Summary under the Criteria and Evidence for

Proposed Finding

Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians

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

Approved: 9-25-01
(Date)

Assistant Secretary - Indian Affairs

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INTRODUCTION

This report has been prepared in response to the petition received by the Assistant Secretary - Indian Affairs from the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians seeking Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR 83).

Part 83 establishes procedures by which unrecognized Indian groups may seek Federal acknowledgment of a government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit documentary evidence that the group meets the seven criteria set forth in Section 83.7 of 25 CFR. Failure to meet any one of the seven criteria will result in a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

Publication of the Assistant Secretary's proposed finding in the *Federal Register* initiates a 180-day response period during which factual and/or legal arguments and evidence to rebut the evidence relied upon are received from the petitioner and any other interested party. Such evidence should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660-MIB.

After consideration of all written arguments and evidence received during the 180-day response period, the petitioner shall have a minimum of 60 days to respond to any submissions by interested and informed parties during the response period. At the end of the period for comment on a proposed finding, the Assistant Secretary will consult with the petitioner and interested parties to determine an equitable time frame for consideration of written arguments and evidence submitted during the response period. The petitioner and interested parties will be notified of the date such consideration begins. The Assistant Secretary will make a final determination regarding the petitioner's status, a summary of which will be published in the *Federal Register* within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins. The final determination will become effective 90 days from its date of publication unless a request for reconsideration is filed pursuant to 83.11.

If at the expiration of the 180-day response period this proposed finding is confirmed, the Assistant Secretary will analyze and forward to the petitioner other options, if any, under which the petitioner might make application for services or other benefits.

Abbreviations and Acronyms

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

ANA	Administration for Native Americans, Department of Health and Human Services.
AS-IA	Assistant Secretary - Indian Affairs.
BAR	Branch of Acknowledgment and Research, Bureau of Indian Affairs.
BIA	Bureau of Indian Affairs.
Ex.	Documentary exhibit submitted by petitioner or third parties.
FD	Final Determination.
FR	*Federal Register.*
Narr.	Petition narrative.
NTAP	Nipmuc Tribal Acknowledgment Project.
OD	Obvious deficiencies letter issued by the BIA.
PF	Proposed Finding.
TA	Technical assistance letter issued by the BIA.

Standardized Spellings

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

Administrative History of the Petition

1. Name and Address of the Petitioner. The formal name of petitioner #69B, as listed in the current governing document and the name on its letterhead, varies. The group is incorporated under the name Nipmuck Indian Council, Inc. The usual letterhead reads, as it has for over 15 years, "Nipmuck Indian Council of Chaubunagungamaug." In the letters written on the above letterhead, withdrawing from petition #69, Edmund W. Morse Sr. referred to his group as the Chaubunagungamaug Band (Morse to Vickers, 5/22/1996; Morse to Reckord 5/22/1996). The "Certification of Status as Separate Petitioner" refers to the officers and members of the "Chaubunagungamaug Nipmuck Indian Council of the Webster/Dudley Nipmuck Indians" and states that the formal name of the group will henceforth be "Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians' (Nipmuc Pet. #69B Suppl. 12/10/1996).[1]

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

2. Self-definition of the Petitioner. Petitioner #69B defines its eligible membership as descendants of the Chaubunagungamaug, or Dudley/Webster, Nipmuc reservation in Worcester County, Massachusetts. The current governing document specifies that eligible applicants must descend from persons listed as Dudley/Webster Indians on the 1861 *Earle Report* and/or on the 1890 Dudley/Webster disbursement list (#69B Pet. Supp. 12/10/1996; Constitution, Section I.A). Not all persons eligible by these standards have chosen to affiliate with petitioner #69B; many remain members of the #69A petitioner (see detailed discussion below; see also the discussion under criterion 83.7(e) in the Summary Under the Criteria for petitioner #69A).

The final membership list submitted by #69B in January 1997 contained 212 persons. A significant number of these individuals, 93, were also listed as members by petitioner #69A. The great majority of the members reside in south central Massachusetts, northeastern Connecticut, or Rhode Island.

