St. Francis-Sokoki Band of Abenaki” started some social organizations, but these did not evolve from a social community as defined under criterion 83.7(b). The submitted comments reinforced the PF’s conclusion that the petitioner is limited to a small group of members who became active in recent times and do not represent a social community that continued to exist historically to the present.

Final Determination’s Conclusions on Criterion 83.7(b)

For the period prior to 1800, the PF concluded there was an Abenaki entity in or around northwestern Vermont through the late 18th century. The PF also concluded the available evidence did not show that these 18th-century Abenaki Indians were the petitioner’s ancestors. During the comment and response periods, the Department received no additional evidence showing that the petitioner’s ancestors belonged to an Abenaki Indian entity living in Vermont prior to 1800. The petitioner submitted documents that discuss 18th-century Abenaki Indians, but provided no evidence that these Abenaki Indians were the petitioner’s ancestors. John Moody alluded to documents that were allegedly created in the late 18th century and are either not locatable or do not exist. The Department makes its decisions based on available evidence, and his assumptions about the documents cannot be verified. Therefore, the FD affirms the PF’s conclusions and determines, based on the available evidence, that petitioner does not meet criterion 83.7(b) before 1800.

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For the period between 1800 and 1900, the PF concluded that the available evidence was insufficient to show that there was an Abenaki community, comprised of the petitioner's ancestors, which remained in northwestern Vermont after 1800, or that migrated to northwestern Vermont from elsewhere. Furthermore, the available evidence was insufficient to demonstrate that the petitioner's ancestors maintained a "distinct community" as required by 83.7(b). The petitioner used an unreliable methodology for identifying "Abenaki" family names in the 19th century. This methodology led to speculative assumptions rather than supportable conclusions based on the documentary record. The comments received during the comment period did not remedy these problems. During the comment period, the Department received a copy of the 1814 Treaty of Ghent; this document did not specifically discuss any Abenakis and was too vague to assist the petitioner in any way. The Department also received a comment from Moody disputing the Department's interpretation of an 1835 article from Vermont's *Green Mountain Democrat*; however, Moody did not provide any additional evidence that specifically linked the article with the petitioner's ancestors. Therefore, the FD affirms the PF conclusions and determines that, based on the available evidence, the petitioner does not meet criterion 83.7(b) between 1800 and 1900.

For the period since 1900, the PF concluded that the petitioner did not satisfy the criterion. During the comment period, the Department received four essays on material culture; a DVD copy of the "Against the Darkness" video; an unannotated map of Swanton, Vermont; a comment on the Vermont Eugenics Survey; a statement from a scholarly authority on Abenaki history and culture; and a collection of meeting minutes from the 1970's, 1980's, and 1990's. These pieces of evidence, when read together with the rest of the available record, do not demonstrate that a predominant portion of the petitioner's membership had significant social interaction within a community at any time since 1900. The available evidence suggests the group created and organized itself in the mid-1970's but did not constitute a distinct community as required by the regulations.

Based on the available record, the FD concludes, as the PF did, that there is insufficient evidence to demonstrate that, at any point in time, a predominant portion of the petitioning group comprised a distinct community or has existed as a community from historical times until the present. Therefore, the petitioner does not meet criterion 83.7(b).

Criterion 83.7(c) requires that

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

Summary of the Proposed Finding

The PF concluded, based on the available evidence, that the petitioner did not meet criterion 83.7(c) at any point in time. The PF evaluated the petitioner's case over four distinct periods: (1) 1600 through 1800; (2) 1800 through 1900; (3) 1900 through 1975; and (4) 1975 through the present.

For the period before 1800, the PF concluded that the available evidence did not demonstrate that the petitioner's members or its claimed ancestral family lines were part of any Western Abenaki Indian tribe in either Quebec or Vermont. Additionally, the petitioner lacked evidence that its ancestors were part of the group led by the colonial period's known Western Abenaki chiefs, like Grey Lock and Joseph-Louis Gill. Furthermore, the petitioner did not provide evidence that its specific claimed ancestors were a group exercising political influence before 1800 (Abenaki PF 2005, 93-94). Consequently, the available evidence did not demonstrate that the petitioner's ancestors maintained political influence or authority over its group before 1800.

For the period from 1800 to 1900, the available evidence did not demonstrate that the petitioner's claimed ancestors were a group from 1800 to 1875, exercising political influence or authority. During this period there were several land claims made by Iroquois Indians who claimed land in northern Vermont. However, the available evidence does not show that an Abenaki group from northern Vermont was a party to these land claim activities. Furthermore, the accompanying discussions did not mention the presence of an Abenaki group residing in northern Vermont who might also have claim to lands in the northern part of the state.

The PF concluded, "no Western Abenaki entity containing the petitioner's claimed ancestors existed in northwestern Vermont in the 19th century capable of exercising political authority or influence," but encouraged the petitioner to provide evidence demonstrating how its claimed ancestors exercised political influence or authority as a group during this period (Abenaki PF 2005, 95).

Later in the 19th century, in particular, for the period from 1875 to 1900, the petitioner claimed that Nazaire St. Francis provided food and clothes to children, and that Cordelia (Freemore) Brow was a midwife; consequently, the petitioner argued, these two ancestors served as informal leaders of a community of its claimed ancestors. The PF concluded, however, that these activities alone did not constitute an exercise of political authority, but encouraged the petitioner to investigate the activities of these individuals further (Abenaki PF 2005, 95-96). Neither the petitioner nor any other party submitted comments that addressed this request by the Department.

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For the period from 1900 to 1975, the PF concluded that the petitioner “presented little evidence demonstrating informal leadership among any group of the petitioner’s claimed ancestors” (Abenaki PF 2005, 107). Although the petitioner provided a few examples of individuals who allegedly exercised political influence, the PF found this evidence insufficient and requested more substantive evidence that these individuals influenced members of a distinct group and evidence that their authority extended beyond their family members. Furthermore, the PF encouraged the petitioner to provide information documenting how the group’s ancestors responded to the Vermont Eugenics Survey or the Iroquois land claims of the 1950’s, two events that would have been likely to elicit a political response from the petitioner’s ancestors.

For the period since 1975, the PF noted the creation of the SSA as an active political organization, particularly as evidenced by the leadership of Homer St. Francis and Leonard Lampman. During this period, the SSA engaged the State of Vermont in several legal disputes, started its pursuit of Federal acknowledgment, and instituted several social and cultural programs. However, the PF concluded that the available evidence was not sufficient to demonstrate widespread participation by the group’s members in these political processes; instead, the available evidence suggested the “political influence is limited to the actions of a few group members pursuing an agenda with little input from the membership” (Abenaki PF 2005, 108). Political influence should exist *bilaterally* between leaders and followers.²⁰ The PF recommended that the petitioner submit additional evidence, including meeting minutes and sign-in sheets, which might help clarify the nature of the political processes and the group’s participation in those processes (Abenaki PF 2005, 102-103, 106).

In summary, the PF concluded that the available evidence was insufficient to show that the petitioner met the requirements of criterion 83.7(c) at any time during the period from early historical contact to the present.

Comments on the Proposed Finding

On May 15, 2006, the Department received a letter from the petitioner, signed by April St. Francis-Merrill and six additional council members that included four brief essays by Frederick Wiseman that constituted a partial response to the PF. Only one of these four essays, an essay about a “chief” in a souvenir postcard, addresses criterion 83.7(c).

On May 17, 2006, the Department received comments from Lester M. Lampman and several individuals associated with the petitioning group. These comments consisted of a photograph of Senator Patrick Leahy of Vermont with Leonard Lampman, a photograph of the “Grandma Lampman Site,” and 11 pages of additional documents. Some of these comments apply to criterion 83.7(c) for the modern period.

²⁰ The Department has interpreted the regulations in past decisions that, “[i]t must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe If a small body of people carries out legal actions or makes agreements, . . . the membership may be significantly affected without political process going on or without even the awareness or consent of those affected” (Miami FD 1992, 15).

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On August 22, 2006, the Department received comments from the governing body of the petitioner, including a set of photocopied treaty documents, four Internet essays entitled “Abenaki History,” and a collection of meeting minutes from the 1970’s, 1980’s, and 1990’s. Much of this material applies to criterion 83.7(c).

John Moody submitted a set of comments that the Department received on May 15, 2006. His submission included 9 pages of comment and discussion; and 10 pages of photocopies of primary sources. Some of his comments apply to criterion 83.7(c).

The petitioner did not submit any additional information, as the PF requested, describing how its ancestors responded politically to the Iroquois land claims in the 19th century, or the Vermont Eugenics Survey (Abenaki PF 2005, 107). Similarly, the petitioner did not provide any further evidence, as the PF requested, describing the activities of Nazaire St. Francis and Cordelia (Freemore) Brow, the two women whom the petitioner alleged were informal political leaders (Abenaki PF 2005, 107). Moreover, although the petitioner submitted a collection of meeting minutes from the 1970’s, 1980’s, and 1990’s, the petitioner did not submit any information, as the PF requested, demonstrating bilateral political influence between the SSA leaders and the broader membership.

Analysis for the Final Determination

For clarity, the FD will present its findings using the four periods of analysis that that the PF used. These four periods are: (1) first contact through 1800; (2) 1800 through 1900; (3) 1900 through 1975; and (4) 1975 through the present.