3. Administrative Chronology of the Petition. This petition for Federal acknowledgment has a complex administrative history. The discussion of kinship relationships of living persons in the following administrative chronology of the petition, although the information includes privacy

[1]The decision to use this name for the proposed finding (PF) was necessarily somewhat arbitrary. On the same date, the group certified the membership list of the "Chaubunagungamaug Nipmuck Indians of Webster/Dudley Band" (Pet. #69B Supp. 12/10/1996). The governing document submitted at the same time was titled: "Constitution of the Chaubunagungamaug Band of Nipmuck Indian [*sic*]" (#69B Supp. 12/10/1996).

data, is necessary to understand this decision because of the complex interaction between the leadership of the two current petitioning groups over the past two decades.

In 1977, Zara CiscoeBrough [*sic*] asked for information concerning the proposed Federal acknowledgment regulations (CiscoeBrough to Director, Office of Indian Services, 7/13/1977). Her questions were answered by John A. Shapard, Acting Chief, Branch of Tribal Relations (Shapard to CiscoeBrough, 8/2/1977). The formal letter of intent to petition was filed on April 22, 1980, by Zara CiscoeBrough as "chief of the Nipmuc Tribal Council." Ms. CiscoeBrough's letter "on behalf of the Nipmuc Tribal Council, Hassanamisco Reservation, Grafton, Massachusetts" was co-signed by Ann Mays and Lois Wilcox (CiscoeBrough to Shapard, 4/22/1980). The BIA assigned priority #69 to this petition. The *Federal Register* notice was published June 10, 1980 (45 FR 113, 39344, 6/10/1980).

The 1980 letter of intent was very limited in scope, encompassing in the wording on its face only the small state-recognized reservation at Hassanamisco, in the Town of Grafton, Worcester County, Massachusetts. The reservation was the private property of the Cisco family, and the council as constituted at that time comprised basically only members of the Cisco family (see detailed discussion in the proposed finding for petitioner #69A). However, other evidence in the record indicates that by 1980, some descendants of the Chaubunagungamaug Band (Nipmuck Indian Council of Chaubunagungamaug), comprised of some descendants of the 19th-century Massachusetts state reservation at Dudley/Webster, were cooperating in the petition with the Hassanamisco Band Council. The 1984 narrative and documentation (Nipmuc #69 Pet. 1984) and the 1987 response (Nipmuc #69 Resp. 1987) focused on these two specific Nipmuc groups. The joint organization, the "Nipmuc Tribe (or Nation)" never filed a letter of intent to petition separate from that presented by Zara CiscoeBrough on behalf of the Hassanamisco Reservation at Grafton, Massachusetts, in 1980.

The first formal governing document of the joint "Nipmuc Tribe (or Nation)," dated November 21, 1983, was signed by Walter A. Vickers, who about 1982 had been appointed by Zara CiscoeBrough as her successor as leader of the Hassanamisco Band of Nipmuc, and by Edwin W. Morse Sr. as leader of the Chaubunagungamaug Band of Nipmuck (Nipmuc #69 Pet. 1984, 220-220b). Mr. Vickers and Mr. Morse continued to cooperate on preparation of the documented petition in succeeding years, as indicated by their jointly signed May 11, 1984, memorandum to the petition researcher stating, "Please consider this brief communication our formal consent that you proceed with the Petition for Federal Recognition for the Nipmuc Tribe" (Vickers and Morse to Reno, 5/11/1984). The documented petition, received by the Bureau of Indian Affairs (BIA) on July 20, 1984, was submitted by "The Nipmuc Tribal Council Federal Recognition Committee."[2] The cover letter was signed by the researcher (Reno to Federal Acknowledgment Project, 7/11/1984).

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[2]The contacts listed were Walter A. Vickers, Buster Wilson, Dolly (Loving One) Swenson, and Ron (Little Crow) Henries. Ronald G. Henries was a first cousin of Edwin W. Morse, Sr.