Political Influence, First Contact through 1800

In its August 2006 submission, the petitioner included comments that apply to the Abenaki Indians before 1800. These comments include the set of Internet essays from the “Manataka American Indian Council” on Abenaki history and culture during the 16th, 17th, and 18th centuries. These Internet essays, as described above under 83.7(b), are entitled to little weight as evidence within the meaning of the regulations. These essays provide some evidence in support of the PF’s conclusion that there was an Abenaki entity in or around northern Vermont before 1800 that exercised political authority. However, the available evidence does not show that the Internet essays are discussing the petitioner’s ancestors, and therefore these Internet essays do not help demonstrate that the petitioner’s ancestors exercised political influence within a group in or around northern Vermont.

In the same August 2006 submission, the petitioner submitted several treaty and proclamation documents from the 18th century. These documents are described above under criterion 83.7(b). These documents speak of Indians in non-specific, generic terms and do not link the petitioner to any specific Abenaki Indians from northwestern Vermont. Therefore, these documents do not provide evidence that the ancestors of the petitioner exercised political influence within a group in northwestern Vermont before 1800.

In his May 2006 comments, Moody discusses two sets of documents that were allegedly created in the late 18th century but, at present, either are not locatable or do not exist. Moody speculates that, if found, these documents might help describe Abenaki leadership in northwestern Vermont during the 18th century in a manner that would satisfy criterion 83.7(c). Moody's speculations, however, cannot be verified and thus do not provide evidence for the purposes of this criterion. As this FD discusses elsewhere, the Department makes its decisions based on available evidence (see criterion 83.7(e) for a further discussion of these documents and their unavailability).

Political Influence, 1800-1900

For the period from 1800 to 1900, there is one piece of information submitted in the comment period that pertains to criterion 83.7(c). This is a copy of the Treaty of Ghent, submitted by the petitioner in August 2006. This treaty, signed in 1814, secured peace between the United States and Great Britain following the War of 1812. As discussed under criterion 87.3(b) above, Article IX of the treaty discusses matters pertaining to Indians, but uses only the generic terms "Indian," "tribe," and "nation" to refer to Indian entities. The treaty makes no specific reference to an Abenaki entity or an Indian community in northwestern Vermont. Therefore, the Treaty of Ghent does not provide evidence to help the petitioner meet criterion 83.7(c).

Political Influence, 1900-1975

Although the petitioner provided a few examples of individuals who allegedly exercised political influence during this period, the PF found that this evidence did not demonstrate political influence as described by the criterion. The PF requested more substantive evidence that these individuals influenced members of a distinct group and evidence that their authority extended beyond their family members. Furthermore, the PF encouraged the petitioner to provide information documenting how the group's ancestors responded to the Vermont Eugenics Survey or the Iroquois land claims of the 1950's, two events that would have been likely to elicit a political response from the petitioner's ancestors. The petitioner did not submit any of this requested additional evidence during the comment period.

During the comment period, the petitioner resubmitted a black and white postcard picturing an unidentified "chief" to support its claim of political influence of an historical Abenaki Indian tribe in Vermont in the early 20th century. The PF stated the "chief" depicted on the souvenir tourist postcard did not provide evidence of political influence connected to the group's claimed ancestors. The petitioner's "Against the Darkness" video presentation contains the same black and white postcard showing a man sitting in a small boat. The photograph is undated, but the petitioner estimates that it dates to around 1900. The provenance of the postcard is unclear, but the petitioner stated earlier that "[t]he postcard was purchased from the Internet from a California collector" (Wiseman Catalog 2005). The postcard contains the caption "Chief of the Wabanacus, Highgate Springs, VT." In "The Case of the 'Chief of the Wabanacus' Post Card," Fred Wiseman states:

The BAR/BIA requires Euroamerican evidence of historical political activity and/or status by Vermont Abenakis to document political continuity. There is no

more important signifier of Native political status in turn-of-the-century Anglo-America than the term “chief,” especially when closely tied to an ethnic identifier.

One of the more interesting misinterpretations by the BAR/BIA of the Missisquoi documentary record is the case of the ca. 1900 postcard with a picture of a dark-complexioned man in a boat. . . . BAR/BIA attacks this simple, common sense evidence of political status by Euroamericans, making an implausible argument that the postcard does not mean what it says.

The specific term “Chief” was applied to the individual in the boat through a negative-incised legend at the bottom of the postcard. This postcard inscription was reinforced by the Ben Gravel memoir (e.g. *Voice of the Dawn*, page 144) that refers to a chief during the same general period in Swanton. (Wiseman 5/15/2006)

The name of the “chief,” however, is scratched out, making identification of the individual impossible. If this man was a “chief” of any Abenaki community, the petitioner needed to provide a name for him, and describe at least some actions carried out under his leadership to be meaningful evidence under 83.7(c). The petitioner provided no documented information regarding this individual. This souvenir postcard does not provide evidence of political influence under 83.7(c) for the petitioner during this time.

Political Influence, 1975 to the Present

The PF analyzed ASHAI meeting minutes for the years 1978-1984 and 2001-2005. The petitioner censored some of the original ASHAI meeting minutes. The PF requested that the petitioner submit uncensored copies of the censored minutes, along with copies of meeting minutes for the years not yet submitted. The PF also analyzed SSA council meeting minutes for 1976-1984 and 1996-2005, but requested meeting minutes for the 1985-1996 period (Abenaki PF 2005, 102).

In its August 2006 submission, the petitioner submitted additional meeting minutes. There are three types of meetings for which the petitioner submitted minutes: council meetings, ASHAI meetings, and joint meetings of the council and ASHAI. During the comment period, the petitioner responded by submitting 293 pages of minutes of ASHAI meetings for the years 1987 to 1995, along with minutes from 15 joint meetings of the ASHAI and the council that spanning 1988 to 1997. The new submissions also included 600 pages of council minutes for 1976 to 1996.

With the previously submitted minutes, the petitioner’s “tribal council” minutes cover a span from 1976 to 2005. The new and previously submitted ASHAI and joint minutes span from 1988 to 1995. There are some months for which the petitioner did not submit meeting minutes, indicating that there may not have been meetings during those months, or that the minutes were unavailable for submission; the petitioner did explain why certain months had no meeting minutes. As requested, the new submissions contained names of those who participated in the

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meetings. The comments, along with previous materials, support the PF's finding that the petitioner first created its political organizations in the 1970's.

The group began recording meeting minutes in the 1970's. In 1975, with the encouragement of Ronnie Cannes, a non-Abenaki, the group founded the ASHAI (SSA 10/1982 Petition, 105). It formed the "Abenaki Tribal Council," in late 1976 or 1977 (ATC 1977, 1). The two organizations often shared board members and overlapped in their activities. As a whole, the organizational minutes of ASHAI and the council showed some attempts by the group to seek support or to establish relations with Indian organizations, State agencies in Vermont, and Federal agencies. The group also became interested with tribal recognition issues beginning in the 1970's and continuing to the present. Their pursuit of tribal recognition issues brought them into contact the Native American Rights Fund, the State of Vermont, and Federal agencies.

Since 1995, most of the petitioner's political activities within its organizations were mainly the product of the St. Francis family and its limited number of supporters. The PF stated:

In 1995, he [Homer St. Francis, 1935-2001] led a successful drive to change the group's constitution to make the position of "Chief" a lifetime appointment limited to members of his family, a move that many in the group disagreed with and which contributed to a split within the group (Walsh 11/7/1995). When he became too ill to handle the daily responsibilities of the group, he named his daughter "Acting Chief" and then became the "Grand Chief." He remained in this position until his death in 200[1], and his daughter April (St. Francis) Merrill currently serves as "Chief." Two of St. Francis's sons served on the group's governing body with their father and sister for many years, as did a number of nieces and nephews.

. . . [A newspaper report from 1979 stated that] St. Francis's "authoritarian style" and his disregard for the opinions of others led to the formation of the breakaway group. This would not be the last time that a portion of the group split away from the main body nor would it be the last time that St. Francis's leadership was cited as the reason. (Abenaki PF 2005, 104)

The PF also stated:

The September 27, 1998, general meeting includes the information that 14 people were in attendance, but does not say whether those 14 included the people who were already serving on the council, or if all 14 of those people were eligible to vote. Nominations were made for members to serve on the ASHAI board and on the group's governing body, but instead of ballots being cast, the minutes indicate that . . . the Chief cast one ballot, to elect Tribal Council and ASHAI board of directors by acclamation (SSA 1998.09.27, 1). Further, the minutes read as follows: "We don't have to have an election. You are all now all Tribal Council and ASHAI board of directors. . . ." (Abenaki PF 2005, 103)

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The petitioner did not provide evidence that the membership as a whole cared about, agreed, or disagreed with the decisions and actions of its leaders. An important task for the petitioner during the comment period was to provide evidence of bilateral political influence between the council members and ASHAI officers on the one hand, and the broader membership on the other.

The available minutes from the council, ASHAI, and joint meetings did not show that members participated in the decision-making process or that they expressed concern about the importance of political issues. That is, the minutes do not show bilateral influence between the council members and ASHAI officers on the one hand, and the broader membership on the other. For example, on March 12, 1977, a special membership meeting called to adopt a “Constitution for the Abenaki Nation/Vermont” had only 19 members present.

Another example that suggests a low degree of participation in the SSA’s political process can be seen by examining the attendance at nomination meetings. The petitioner’s nomination meetings represented one of the few times that the general membership could nominate and vote for candidates to run for offices of the petitioner’s organizations. Yet, the SSA had only limited attendance at these meetings. While petitioner’s membership during the late 1970’s and early 1980’s varied between 300 and 1,670 members, the attendance at the nomination meetings were very limited. The following is a list of the SSA’s nomination meetings and the number of people who attended them:

- On September 26, 1977, 39 people attended.
- On August 13, 1979, 18 members attended.
- On August 5, 1981, 37 people attended.
- On September 30, 1982, 19 people attended.
- On December 7, 1982, 17 people attended.
- On August 30, 1983, 24 people attended.
- On September 27, 1984, 10 people attended.
- On September 2, 1985, 13 people attended.
- On September 17, 1986, 9 people attended.
- On August 27, 1987, 16 people attended.

During this 10-year period, an analysis of the 120 members attending the nomination meetings demonstrated:

- 85 members attended only one meeting.
- 14 members attended two meetings.
- 5 members attended 3 meetings.
- 2 members attended 4 meetings.
- 4 members attended 5 meetings.
- 3 members attended 6 meetings.
- 0 members attended 7 meetings.
- 1 members attended 8 meetings.
- 0 members attended 9 meetings.
- 2 (Homer St. Francis and Leonard Lampman, Sr.) attended all 10 meetings.

After 1987, council minutes of nomination meetings are not available.

The minutes show the group first created its political organizations in the 1970's, but they engaged only a few members of the petitioner's group. The evidence does not demonstrate a bilateral political relationship between the rest of the members and the group's leadership. For example, on September 11, 1978, 24 people attended the meeting. Homer St. Francis spoke about "having more people attend meetings and having more volunteers instead of the same ones all the time." The PF commented that this low rate of participation in the group's decision-making process and elections showed a lack of a bilateral relationship between the group's leadership and the broader membership (Abenaki PF 2005, 103). Between August 1976 and October 1996, a review of 194 council meetings and the number of participants revealed that the average attendance of council meetings was between 8 and 9 individuals of whom 4 to 8 were board members. The available information reveals that attendance at council meetings did not represent an attendance high enough to demonstrate the involvement of a substantial portion of the group's members. High levels of meeting attendance are not required to demonstrate the existence of political processes, and this final determination has evaluated the evidence about meeting attendance together with other evidence of political participation for this period. However, the evaluation of that other evidence for both the proposed finding and the final determination does not show that the group's political activities involved a significant portion of the group's membership or that a bilateral relationship existed between the members and the group's leaders.

Since the 1970's, the petitioner has claimed, to varying degrees, as many as 1,500 to 2,000 members in its group. However, as indicated by the minutes, the petitioner lacks a clear understanding of the numbers of its claimed members. As discussed above in criterion 83.7(b), at a September 10, 1996 "tribal council" meeting, "potential citizens" had been "selected more-or-less at random from the genealogy computer and the phone book" (ATC 9/10/1996). Recruiting "potential citizens" from the Internet and a phone book demonstrated that the petitioner lacked a community over which to exercise political authority. Moreover, the minutes clearly demonstrate that only a fraction of the members participated in political decision-making processes regardless of the actual number of members. Attendance at meetings is only one way that a group may document political processes. In this case, however, the petitioner did not provide other evidence to show that the members were aware or involved in issues of concern to the governing body.

Based on the available evidence, the petitioner's political influence is similar to that maintained in social clubs, nonprofit groups, or other voluntary organizations. Generally, a small number of the petitioner's members carried out political actions affecting the political interests of only a small number of active members, but the available evidence shows that the rest of the claimed members had little or no participation in the council's actions. Under the acknowledgment regulations, a petitioner must be a distinct political body, able to exercise significant formal or informal influence over its members, who in turn influence the policies and actions of the leadership as defined under criterion 83.7(c)(1)(iii). The available evidence demonstrates that participation in the group's political processes was not widespread across the claimed members.

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Lester Lampman's comments indicated his concern about the process to achieve Federal recognition and attempted to provide some support for the group's petition. Lampman's cover letter included a short history of his family and the petitioning group. His comments included: (1) A letter from Congressman Leahy to Chief Leonard Lampman, (2) Picture of Grandma Lampman's Plaque [See discussion in criterion 83.7(a) above], (3) Internet descriptions of a few corporations, associated with the petitioner and (4) other materials. Mr. Lampman's letter referred to oral tradition materials, but during an extended comment period, he did not submit these materials. Mr. Lampman's comments generally lacked supporting documentation and explanation of the political processes of the petitioner as defined under criterion 83.7(c).

John Moody also submitted comments regarding political influence for the petitioner for this period. He stated:

. . . leadership among the Missisquoi Abenaki has clearly been a matter of following by example rather than by an imprimatur granted by a Euro-American sovereign. This Missisquoi leadership pattern is found extensively from the 19th and 20th century with both women and men. Although Homer St. Francis and Blackie Lampman were major leaders, and chiefs, in the 1970's to 1980's Missisquoi re-emergence, their daughters Chief April St. Francis Merrill and Louise Lampman Larivee, are major leaders in the current time period.

. . . Even in the 20th century, when all non-Native institutions and law inveigh against it, there are still some examples of matrilinearity at Missisquoi. There are also numerous examples of women in major leadership roles, including the role of community leader. (Moody 5/5/2006, 4)

Moody did not provide additional names of leaders nor did he document his claims of the political leadership for the petitioner. Moreover, he did not demonstrate the group had maintained political influence over its members throughout history as an autonomous Indian entity.

For the period since 1975, the petitioner did not demonstrate its leaders could influence and mobilize the claimed membership. The petitioner did not show that there was widespread knowledge, communication or involvement in political processes by most of the group's members or that its members considered issues and actions by the leaders to be of importance. The council's activities did not show that a bilateral political relationship existed. The available evidence for both the PF and the FD does not demonstrate that the claimed membership as a whole was aware of or affected by council activities in significant ways.

Final Determination's Conclusions on Criterion 83.7(c)

The PF concluded that there was an Abenaki entity in or around northwestern Vermont through the late 18th century. The PF also concluded that the available evidence did not show that the petitioner's ancestors had a historical connection to these 18th-century Abenaki Indians. During the comment and response periods, the Department received no additional evidence showing that the petitioner's ancestors belonged to an Abenaki Indian entity living in Vermont prior to 1800.

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The petitioner submitted documents that discussed 18th-century Abenaki Indians, but no evidence that these Abenaki Indians were the petitioner's ancestors. John Moody alluded to 18th century documents that were allegedly missing; however, Moody's speculations cannot be verified and thus do not provide evidence for the purposes of 83.7(c). The Department makes its decisions based on available evidence. Therefore, the FD affirms the PF's conclusions and determines that petitioner does not meet criterion 83.7(c) before 1800.

For the period between 1800 and 1900, the PF concluded that the record did not contain any evidence that demonstrated the exercise of political influence as required by criterion 83.7(c). In particular, the PF noted the lack of political activity on the part of any Vermont Abenaki group to dispute claims made by the Iroquois Indians to lands in Vermont. The petitioner mentioned two ancestors, Nazaire St. Francis and Cordelia (Freemore) Brow, who provided food to children and served as a midwife, respectively. However, the information provided about these women does not constitute sufficient evidence to demonstrate that the two were "exercising political authority or influence" as required by criterion 83.7(c). The PF encouraged the petitioner to submit more information on the activities of these two ancestors during the comment period (Abenaki PF 2005, 96); however, the petitioner did not do so. During the comment period, the Department received only one document that referred to political activity in the 19th century, a copy of the 1814 Treaty of Ghent. This document does not specifically refer to the petitioner and is too vague to assist in addressing the criterion. Therefore, the FD concludes that the available evidence is not sufficient to satisfy criterion 83.7(c) between 1800 and 1900.

For the period since 1900, the PF encouraged the petitioner to submit evidence that its ancestors maintained political influence or authority over each other as an autonomous entity from historical times to the present. Similarly, the PF asked the petitioner to provide documentation of the political authority of "family bands" and political leaders before the formation of its 1970's council. The petitioner's comments did not demonstrate what its claimed ancestral leadership or families were doing to exercise political influence or authority, nor did the petitioner show its claimed ancestors exercised political influence or authority over each other as an autonomous entity since 1900. Petitioner did not offer evidence of its general membership acknowledging the heads of petitioner's recent organizations as leaders. The petitioner's comments did not contain sufficient evidence to remedy the deficiencies noted by the PF. For the period from 1900 to the present, the petitioner did not demonstrate political influence and or authority as an autonomous entity. Therefore, this FD affirms the PF's conclusion that the petitioner does not meet criterion 83.7(c).

Based on the available record, the FD concludes that there is insufficient evidence to demonstrate that the petitioner maintained political influence or authority over its members as an autonomous entity at any point in time. Because the available evidence does not demonstrate that the petitioner maintained political influence or authority over its members as an autonomous entity from historical times until the present, the petitioner does not meet criterion 83.7(c).

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.

Summary of the Proposed Finding

The PF found that the petitioner satisfied criterion 83.7(d) by submitting a copy of its governing document, a document entitled “Constitution of The Sovereign Republic of the Abenaki Nation of Missisquoi.” This constitution “was presented to the citizenry at a Special General Meeting on November 5, 1995” and “ratified at a Special General Meeting” on February 25, 1996 (SSA Constitution 02/25/1996, 11). This document described the group’s membership criteria and current governing procedures. The petitioner also submitted a copy of a superseded 1982 constitution and meeting minutes. However, the PF noted several minor issues with the 1996 constitution and suggested that the petitioner remedy these issues. (Abenaki PF 2005, 110-112).

Summary of the Comments on the Proposed Finding

The Department received no comments, from either the petitioner or any other party, on the PF’s conclusions under criterion 83.7(d).