On August 1, 1984, the BIA sent its acknowledgment of receipt of the petition to Walter A. Vickers (Shapard to Vickers, 8/1/1984). On March 1, 1985, Hazel E. Elbert, Deputy Director, Office of Indian Services, sent the first Obvious Deficiencies (OD) letter pertaining to the petition to Walter A. Vickers (Elbert to Vickers, 3/1/1985; cc:s to Mr. Edwin Morse and Dr. Stephen J. Reno). On March 25, 1985, the researcher, Stephen J. Reno, wrote requesting a meeting with BIA staff and stating: "I wish to convey a request from the Nipmuc Tribe that correspondence concerning this Petition be directed to the following persons; Walter A. Vickers . . . Chief Wise Owl" (Reno to Eibert [*sic*], 3/25/1985). The BIA replied to Reno with cc:s to Walter A. Vickers and Edwin "Wise Owl" Morse (Elbert to Reno, 4/9/1985).

On August 14, 1986, Little Turtle,[3] signing as "Secretary, Nipmuck Indian Council of Chaubunagungamaug," wrote to the BIA to clarify the position of Mr. Edwin Morse, Sr., within the overall Nipmuc organization. His letter stated that Morse was the "duly elected chief of the Chaubunagungamaug Clan (Band)," and that "an official installation recognizing Chief Wise Owl's office was held jointly with the Chaubunagungamaug and Hassanamisco Clans on the Hassanamisco Reservation in Grafton, MA six years ago" (Little Turtle to Director, Bureau of Indian Affairs, 8/14/1986). On September 4, 1986, a reply from Roland E. Johnson, BIA, to Little Turtle, Nipmuck Indian Council, stated that petitioning groups must work out their own governing procedures and leaders (Johnson to Little Turtle, 9/4/1986).

On June 16, 1987, the BIA received the Nipmuc #69 petitioner's response to the first OD letter. The BIA's letter of receipt for the additional copies was sent to Walter A. Vickers (Johnson to Vickers, 6/29/1987). A second OD letter from the BIA, dated February 5, 1988, evaluating the response, was sent to both Walter A. Vickers and Edwin W. Morse, Sr. (Elbert to Vickers and Morse, 2/5/1988; cc:s to Jim Cossingham, Edith Hopewell, Attorney General of Massachusetts).

On September 6, 1988, James H. Cossingham, on letterhead of the "Nipmuc Federal Recognition Committee," wrote the BIA asking whether there had been a response to the OD from "either chief" (Cossingham to Shapard, 9/6/1988).[4] The BIA replied that it had received no response to the OD from either Vickers or Morse and that to release genealogical materials protected by the Privacy Act would require a formal resolution from the Nipmuc Tribal Council (Johnson to Cossingham, 10/7/1988). During the next few months, correspondence from the petitioner to the BIA continued to be signed by Cossingham (Cossingham to BIA, received 5/8/89; Cossingham

[3]Not identified by full name. As of 1998, "Little Turtle" was currently used by a different member of the group. However, the 1986 author was a non-Indian named George Munyan who was a close associate of the Chaubunagungamaug for many years (Kowal, *Worcester Telegram* 8/19/1983).

[4]James H. Cossingham, also known as Eagle Hawk, had written to BAR as early as June 30, 1987, under letterhead of the "Nipmuc Federal Recognition Committee," requesting that John A. Shapard of BAR attend a meeting with the petitioner (Cossingham to Shapard, 6/30/1987; Johnson to Cossingham, 7/10/1987). A meeting between Shapard and the petitioner was scheduled for October 4, 1987, in Grafton, Massachusetts (Little to Cossingham, 9/2/1987). Also during this period, BAR provided a copy of the petition to Thomas Lewis Doughton (Johnson to Doughton, 10/27/1987; Doughton to Bureau of Indian Affairs, 11/7/1987).

to Director, BAR, received 6/5/1989).[5] The BIA informed him that, "It is up to the governing body of the petitioner, in regards to their petition, to notify the Branch of Acknowledgment and Research of any special person or organization that should be dealt with directly. The Bureau of Indian Affairs does not involve itself in the internal affairs of a petitioner" (Little to Cossingham, 6/15/1989).

After the BIA issued the second OD letter, a major structural change occurred in the Nipmuc application for Federal acknowledgment with the incorporation of the Nipmuc Tribal Acknowledgment Project (NTAP), with James Lewis as director, in 1989 (NTAP Articles of Organization, June 27, 1989).[6] On July 22, 1989, Walter A. Vickers and Edwin W. Morse, Sr., jointly signed a document with the NTAP giving that entity the authority to proceed with the petition. It read, in part, as follows:

> With this notification, the Nipmuc Tribal Council does withdraw from the acknowledgment petition brought forward on behalf of the Nipmuc Indians . . . both in the name of the Nipmuc Tribal Council and in the name of the Hassanamisco and Chaubunagungamaug Bands of the Nipmuc . . . we recognize the Nipmuc Tribal Acknowledgment Project Inc. the new petitioner on behalf of the Nipmucs . . . . (Morse and Vickers Legal Mandate from Tribal Chiefs to pursue program objectives, 7/22/1989).[7]

This document authorized the NTAP full access to the 1984 petition and 1987 response. The BIA did not at any time treat NTAP as a new or separate petitioner, nor did that organization ever submit a separate letter of intent. Material subsequently submitted by the petitioner

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[5] On May 8, 1989, the BIA's Eastern Area Office received a letter from Cossingham (Jayco Enterprises) on behalf of the "Nipmuc Federal Recognition Committee, Inc." It included the statement:

> There has never been a formal election of either of our two chiefs. One Chief supports federal recognition and the other one opposes it! However, THERE ARE SIGNIFICANT MEMBERS OF BOTH BANDS THAT FAVOR FEDERAL RECOGNITION. With that in mind, the Federal Recognition Committee has been formed" (Cossingham to BIA, 5/8/1989). [emphasis in original]

Cossingham also posed a question as to what "inactive status" meant. On June 5, 1989, BAR received a letter from Cossingham (Jayco Enterprises) stating: "our new group, called the Nipmuc Federal Recognition Committee Inc., will continue to pursue our federal recognition status, with the support of Chief Wise Owl" (Cossingham to BIA, 6/5/1989). On June 15, 1989, the BIA replied to Cossingham indicating that the petition was not on "inactive status" (there was no such status under the regulations) and that it was up to the petitioner's council to designate a spokesperson (Little to Cossingham, 6/15/1989).

[6] Signers of the articles; Ronald G. Henries, Providence, RI; James H. Cossingham, White River Junction, VT; Ronald S. Scott, Worcester, MA; Kenneth R. Brown, Providence, RI. Nipmuc Tribal Acknowledgment Project, 390 Main Street, Worcester, MA 01608. Bylaws adopted June 27, 1989.

[7] The signatures of "Chief Wise Owl" [Edwin W. Morse, Sr.] and "Chief Natachamin" [Walter A. Vickers] were both witnessed by Ronald G. Henries [Little Crow] and Thomas Lewis Doughton.

indicated that between 1989 and 1992, NTAP compiled a large amount of documentation pertaining to the history of the Nipmuc and descendants of historical Nipmucs.[8] However, the BIA received no further information concerning the progress of the response to the second OD letter until an April 30, 1992, letter from NTAP[9] to BAR requesting that the petition be "reactivated" because the group had a grant from the Administration for Native Americans (ANA) (Cossingham to Rikord [*sic*], 4/30/1992). On July 14, 1992, a reply from the Acting Chief, BAR, to Cossingham stated that the BIA would like to clarify in writing, as in a recent phone conversation, that the Nipmuc petition was not on "inactive" status. The reply also stated: "We have received a copy of the signed statement from the Nipmuc tribal governing body, which notified our offices that all of their recognition efforts will be handled by the Nipmuc Tribal Acknowledgment Project and that we should direct all Nipmuc related correspondence to your office" (Acting Chief, BAR, to Cossingham, 7/14/1992).[10] Petitioner #69 submitted no additional documentation between July 1992 and August 1993.