Final Determination’s Conclusions on Criterion 83.7(d)

The Department’s PF concluded that, based on the available evidence, the petitioner satisfied criterion 83.7(d). Although the petitioner did not respond to the Department’s suggestions in the PF, the available evidence satisfies the criterion. Therefore, the FD affirms the PF’s conclusion that the petitioner meets criterion 83.7(d).

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.

Summary of the Proposed Finding

The PF concluded that the petitioner did not meet the requirements of criterion 83.7(e). To satisfy this criterion, the petitioner must (1) identify its current members, and (2) provide evidence that those members descend from a historical Indian tribe. The PF concluded that the petitioner did not identify its current members as required by the regulations, and that although the petitioner claimed descent from the historical "Western Abenaki" Indian tribe, it did not document descent from that historical Indian tribe or any other historical Indian tribe.

The petitioner did not properly identify its members because each of the three membership lists it submitted did not satisfy the requirements of the regulations.²¹ According to the 25 CFR 83.7(e)(2) acknowledgment regulations:

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

²¹ For the PF, the petitioner submitted three membership lists: one dated December 19, 1995, that the Department received on January 17, 1996; one undated list that the Department received on May 16, 2005; and a third one dated August 9, 2005, that the Department received on August 23, 2005. The OFA designated the May 2005 list the "2005a" list, and designated the August 2005 list the "2005b" list. The Department considered each of these three lists for the PF. The petitioner divided its 2005 lists into various categories, most notably an "A1" and an "A2" list, and a "C1" and a "C2" list. The "A" lists listed adults, and the "C" lists listed children. The petitioner defined the "A1" group as members with complete membership files as determined by the SSA. The petitioner stated that only these individuals are eligible to vote in the group's elections. The "A2" individuals are described as "Abenaki," but "cannot vote until they complete their files as requested" (St. Francis-Merrill to AS-IA 8/18/2005). Those children on the "C1" list had completed membership files; those on the "C2" list had incomplete membership files. The 2005a list had additional categories, including an "M2" category (looking for more proof); a "3" category (more documentation needed); and an "N" category (not Abenaki). The petitioner does not consider these individuals to be members. The petitioner also stated that the individuals listed in the "O" category of the same membership list are affiliated with Odanak/St. Francis and thus are not fully members of the petitioner's group. This "2005a" membership list, excluding deceased members, contains 4,485 entries. The "2005b" list (August 2005), is the only list certified by the petitioner's governing body. The petitioner did not certify this list in time for the PF, but the FD notes that it is now certified. The "2005b" list contains 1,038 "A1" adult individuals and 133 children "C1" members, for a total of 1,171 members with enrollment files completed to the satisfaction of the SSA. The certified "2005b" list has 1,184 "A2" individuals and 151 "C2" members. The combined total of "A1," "A2," "C1," and "C2" individuals is 2,506 individuals. For more information on these lists, see the Abenaki PF, pp. 88-89, 140-146.

The PF concluded that the petitioner's governing body had not certified any of the three membership lists. Furthermore, each list submitted for the PF was incomplete in some capacity, lacking proper residential addresses, maiden names, or birthdates, for example. When the information on the various lists is combined, the membership list remains incomplete. Many of the entries in the petitioner's genealogical charts or in the Family Tree Maker™ (FTM) genealogical database lacked full names, dates, and places of birth. Many of the members that were new to the most recent membership list did not demonstrate genealogical connections to the earlier members. The petitioner did not submit explanations for the changes in its membership lists as called for in the regulations. The PF also expressed concern that the petitioner may have withheld from the Department the names of some of its members, at the request of those members (Abenaki PF 2005, 145-146). The regulations require that "petitioner must provide an official membership list, separately certified by the group's governing body, of *all known current members* of the group" (25 CFR 83.7(e)(2), italics added). The PF encouraged the petitioner to correct the above deficiencies (Abenaki PF 2005, 141-146).

Criterion 83.7(e)(1) requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or Indian tribes that combined and functioned as a single autonomous political entity. The SSA petitioner claimed to descend from the "Western Abenaki Indians" who resided at Missisquoi, near present-day Swanton, Vermont. The PF concluded that while the petitioner provided some genealogical information for its members, it did not demonstrate descent from the Western Abenaki Indians or any other historical Indian tribe.

There is significant documentation attesting to the presence of Western Abenaki Indians in Northern New England before 1800. However, for the PF, the petitioner did not submit genealogical information that linked the group's current membership to individuals belonging to the historical Indian tribe of Western Abenaki Indians in the 18th century. Instead, the petitioner identified 20 "historical 20th century social core families," and asserted that these families "comprised the Abenaki community."²²

The PF concluded that although the petitioner partially documented the genealogical connection between some of its current members and these "social core families," it did not document the connection between these "social core families" and a historical Indian tribe, either the "Western Abenaki Indians" or any other historical Indian tribe. The petitioner derived much of its historical narrative from academic publications, but these publications did not document a historical Western Abenaki tribal entity that included the petitioner's ancestors (Abenaki PF 2005, 126). Two documents that would likely provide names of individuals from a historical Western Abenaki Indian tribe are a register of baptisms, marriages, and deaths, recorded at Fort Saint-Frédéric (a French fort on the southwestern shore of Lake Champlain) between 1732 and

²² The PF states: "[t]he petitioner identifies 20 'historical 20th century social core families' that the petitioner asserts 'comprised the [Missisquoi] Abenakie community. They are: Barratt, Belrose, Cheney, Colomb, Demar, Ethier/Hakey, Gardner, Hance, Hoague, Lafrance, Medor, Morits, Nepton, Obomsawin, Ouimette, Partlow, Phillips, Richards, St. Francis and St. Lawrence' (SSA 12/11/1995 [Second Addendum], 10). Although not specifically stated in its petition, the petitioner implies, through information supplied in its genealogical database and its petition documents, that the progenitors of these 20 family lines are the Abenaki ancestors of all of its current members" (Abenaki PF 2005, 113).

1759, and a 1765 lease designated “Robertson’s Lease” for land “in the bay of Missisque.” However, the PF concluded that the petitioner did not demonstrate descent from the Abenakis named on the register at Fort Saint-Frédéric or on Robertson’s Lease.²³ With the exception of the Simon Obomsawin, none of the petitioner’s claimed ancestors are named on the available 18th or 19th century lists that identified individuals as Abenaki Indians (Abenaki PF 2005, 114-119). The PF also noted that the petitioner’s claimed ancestors are not identified as Indians on any of the decennial U.S. Federal censuses between 1790 and 1930 (Abenaki PF 2005, 120). Consequently, based on the available documentation, the PF concluded that the petitioner did not demonstrate descent, either of its members or its 20 “social core families,” from any individuals belonging to a historical Abenaki Indian tribe, with the exception of Simon Obomsawin (Abenaki PF 2005, 128, 132).

The PF also found problems with the selection of the 20 “primary” ancestors, that is, the alleged Indian ancestor in each of the 20 “social core families.” These problems are significant because the petitioner relies on these 20 “primary” ancestors to link to a historical Indian tribe. As the PF stated, “[a]s far as can be determined, the SSA does not assert Missisquoi Abenaki or Western Abenaki descent through any ancestors other than the 20 ‘primary’ ancestors named in the petition” (Abenaki PF 2005, 137). Of the 20 “primary” ancestors, there is limited documentation suggesting that perhaps 2 (Simon Obomsawin and Jean Charles Nepton) might descend from Abenaki Indians, though not necessarily Western Abenaki Indians from or near Swanton, Vermont.²⁴ At the time of the PF, only 24 of the group’s 1,171 “full members” claimed descent from these two individuals (8 members from Obomsawin and 16 from Nepton).²⁵ The available

²³ The names Joseph Abomsawin and Marian Poorneuf [Portneuf] appear on Robertson’s Lease in 1765, as names of the individuals, presumably Abenaki Indians, who leased land at Missisquoi to James Robertson. The petitioner claims an individual named Simon Obomsawin as a “primary” ancestor, and there are individuals with the “Obomsawin” and “Portneuf” surnames on the petitioner’s membership lists. However, “there is no evidence in the current record showing that any of the petitioner’s current members descend from these individuals [Joseph Abomsawin and Marian Poorneuf]” (Abenaki PF 2005, 128).

²⁴ Simon Obomsawin appeared on several 19th-century lists of St. Francis Indians at Odanak in Quebec, Canada. Most of the Missisquoi Abenaki Indians had left northern Vermont before 1800 and migrated to Odanak; consequently, many descendants of the 18th century Missisquoi Abenaki Indians lived at or near Odanak in the 19th century. The PF was not clear in its evaluation of Simon Obomsawin and those members of the petition who claim descent from him. Therefore, the FD includes an appendix, entitled “Clarification of Simon Obomsawin, One of the Petitioner’s 20 ‘Primary’ Ancestors,” that clarifies the Department accepts him as an Western Abenaki Indian.

Jean Charles Nepton was born in Massachusetts in 1831 and died sometime after 1877, probably in Canada (Abenaki PF 2005, 128, 137). The PF stated that “[t]ranscriptions of Canadian documents submitted by the petitioner in a member file indicate that Jean Charles Nepton was Abenaki,” though it is not clear if he was a Western Abenaki Indian or an Eastern Abenaki Indian, or if he descended from an Abenaki group from Missisquoi. The Department needed to examine copies of the actual documents, not merely transcriptions, and therefore encouraged the petitioner “to submit further information in the form of original documents to clarify Nepton’s ancestry.” The PF stated that “until copies of the original records are provided by the petitioner, his Indian ancestry cannot be confirmed” (Abenaki PF 2005, 131 *n.* 120). The Department did not receive additional evidence during the comment and response periods that confirmed the origins of Jean Charles Nepton.