The BIA files contain no material which explains the background of a memorandum, dated August 21, 1993, by which Edwin W. Morse Sr. authorized all Chaubunagungamaug records to be made available to Donald B. Murdock and/or his attorneys or representatives (Morse to To whom it may concern, 8/21/1993). On October 27, 1993, Morse informed BAR by fax that, "I plan to continue the long process of acknowledgement started for the Nipmuc Indian Nation some years ago" (Morse to Reckford [*sic*], 10/27/1993). BAR acknowledged receipt of this letter on November 24 (Reckord to Morse, 11/24/1993).

During November of 1993, the NTAP held nominations for a Nipmuc Tribal Council, under a new constitution that had been ratified and adopted under the auspices of the NTAP,[11] but no election was held. That there was internal conflict concerning this new development was indicated to the BIA by a November 22, 1993, letter from Edwin W. Morse, Sr., to BAR stating:

> We have been informed of unauthorized groups and/or individuals implying by correspondence to represent the Nipmuck (Nipmuc) Nation including both the Chaubunagungamaug and Hassanamisco Bands. There can be no official appointment of new leaders or representatives except by consensus of the entire memberships of both bands named above. . . . In conclusion we hereby request

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[8]See detailed discussion below in the narrative of the petitioner's development during the modern era.

[9]The letterhead listed: Thomas L. Doughton, Project Director; Joan E. Luster, Community Development Specialist; Shelleigh Wilcox, Project Research Assistant; Rhonda Henries Silva, Office Manager.

[10]Enclosed with this letter, as requested by Dr. Thomas Doughton, was a copy of the 1987 petition supplement.

[11]The BIA has never received any description of the procedure by which this document was created or the nature of the membership which voted on its ratification. It remains the effective current governing document of petitioner #69A (see detailed discussion below, under governing documents).

> that all activities cease at once regarding the Nipmuc(k) recognition project until we are satisfied that no unauthorized parties are purporting to represent the interests of our people" (Morse to Reckord, 11/22/1993).

On December 10, 1993, BAR informed Morse by letter that petition files are public records; that privacy material is protected, and that BAR had not received any materials which would change the petition's status in the acknowledgment process, but added the following procedural information:

> On occasion, people we do not know and who are not on the original petition for acknowledgment have come to the BAR purporting to represent a particular petitioner. When this happens, we request that the new person document how they have become the group's representative, such as an election or following the death of the former leader. We often research claims of changes in leadership to determine in [*sic*] the new leader actually represents the same group which turned in the petition originally. Similarly, when attorneys represent themselves as legal representatives of a petitioner, we request that the leader, council or original signers of a petition certify them.
>
> However, sometimes factions arise within groups, and the BAR is unable to resolve which leader or governing body is bona fide. When this happens, we often break the group into two separate petitions who share a single priority number. The Bureau would not become involved in removing an elected official from his or her position. The group should follow their own procedures for resolving conflict. If you don't have such procedures you might consider writing a constitution which includes them (Reckord to Morse, 12/10/1993).

On December 12, 1993, the BIA received the following signed statement from Walter A. Vickers, "Chief Natachaman," Nipmuc Indian Council:

> Mr. Charles Hamilton will be representing (Walter A. Vickers) at this special meeting, with Chief Wise Owl and Mr. Donald Murdock, and others present. I have alerted Mr. Hamilton that he in fact has my authority to act and speak as he wishes on behalf of the Council. . . . I trust the meeting will go well (Vickers to Dear Sirs: To whom it may concern, 12/12/1993).