²⁵ Eight individuals on the group’s “2005b” membership list claim descent Simon Obomsawin (Abenaki PF 2005, 131). The FD includes an appendix, entitled “Clarification of Simon Obomsawin, One of the Petitioner’s 20 ‘Primary’ Ancestors,” that clarifies the Department’s evaluation of Obomsawin and discusses the eight members who descend from him. Sixteen individuals on the group’s “2005b” membership list claim descent from Jean Charles Nepton (Abenaki PF 2005, 131). The Department required more documentation to confirm his alleged

documentation does not identify the other 18 “primary” ancestors either as Indians or as belonging to a particular Indian tribe. The PF noted that the 20 “primary” ancestors did not live contemporaneously with one another or nearby one another. Thus, the petitioner would need to demonstrate that these “primary” ancestors were part of a community that descended from a historical Indian tribe (Abenaki PF 2005, 137).

The PF also discussed a methodology used to support the petitioner’s claim of descent from a historical Indian tribe and concluded that this methodology was unsound. The methodology posited genealogical connections based on similar surnames in geographically proximate locations. The researcher for the petition apparently searched for the family names of the SSA petitioner on 18th and 19th century lists for the St. Francis Indians at Odanak as well as in other local records of the greater Swanton area of Vermont. If the researcher found similarities between SSA surnames and the surnames in the greater St. Francis region of Quebec, Canada, he designated the SSA families to be “Abenaki” family lines. This is a flawed methodology for several reasons. First, it *speculates* about genealogical connections, but it does not *document* them; therefore, this methodology is not acceptable by current professional standards. Second, it does not adequately explain or document the unusually wide variations of the surnames in the analysis.²⁶ Third, it assumed that individuals with a surname that is also borne by many Indians or frequently associated with known Indians are also Indians. The available evidence indicates that only 8 of the petitioner’s 1,171 full members on the group’s current “2005b” membership list descend from the St. Francis Abenakis in Quebec, Canada, the group that Moody investigated for surnames that appear to be similar to those of SSA members (Abenaki PF 2005, 134-135).²⁷

Because of the various difficulties the petitioner had in meeting criterion 83.7(e), the PF encouraged the petitioner to submit additional information so that the Department might better understand its membership, its ancestry, and its potential connection to a historical Indian tribe. The Department encouraged the petitioner to investigate cemetery records from St. Mary’s Catholic cemetery in Swanton, Vermont, for evidence of Indian descent and historical community. It also encouraged the SSA to submit original copies of local land records to better document the activities of its claimed ancestors, and to submit copies of birth, marriage, and death records to better substantiate oral histories that allege Indian ancestry (Abenaki PF 2005, 124-126). The PF determined that the available evidence did not establish descent from a historical Indian tribe and that “to pursue Federal acknowledgment, it must provide evidence

identity as an Abenaki Indian (see previous footnote). During the comment and response periods, the Department received no additional evidence that the group’s current members descended from Jean Charles Nepton, thus, the Department cannot confirm Nepton’s alleged “Abenaki” identity.

²⁶ The PF provided examples of the broad but undocumented surname variations employed by the petitioner. The PF states, “[w]hile it is not uncommon for names to have various spellings in the historical records, such as Benedick for Benedict or LaDue for Ladeau, it is very unusual for the same individual to be identified by a completely different surname. The SSA has not shown that these widely different names were indeed ‘variations’ of the petitioner’s ancestors’ names. For example, according to the petitioner, the Benedict family of Alburg and the Lake Champlain Islands included the name variations of Bartem, Barnaby, Benway, Pandike, Prado, and Paradee” (Abenaki PF 2005, 134).

²⁷ For more information on the “2005b” and other lists, see footnote 21 on p. 43 of this FD and the Abenaki PF 2005, 88-89, 140-146

acceptable to the Secretary of descent from a historical tribe” (Abenaki PF 2005, 137). Thus, the PF instructed the petitioner that it must provide evidence that its members descend from a historical Indian tribe, either through the 20 “social core families,” or otherwise.

In summary, the PF found that the petitioner did not provide a complete and properly certified membership list as required by the criterion 83.7(e). The petitioner did not document the descent of its members from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. Furthermore, the methodology used to support the undocumented contention that its 20 “social core families” as “Abenaki” families is a speculative methodology that does not meet professional genealogical standards or the requirements of the regulations. The PF concluded, based on the available evidence, that the petitioner did not meet criterion 83.7(e).

The task for the petitioner in the comment period, therefore, was to properly certify its current membership list, clarify its membership history and official membership list, and to provide evidence that its membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity.

Summary of the Comments on the Proposed Finding

On November 1, 2005, the Department received a submission from the petitioner that addressed several items that pertain to criterion 87.3(e). One item was a letter, signed by the petitioner’s governing body, which properly certified the 2005 membership list that the Department evaluated for the PF. Another letter in the submission certified other material that the Department analyzed for the PF, including copies of 26 membership files and a letter clarifying membership categories. The Department analyzed these now-certified materials for the PF, and the FD notes them as certified. This submission also contained two lists labeled as membership rolls: one labeled as a 1975 list, and the other labeled as a 1983 list. As noted in the FD’s “Administrative History Prior to the PF” section, the Department received these documents too late to incorporate into the PF and instead considers them for the FD.

The May 2006 letter from Lester Lampman contains several statements that address criterion 83.7(e). The Lampman letter includes a copy of an undated proposed amendment to the State of Vermont’s bill regarding state recognition of the “Abenaki People” that may be considered for this criterion. The document is entitled, “House Proposal of Amendment S. 117: An act relating to state recognition of the Abenaki People.” John Moody’s May 2006 comments identify two documents that he believes will provide names of specific historical Abenaki Indians from whom the petitioner can claim descent. However, he states that these documents are “missing” and consequently could not provide copies of those allegedly critical documents or inform the Department about how it could obtain copies.

In its August 2006 submission, the petitioner submitted a copy of the “Against the Darkness” DVD.²⁸ The petitioner instructed the Department to evaluate the interview with “Alice Roy” in its analysis for the FD. The interview with “Alice Roy” does not specifically address criterion

²⁸ See footnote 5 on p. 8 of this FD for a fuller description of the “Against the Darkness” DVD video presentation.

83.7(e). However, the video's principal theme, that seven generations of Abenaki Indians have survived in Northern Vermont, from the late 18th century to the present, pertains to criterion 83.7(e).

Although the petitioner certified its current membership list and provided two earlier membership lists during the comment period, the petitioner did not provide the Department with any of the additional information that the PF requested. Most important, neither the petitioner nor any other party submitted new evidence in response to the questions raised in the PF concerning the group's descent from the historical Indian tribe.

Analysis for the Final Determination

The petitioner's governing body submitted only two documents to be considered for the FD that relate to criterion 83.7(e), a membership list from 1975 and a membership list from 1983. The petitioner labeled one list as the "1975 Tribal Roll-Abenaki Nation of Vermont, St Francis/Sokoki Band." It is unclear if this is a copy of the original document, or a list compiled at a much later date that attempts to reconstruct an earlier 1975 group. Documents from the middle 1970's generally refer to the group either as the "Abenaki tribe" or as the "Abenaki Tribal Council," rather than the "St. Francis/Sokoki Band." The 11-page list contains the names of 308 individuals and their addresses, although it does not contain complete residential addresses for everyone listed. It does not contain any birth dates, so the Department is unable to determine whether these individuals were adults or children at the time of the list's creation. The petitioner included no description of the circumstances surrounding the preparation of this list or any separate analysis of it. There is no governing document from that period explaining the group's membership criteria. Most of the individuals on the list came from the Swanton-Highgate-St. Albans area of Franklin County, Vermont. The Department found that 96 of the 308 individuals listed, about 31 percent, are not part of the group's current FTM genealogical database. The petitioner did not provide any explanation of what happened to these individuals.

This petitioner entitled its second list, "1983 Abenaki Nation of Vermont-St. Francis/Sokoki Band," and submitted it in two sections. The first part is a 36-page list of 922 individuals over the age of 15. It includes their names and addresses, although many of the latter do not contain complete residential addresses. It does not include the birthdates of the listed individuals. The second part is a 38-page list of 748 children under the age 15. It contains the children's names, addresses, ages, and dates of birth, although many of the addresses are not complete residential addresses. The combined lists add up to 1,670 individuals, whose residences are mainly in locations throughout Vermont and the surrounding states. The petitioner did not provide any explanation of why the group grew so rapidly from 308 members in 1975 to 1,670 in 1983. It is unclear if this increase was due to the addition of member's children, the addition of new members who had not interacted with the group before, or some other reason. The Department also found that 610 of these 1,670 individuals, about 36 percent, are not part of the group's current FTM genealogical database. The petitioner did not provide any explanation of what happened to these individuals.

Because the petitioner provided no analysis, context, or explanation of these lists, it is difficult to draw any meaningful conclusions from them. Neither of these lists attempts to associate the

group's members with specific Indian ancestors who belonged to the Western Abenaki Indians or any other historical Indian tribe.

The May 2006 Lampman letter contends that the "LaPan Family/Brow Family and the Lampman family can tie to the Historical Indian tribes" through "oral history" tapes in possession of the family. However, the letter provided neither copies of the tapes nor transcripts of them. The Lampman letter also asserts, "Full name-Maiden name-documentation for the family were completed in 1986 and were left in files at the tribal office." The Department responded to this letter on June 2, 2006, notifying Lester M. Lampman and the letter's cosignatories of the 90-day extension to the comment period and confirming the receipt of their initial comments on the proposed finding. Despite the additional 90-day extension to the comment period, neither Lampman nor the cosignatories of the letter submitted copies of the "oral history" tapes or transcripts of them, and they did not forward copies of the documentation that allegedly was "left in files at the tribal office." Consequently, although the senders made assertions regarding the PF's conclusions under 83.7(e), they did not send any additional evidence to assist the Department in reevaluating the evidence for the PF, either during the original comment period or the extended comment period.

The May 2006 Lampman submission also contains a copy of an undated proposed amendment to Vermont's "S. 117: An act relating to the state recognition of the Abenaki People." The document states that the general assembly finds:

- (1) At least 1,700 Vermonters claim to be direct descendents of the several indigenous Native American peoples, now known as Western Abenaki tribes, who originally inhabited all of Vermont and New Hampshire, parts of western Maine, parts of southern Quebec, and parts of upstate New York for hundreds of years, beginning long before the arrival of Europeans. (VT General Assembly 2006, 1)

This statement is not sufficient to establish a genealogical link between the petitioner and a historical Indian tribe as required by 83.7(e). The bill states that 1,700 unnamed Vermonters *claim* to be direct descendents of "several indigenous Native American peoples," but it does not state that 1,700 Vermonters *are* direct descendents of a specific Abenaki Indian tribe in northwestern Vermont. Even if the proposed legislation said this, the statement would not demonstrate that the petitioner's membership consists of individuals who descend from a historical Indian tribe. An assertion that is not supported by appropriate documentation, about the ancestry of a group, by a contemporary state legislature or other source, is not a form of evidence that is acceptable to the Secretary to meet the requirements of the regulations. More specifically, the acknowledgment regulations in 25 CFR 83.7(e)(1) generally expect "evidence identifying present members or ancestors of present members as being descendents of a historical Indian tribe." The assertion expressed in the Vermont bill does not identify present members or name the ancestors of the "1,700 Vermonters." It only asserts that "at least 1,700" unnamed, unspecified Vermonters "claim" to descend from "several indigenous Native American peoples."

The "Against the Darkness" DVD video in the petitioner's August 2006 submission is a story about seven "Abenaki" Indians who have lived in northern Vermont during the last two

centuries. The DVD presents the first of the seven individuals as being a child of a signatory of Robertson's Lease, the second individual as a descendant of the first, the third individual as a descendent of the second, and so on. The implication of this video presentation is that there are "Abenaki" Indians living in Vermont in the 21st century who descend from an Abenaki Indian who signed Robertson's Lease in 1765, and therefore that some of the petitioner's members descend from a historical Indian tribe. The "Against the Darkness" video also implies that this descent has been *documented*.

The "Against the Darkness" video is not evidence acceptable to the Secretary because much of the material that the video presents is not attributed in manner that allows verification by the Department.²⁹ Most problematic is the video's standards for genealogical evidence. For the PF, the petitioner submitted an introduction to the video. In this introduction, the video's producer, Frederick M. Wiseman, discusses the genealogical evidence he used for the video:

The foundation of the video is an American Abenaki pedigree. For clarity of message, the film will use a single documented Missisquoi Abenaki lineage from a well-respected online genealogy database, thereby avoiding exploitation of unpublished and proprietary tribal information. Due to the political implications of the lineage, the production uses aliases and approximate birth-dates to shelter the online genealogical source from cyber tampering. (Wiseman 3/2004, 4)

The video shields the video's "evidence" from independent verification and evaluation, and this statement acknowledges that it shields evidence and attempts to justify that shielding. Furthermore, because it uses "aliases and approximate birth-dates" for its subjects, "Against the Darkness" presents no real genealogy that can be evaluated by the Department. Neither the petitioner nor any other party submitted material to the Department that documents the genealogy of the seven characters in the video. The available evidence does not demonstrate that members of the petitioner descend from signatories of Robertson's lease, as the video suggests.

In his May 2006 comments, Moody calls the Department's attention to two document sets that he claims will help the petitioner establish descent from a historical Indian tribe. One document is associated with the "1786 Memorial of Joseph Traversy" to the Continental Congress, which mentions "22 Indians . . . [who] have been deprived of their lands" (Continental Congress 10/24/1786, 2; Moody 5/5/2006, 2). Moody claims that a list of these 22 Indians, along with all other related documents, "disappeared in the 1780's, and [have] never been found." The second set of documents to which Moody has called the Department's attention are associated with the "1784 Vermont Freeman's Courts at Missisquoi." Documents from these courts, he claims, contain "extensive documentation of the Abenaki and Ira Allen conflict at Missisquoi in the 1780's which are rumored to have included two Freeman's Courts held by Ira Allen's agent Thomas Butterfield." However, Moody states "[t]hese documents have not been found." He then proceeded to "urge all parties to this process to do an exhaustive search for any documents linked to this Vermont court case regarding the Abenaki at Missisquoi." He also expressed his

²⁹ See the discussion of the documents from the Manataka Indian Council and the March 31, 2005, notice, "Office of Federal Acknowledgment; Reports and Guidance Documents; Availability, etc." (70 FR 16515), on p. 20 of this FD, for a further discussion of this issue.

hope “that the BIA OFA, the Abenaki Nation of Missisquoi, all the interested scholars, and even the Vermont Attorney General’s Office could work together, in the interest of the truth, to find these missing documents” (Moody 5/5/2006, 2).³⁰

There is nothing in the text of the Joseph Traversy memorial to the Continental Congress that confirms such a list of “22 Indians” once existed. However, the text indicates that Congress referred the matter to the War Department (Continental Congress 10/24/1786, 2). Moody did not indicate that he searched the correspondence files of the War Department. If such a list existed, it would have to identify at least some of these “22 Indians” as Abenakis from northwestern Vermont, and it would then be incumbent upon the petitioner to demonstrate that the membership of the current petitioner descends from them. Likewise, for the “1784 Vermont Freeman’s’ Courts at Missisquoi,” the petitioner would have to find documentation that identified particular individuals as Abenakis from northwestern Vermont, and then provide appropriate documentation that the membership of the current petitioner descends from them.

The 25 CFR 83.5(c) acknowledgment regulations state that the “Department shall not be responsible for the actual research on behalf of the petitioner.” It is the petitioner’s burden to provide evidence to demonstrate its claims and meet the mandatory criteria. There is no direct evidence that the list of “22 Indians” actually exists at present; Moody himself states the list “disappeared in the 1780’s and has never been found.” The available evidence does not directly state that such a list ever existed in the first place. Similarly, Moody claims that the records of the Freeman’s Courts are “rumored” to contain relevant information. It is the responsibility of the petitioner, not the Department, to investigate these claims. The Department’s March 31, 2005, notice, “Office of Federal Acknowledgment; Reports and Guidance Documents; Availability, etc.,” states:

One purpose of the comment period on the proposed finding is to give the petitioner and third parties an opportunity to present additional evidence in response to the findings on the petition. Submissions by the petitioner and third parties during the comment period, rather than research by the acknowledgment staff, are the most appropriate and efficient means to supplement the record of the petition (70 FR 16515).

This clarifies that it is the responsibility of the petitioner and third parties to submit additional evidence, and that it is not the burden of the Department to locate these “missing” documents. Neither the petitioner any other party submitted copies of these documents.

Moody’s comments regarding the Joseph Traversy memorial and the records of the Freeman’s Courts are the only substantive comments on 83.7(e). However, these comments depend upon

³⁰ Moody based his comments on the Joseph Traversy memorial on the *Papers of the Continental Congress*, in particular, on a document in roll 196 of the M247 microfilm copy of the papers. In the text of the Joseph Traversy memorial to the Continental Congress that Moody submitted, there is a passage stating that Congress referred the matter to the War Department. Moody did not indicate that he searched the records of the War Department. Following Moody’s research in the *Papers of the Continental Congress*, OFA researchers investigated the letters and reports from Major General Henry Knox, the Secretary of War, between the years of 1786 and 1788, in the following collection: Record Group 360, *Papers of the Continental Congress*, items 150-151, M247, rolls 164-165. OFA researchers found no mention of the Joseph Traversy memorial and the “22 Indians.”

documents that may or may not have existed. If they did exist, they are also apparently “lost” and only “rumored” to contain useful information. Thus, although Moody correctly identified a problem with the SSA petition and provided substantive comments on it, he did not provide the evidence needed to support his claims.

Final Determination’s Conclusions on Criterion 83.7(e)

The Department’s PF concluded, based on the available evidence, that the petitioner did not satisfy criterion 83.7(e) because it did not properly identify its members, certify its current membership list, and demonstrate its descent from a historical Indian tribe or tribes that combined and functioned as a single autonomous political entity. The PF noted, with some ambiguity, that the available evidence demonstrated that 8 of the 1,171 full members on the group’s “2005b” membership list, defined by its “A1” adult members and “C1” child members, descend from a historical Indian tribe. Before the issuance of the PF, the petitioner submitted a letter that properly certified its 2005 membership list; however, the petitioner at no time submitted a current membership list that remedied any of the other deficiencies addressed by the PF. The two other, older lists the petitioner provided were of limited evidentiary value. There was no explanation describing the context or composition of these lists, and they did not help to establish a link to a historical Indian tribe or tribes. The “Against the Darkness” DVD presents no real genealogy that the Department can evaluate. There is no reason to believe that the two alleged “missing” document sets from the late 18th century would demonstrate that the petitioner’s membership descends from a historical Indian tribe. The commenter’s speculations about “missing documents” cannot be verified and thus do not provide evidence for the purposes of 83.7(e), and the Department makes its decisions based on available evidence. Furthermore, the petitioner did not submit any other materials, as the PF requested, to demonstrate that any of its members descend from a historical Indian tribe.