This was followed by the next document, dated December 15, 1993, and headed "Nipmuck Tribe Resolution: (Joint resolution #1)":

> Chaubunagungamaug Clan and Hassanamisco Clan are the Duly Elected Representatives of the Nipmuck Nation; Whereas an Executive Committee composed of Wise Owl, Red Fox (CH) and Natchaman and Little Fox; . . . therefor be it resolved that any attempts by "Tribal Acknowledgment Project" Jim

> Louis and others Do Not Represent the Nipmuc Nation and are not authorized to hold elections or attempt to change the tribal form of Nipmuck government at any time and Only Chief Wise Owl and Chief Natachaman are authorized to speak for the Nipmuck Nation (Resolution 12/15/1993).[12]

The above resolution was prepared in connection with a December 15, 1993, meeting in Washington, D.C. between representatives of petitioner #69[13] and, from the BIA, Assistant Secretary - Indian Affairs (AS-IA) Ada E. Deer and BAR Chief Holly Reckord. A press release was issued, signed by the four leaders (For immediate release n.d.). The resulting memorandum of agreement agreed "that the Chaubunagungamaug and Hassanamisco Clans should become one nation" and was signed by two leaders from each subgroup on December 30, 1993 (Agreement, 12/30/1993).[14]

The agreement made at the December 15, 1993, meeting did not last long. The NTAP, which had been authorized by Vickers and Morse to carry out the acknowledgment process on behalf of #69 in 1989, objected to the new initiative under their leadership in a January 18, 1994, resolution signed by James P. Lewis. This resolution reiterated that the Board of Directors of the Nipmuc Tribal Acknowledgment Project was the sole elected governing body of the Nipmuc Tribe with Murphy and Associates as the sole authorized representative an protested against other unelected members of the tribe having approached the BIA, passed 7/0 (Resolution, Nipmuc Tribal Acknowledgment Project Board of Directors, 1/18/94)[15].

On February 3, 1994, BAR received a letter from Edwin W. Morse, Sr., stating that he would move ahead with petition, and that Donald Murdock said that the additional material had been

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[12]Signed by "Chief Matachaman" [*sic*], Walter A. Vickers; "Chief Red Fox," Edwin Morse Jr.; "Chief Wise Owl," Edwin Morse Sr.; "Chief Little Fox," Charles Hamilton; signatures witnessed by Frank Dupuis.

[13]Present representing petitioner #69: Edwin W. Morse Sr., Edwin W. Morse Jr., Charles O. Hamilton; two lawyers from Dorsey and Whitney; Donald Murdock from Casino Magic.

On December 22, 1993, Edwin W. Morse Sr. wrote BAR, thanking Holly Reckord for help with the December 15 meeting (Morse to Reckord, 12/22/1993). On January 6, 1994, he again wrote noting what had been agreed at the December 15 meeting, mentioning what the attorneys had agreed to provide in the way of additional information in an addendum to the petition, and thanking BAR for an offer of technical assistance (Morse to Reckord 1/6/1994).

Later correspondence in the BAR administrative file concerning the petition indicates that the petitioner's leaders believed that supplementary petition documentation, including a tribal roll, was submitted to the BIA at the time of the December 15, 1993, meeting, by Jim Townsend or Virginia Boylan [attorneys] (see discussion below).

[14]The copy received by BAR was "signed" by "Chief Wise Owl," "Chief Matachaman," "Chief Red Fox," "Chief Little Fox," witnessed by Patricia A. Burnham. However, all four signatures appeared to be in the same handwriting.

Associated documents included "Nipmuck Nation Executive Council By Laws" signed by Wise Owl, Natachaman, Red Fox, and Charles O. Hamilton [Little Fox], the signatures witnessed by Frank J. Dupuis.