The FD includes an appendix entitled “Clarification of Simon Obomsawin, One of the Petitioner’s 20 ‘Primary’ Ancestors,” to clarify the PF’s above-mentioned ambiguity. When read together, the PF, the appendix, and the rest of the FD conclude that 8 of the petitioner’s 1,171 full members, less than 1 percent, demonstrated descent from a Missisquoi Abenaki Indian ancestor. By 1800, most of the historical Missisquoi Abenaki Indian tribe had migrated to St. Francis, or Odanak, in Quebec, Canada. The available evidence demonstrates that these eight members descend from Simon Obomsawin, who once belonged to the St. Francis, or Odanak, Indian community, and who can be traced to the historical Missisquoi Abenaki Indian tribe through lists of Indians belonging to St. Francis, or Odanak. The available evidence does not demonstrate that these eight members were associated with the SSA petitioner before the 1990’s. Furthermore, the available evidence does not demonstrate that the other remaining 1,163 members, or their claimed ancestors, descend from an earlier Missisquoi Abenaki entity in Vermont or any other historical Indian tribe. Therefore, the FD affirms the PF’s conclusion that, based on the available evidence, the petitioner did not meet criterion 83.7(e).

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.

Summary of the Proposed Finding

The PF concluded the petitioner met criterion 83.7(f) based on three documents: two petition documents and the SSA's 1996 governing document, which contained proscriptions against SSA members having membership in any other federally recognized North American Indian tribe. The PF strongly encouraged the petitioner to modify its "enfranchisement" form to include a statement that applicants for enrollment must sign, attesting that they are not members of a recognized North American Indian tribe and are not citizens of another country.

The PF did not investigate whether the members from the current petitioner appeared on the rolls of neighboring federally recognized Indian tribes. If SSA members were enrolled in Indian tribes, those Indian tribes would mostly likely be located in the nearby northeastern United States, or Canada.

Summary of the Comments on the Proposed Finding

The Department received no comments, from either the petitioner or any other party, on the PF's conclusions under criterion 83.7(f).

Analysis for the Final Determination

The department contacted the BIA's Eastern Region office and requested its assistance in cross-referencing the SSA's confirmed adult membership list, the "A1" list, with the membership lists of other federally recognized Indian tribes in Maine: the Aroostook Band of Micmac Indians of Maine, the Passamaquoddy Tribe of Maine, and the Penobscot Tribe of Maine. Cross-referencing the petitioner's "A1" list with these three lists revealed that the petitioner's "A1" membership list does not overlap with the membership list of any of these three federally recognized Indian tribes from Maine. The membership list from the Houlton Band of Maliseet Indians, a fourth federally recognized Indian tribe in Maine, was not available for cross-referencing.

There are no federally recognized Indian tribes in nearby New Hampshire, and there are no other Abenaki Indian tribes in New England in which SSA members might be enrolled. According to the definition section of 25 CFR 83.1, an *Indian tribe* "means any Indian or Alaska Native tribe, band, pueblo, village, or community within the continental United States that the Secretary of the Interior presently acknowledges to exist as an Indian tribe." Therefore, the regulations do not require the Department to investigate whether the petitioner's membership includes individuals enrolled in Indian tribes outside the United States, including, in this petitioner's case, the Canadian Abenakis at Odanak. Therefore, based on the Department's research for the PF and

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the FD, the FD concludes that the SSA petitioner is composed principally of persons who are not members of any acknowledged North American Indian tribe.

The petitioner did not inform the Department that it modified its “enfranchisement” form to prohibit explicitly applicants from being enrolled in another federally recognized Indian tribe or from being citizens of another country. Nonetheless, the 25 CFR Part 83 regulations do not require this, and the petitioner’s failure to modify its “enfranchisement” form does not prevent the petitioner from meeting criterion 83.7(f).

Final Determination’s Conclusions on Criterion 83.7(f)

The petitioner meets criterion 83.7(f) because its membership is composed principally of persons who are not members of any acknowledged North American Indian tribe.

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.

Summary of the Proposed Finding

Based on a review of the available documentation, the PF discovered no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. The PF concluded that the petitioner met the requirements of 83.7(g).

Summary of the Comments on the Proposed Finding

The Department received no comments, from either the petitioner or any other party, on the PF's conclusions under criterion 83.7(g).

Final Determination's Conclusions on Criterion 83.7(g)

Based on the available evidence, the FD concludes that the petitioner meets the requirements of criterion 83.7(g).

APPENDIX

Clarification of Simon Obomsawin, One of the Petitioner's 20 "Primary" Ancestors

This FD clarifies some conflicting information regarding Simon Obomsawin, one of the petitioner's "20 primary ancestors" (Abenaki PF 2005, 131). The PF stated that Elvine Obomsawin Royce (1886-1969) was the daughter of a Simon Obomsawin (1850-1910), but that "[it] is uncertain, but likely that this Simon Obomsawin is the same individual as "Simon Obomsawin *files*" on the 1873 and 1875 St. Francis (Odanak) Abenaki censuses" (Abenaki PF 2005, 136 [emphasis added]). The PF also stated that if the connection were correct, then the eight descendants of Elvine Obomsawin Royce who are in the SSA group would be descendants of St. Francis Abenaki (Abenaki PF 2005, 137, *n.* 124). Elsewhere the PF stated that the SSA provided evidence that *appears* to indicate that eight of the petitioner's current members *may in fact* descend from on Simon Obomsawin" (Abenaki PF 2005, 138 [emphasis added]). These conditional statements were intended to give direction or guidance to the petitioner for additional research or evidence to confirm that the Simon Obomsawin, who was the ancestor to at least eight of the current members, was the same man identified as belonging to the St. Francis (Odanak) Indian tribe in Canada in the 1870's.

In the summary statement for criterion 83.7(e), the PF concluded that there was no primary or reliable secondary evidence that the petitioner's 20 "primary ancestors" descended from the "Missisquoi Band of Western Abenaki Indians," which is the entity that the petitioner claims was the historical Indian tribe (Abenaki PF 2005, 139). Thus, the conclusions concerning descent from the historical Indian tribe included Simon Obomsawin as one of the twenty ancestors lacking sufficient evidence.

The PF also concluded that:

Nor is there evidence that any of the SSA's current members descend from individuals named on historical documents which list Abenaki, such as the mid-18th century register of Fort Saint-Frederic (Roy 1946, 268-312), the 1765 Robertson lease (Robertson 1765.05.28), or the censuses or pay list of St. Francis (Odanak) Indians in Canada (*Recensement du Villages* 1873, *Recensement du Villages* 1875; Indian Distribution Pay List 1893.04.14), with the possible exception of the 8 current members who are descendants of Simon Obomsawin (Abenaki PF 2005, 139).

Thus, the petitioner was notified in the PF Summary under the Criteria that there was both a problem of the membership's undocumented descent from its claimed "20 primary ancestors," as well as a lack of evidence that those "20 primary ancestors" were members of a historical Indian tribe.

However, the Federal Register notice summation of criterion 83.7(e) stated that “[e]ight current members (less than 1 percent of the group) have documented descent from a historical individual identified in the 19th century as a member of the St. Francis Abenaki Indian tribe at Odanak, Quebec, Canada” (70 FR 69779). From this statement, it appears that the PF concluded that some of the petitioner’s members had documented their descent from the Simon Obomsawin who was on the Odanak censuses in the late 1800’s thereby contradicting the conditional statements in the actual decision document. In order to correct any ambiguity between the conditional findings in the Summary Under the Criteria and apparently contradictory conclusion in the Federal Register notice, OFA has reexamined at the documents in the current record concerning Simon Obomsawin and his daughter Elvine Obomsawin Royce.

One of the petitioner’s current members submitted a “Family Genealogy” chart that listed his parents, four grandparents, and six grandparents. This chart listed Elvine Obomsawin (1886-1967) as his father’s mother, Simon Obomsawin, (born 1850 in Odanak) and Celina Obomsawin as the great-grandparents, and Simon Obomsawin (born 1824 in Odanak) and Catherine de Gonzaque (born 1830 in Odanak) as the paternal great-great-grandparents (Royce, Terry Alan Sr. 8/15/1952). This applicant’s membership file also included his birth record naming both parents, and his grandmother’s marriage record, which named her (Elvine’s) parents as Simon and “Celvin” (*sic*: Celine) O’Bomsawin, who were both born at Pierville, Quebec, Canada. The file also included a document, apparently compiled in 1987 by John Moody that summarized the genealogy of Elvine Obomsawin. This report included annotations showing that Moody consulted the registers of Mission St. Francois-de-sales, Odanak, and of the St. Francois-du-Lac Catholic Church, “Gordon Day’s genealogies, taken from his own oral and written history work over the past 35 years,” and Moody’s own “recent research, oral or written.”³¹ Moody also stated that Simon’s wife Celine died before 1899. Simon then married his second wife, Agathe Picard, in 1899 at Odanak. According to Moody, the children of Simon and Celine Obomsawin were William Simon, born 1879; Malvina, born 1881; Marie-Anne (Marion), born 1883, Leona (1885-1889); Elvine, born 1886; Marie-Anne (not Marion), born 1888; and Salmon (1890-1892) (Moody 6/2/1987). Moody’s annotations indicated that the full dates of birth and death for these children came from the Mission St. Francois-de-Sales, Odanak; however, he did not include copies of any of the original records.

Gordon Day’s notebook showed that on July 30, 1957, he spent “3 hours at the Obomsawin camp” where he interviewed Elvine, Marion and William Obomsawin, and recorded songs and stories. They stated that their father and sister (not named) were in Gettysburg. William stated that his father, (Simon) came to Vermont between 1895 and 1900 and that he first camped at Cedar Beach, Charlotte, and implied that Simon built the house on Thompson’s Point about 1907. Day stated that “Their father’s mother was Moise DeGonzaque.” This interview also included mention of other family members such as “Marion’s Aunt Mary” and “Louis Napoleon” who was their father’s cousin. According to Day’s interview, “Elvine was brought up by Mrs. Reeves, an Abenaki woman in Lakewood, N.Y. Marion was brought up by Mrs. Louis Watso, an aunt in Claremont, N. H.” (Day 7/1948-11/13/1962).

³¹ The current record does not include copies of the original records, just Moody’s notes and citations. Neither the petitioner nor Moody sent copies of these records, although Department requested them in the PF.

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OFA compared the names and circumstances described in this interview and in the members' file with the information in the Federal censuses and in the censuses of the St. Francis Odanak in Canada to verify the petitioner's claims of descent from Simon Obomsawin.

The 1930 Federal census of Charlotte, Chittenden County, Vermont, included the household of Simon Obomsawin, an Indian, 77 years old (born 1853), widow, born in "Canada-French," whose parents were also born in "Canada-French." According to the census he immigrated to the United States in 1908. His daughter Marion, age 37 (born 1893), and son William, age 44 (born 1886), were in the same household (1930 Federal Census, Chittenden, Charlotte Town, Thompson Point, ED 4, sheet 6A, household #130/137; PFR-GPF-V003-D0017). Simon's daughter, Elvine (Obomsawin) Royce was listed as, white, age 43 (born about 1887) and living with her husband and children in Duxbury, Washington County, Vermont, in 1930 (1930 Federal Census, Vermont, Washington County, Duxbury, ED 12-15, sheet 1A, household #6/6). Her husband and children were all born in Vermont. The census enumerator listed Elvine's birthplace as "Canada/English" and the same for both her father and mother, and that English was her native language. Her eldest child was born in Vermont in about 1913. (Elsworth C. Royce was age 17 on the 1930 census.)

The 1910 census of the town of Charlotte, Vermont, included Simon Obomsawin, Indian, age 62, with his second wife, Agathe, Indian, age 60, and daughter "Eveline [*sic*]," age 21, who were all born in "Canada-French," as were each of their parents. According to this census, they all came to the U. S. in 1904. Although there are some conflicting data, the two U.S. censuses do support the parentage and origins of Elvine Obomsawin Royce.

The records from Odanak, Canada, show the migration of a Simon Obomsawin family out of the village before 1873, although at least one son and daughter appear to have remained in Odanak until 1875, when they, too were listed in their father's household and "residing elsewhere in Canada." The following description of the Canadian records starts with the earlier identifications and works forward in time in order to show more clearly the movements of the Simon Obomsawin and his father's family.

The age categories for the 1873 census of Abenaki Indians at St. Francis identified males or females over 20 years old, between 12 and 20 years old, or under 12 years old. This census included "Simon Obumsawin *fils*" age 22 and "Marie Jeanne Obumsawin," age 16 as residents of the village (*Recensement du Villages* 1873, 5). Living elsewhere in Canada was the household of Simon Obumsawin (Sr.), age 46 and "Catherine M Gonzague Obum [*sic*]," age 40, included Mathilde "Obum" who was between 12 and 20 years old, and Elvine, Cecile, Ursule, F. de Sales, and Gonzague, who were all under 12 years old (*Recensement du Villages* 1873, 7). Two years later, the "Simon Obumsawin *fils*" and Marie Jeanne Obumsawin" were in the off reservation household of Simon Obomsawin.

The 1875 census of "St. Francis Abenaki Villages" listed the household of "Simon Obumsawin," age 48 (born about 1827, or the Simon Sr. in 1893) as one of the "*Residents du Canada*" (*Recensement du Villages* 1875, 6). The headings for the fields of information on the census called for the enumerator to put a mark in the column for males or females who were over 17, 16-5, or under 4 years of age. Most residents in the villages also had a specific age listed for

each member of the household. However, those living elsewhere in Canada or in the United States tended to have just the “over 17,” etc. age columns marked. This is the case for the household of Simon Obumsawin, who was age 48, and included Mathilde, Elvine, Maude, F. de Sales, Gonzague, “Simon *filis* [son or offspring]” and “*la soeur* [his sister or the sister]” Marie Jeanne, were all identified as over age 17. It is not clear whether “*la soeur*” refers to Marie Jeanne as a sister of “Simon *filis*,” or the sister of Simon, the head of the house. In either case, she may be the “Aunt Mary” mentioned in Day’s interview. No other family relationships were stated for this household.

At the end of the residents of the villages section of the 1875 census was a brief statement explaining the reduction in numbers of residents since the previous census. Under the heading “*Absent En Canada*” was an entry for “*S. Obomsawin filis 2*,” which could be interpreted to mean that two of S. Obomsawin’s (probably Simon Sr.) sons had left the village and were living elsewhere in Canada. It could also mean that the man identified as “*S. Obomsawin filis*” and another member of his household had moved. If the latter is correct, it would account for Simon *filis* and Marie Jeanne who had been on the reservation census in 1873, but were living elsewhere in Canada with the older Simon Obomsawin in 1875.

The “1893 Indian Distribution Pay List” listed heads of house and number of males, females, boys, and girls in each household, along with the number of individuals paid, the number paid at the previous distribution, the number of decreases in the household due to emigration or death, the number of increases per household by immigration or birth, and remarks (Indian Distribution Pay List 04/14/1893). This list does not include residences, so we do not know where these households were located. Several “Obumsawins” were enumerated on this list, including three Simons, Mathilde, Mary J, and “L. Napoleon,” among others. Household #72, Simon Obumsawin *filis* [followed by illegible word], was occupied by a single man who had not been paid on the previous distribution. There were no increases or decreases in the composition of this household and no comments in the remarks column (Indian Distribution Pay List 04/14/1893). The PF speculated that this might be the Simon Obomsawin who later moved to Vermont (Abenaki PF 2005, 136). However, it now looks like he was a young man out on his own for the first time.

Household #69, “Simon Obumsawin Jr.,” had one male, one person paid, seven people who were previously paid, and one person who died since the previous distribution. In the remarks column is the note that two children were adopted by No. 66 (Jean Elie Obumsawin), one child adopted by No. 108 (Louis Wawanolet), and one child adopted by No. 86 (Stanislas Panadis). This fits the composition of the Simon Obomsawin family described by Moody (Moody 1987), that of a family where the mother died before 1899 and two children died before 1893 (Indian Distribution Pay List 4/14/1893). The fact that four children were adopted out and that one person had died since the previous distribution indicates that the mother of the children died and that Simon Jr. was unable to care for the four young children by himself. This family also matches the circumstances and composition of the family interviewed by Gordon Day who identified four children (Elvine, Marion, William, and “their sister” in Gettysburg) and their father Simon, who were still living in 1957. Elvine and Marion also told Day that they were “brought up by” someone other than their parents: “Elvine was brought up by Mrs. Reeves, an Abenaki woman in Lakewood, N.Y. Marion was brought up by Mrs. Louis Watso, an aunt in

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Claremont, N.H.” (Day 7/1948-11/13/1962), which supports the connection to the Obomsawin family that had four children “adopted out” by 1893.

Household #78, “Simon Obumsawin Sr.,” had one adult male who was paid a share of the distribution. There were no increases or decreases in the composition of his household and only one individual had been paid on the previous distribution. This appears to be the Simon Obomsawin who married Catherine de Gonzague and was the father of Simon Jr. described above.

Household #79, Mathilda Obumsawin, was a single female, who was paid one share and who had been paid on the previous list. Household #77, Mary J. Obumsawin, also composed of a single female who had been paid one share on the previous distribution as well as one share on the 1893 distribution (Indian Distribution Pay List 4/14/1893). This is most likely the “Marie Jeanne” who was living with Simon, Sr. in 1875 and with Simon fils in 1873. She is also likely to be the “Aunt Mary” mentioned in Day’s interview.

These censuses support the reported family configurations and national origins of Elvine Obomsawin as recorded by Moody and Day. The censuses of St. Francis Abenaki at Odanak and 1893 Indian Distribution Pay List confirm family connections between members of the Simon Obomsawin [Sr.] family and confirm that his family lived in Canada, but not always in the Abenaki Indian Village. In fact, the family lived away from the village as early as 1873. Simon Obomsawin Sr.’s son, Simon Jr. was on the 1893 List apparently a widower with four young children that he “adopted out” after the death of his wife, Celine. Therefore, although the petitioner did not submit any additional vital records to confirm the birth dates and family connections, there is sufficient evidence in the record to verify that eight members of the SSA descend from Simon Obomsawin who was once part to the St. Francis Abenakis at Odanak. This Simon Obomsawin may have been living away from the village before 1873, but he associated with it through the 1890’s. At some point around 1900, this Simon Obomsawin moved from Canada to Vermont.

CC: OFASURNAME;Chron
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