[15]BAR received a copy of this resolution on February 16, 1994.

sent in (Wise Owl to Reckord, undated, received 2/3/1994). By contrast, Walter A. Vickers, on February 9, 1994, withdrew from the December 1993 agreement and reaffirmed his support of the NTAP:

> Whereas I, Walter Vickers, Chief of the Hassanamisco Band of the Nipmuc Nation, have previously endorsed The Nipmuc Tribal Acknowledgment Project as the entity to seek Federal Recognition for our Nipmuc Nation, I hereby further resolve that Murphy and Associates, Inc. . . is the sole authorized representative of The Nipmuc Nation regarding a petition for Federal Acknowledgment and related purposes, as also endorsed by The Nipmuc Tribal Acknowledgment Project (Vickers Resolution, 2/9/1994).

On February 16, 1994, a resolution to the following effect: "that the Nipmuc Tribal Acknowledgment Project to be the sole authorized body to complete the petition for Federal Acknowledgment of the Nipmuc Nation, etc. and be the sole representative," signed by Walter A. Vickers, James Lewis, and Ronald G. Henries (Statement By Elders of the Nipmuc Nation, 2/16/1994), was presented at a meeting of BAR staff with Al Catalano and Sue Ghosch of Murphy and Associates; Ron Henries, Jim Louis [*sic*], and Walter Vickers, held the same day (BAR Admin. File, Petition #69).

Later in February, Wise Owl [Edwin W. Morse, Sr.] wrote BAR objecting to the February 16 meeting and enclosing copies of documents from the December 1993 meeting with Ada Deer (Morse to Reckord, undated, received by BAR 3/3/1994).[16] During the spring of 1994, there was some evidence that some members of the group were aware of and concerned about the internal leadership disputes.[17]

On July 20, 1994, Morse expressed concern about the status of the petition: "I have been informed that the petitions that were turned into the Bureau, from me and the Nipmuck Council of Chaubunagungamaug have been mislaid or something. Could you look into this matter. . . . The last petition was sent in, in Dec. of 1993, ..." (Morse to Reckord, 7/20/1994). The BIA replied that no additional petition materials had been submitted at the December 1993 meeting (Reckord to Wise Owl, 8/2/1994). During the summer and fall of 1994 and the early winter of

[16]The letterhead for this communication read: "Nipmuc Nation Chaubunagungamaug - Hassanamisco" and included both names, "Chief Wise Owl" and "Chief Natachaman."

[17]Letter from Cheryl Magos, Dolly Swenson, and Black Eagle Sun to BAR re: internal Nipmuc disputes, with extensive enclosures (Magos, Swenson, and Sun to Record [*sic*], 3/10/1994). The BIA reply reiterated that the BAR files are public documents except for materials protected by the Privacy Act (Reckord to Magos, 3/31/1994).

1995, Edwin W. Morse, Sr., continued to submit supplementary documentation to the BIA as a response to the second OD letter.[18]

On December 10, 1994, Edwin W. Morse Sr. [Wise Owl] wrote confirming a conversation among Davis, Morse, and Patricia Burnham: "I, Chief Wise Owl wish to go forth towards Federal Recognition" and be the only person to contact BIA; he enclosed documentation (Morse to BIA, 12/16/1994).[19] On January 1, 1995, the BIA thanked him for his letter dated December 10, 1994, and FAX transmissions dated December 16 and December 29, stating that BAR would evaluate the draft of an "Addendum to Nipmuc Tribe Federal Recognition Petition" as #69's response to the OD letter of February 5, 1988 (Reckord to Morse, 1/5/1995).

During the spring of 1995, there were some indications that internal conflicts continued to exist.[20] However, these did not any longer appear to involve the leadership of the Hassanamisco

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[18]8/24/1994, Draft addendum to Nipmuc Federal Recognition petition (hand-dated January 1994) logged in by BAR.

Letter enclosing one copy each of tribal roll application form and associate membership form (Morse to Reckord, 8/24/1994).

Letter sending additional data requested (Wise Owl [Morse] to United States Department of the Interior, 11/1/1994).

Fax of sample membership list (Burnham to Record [*sic*] and Davis, 12/16/1994).

Letter sending "these books to add to my Addendum to Nipmuck Tribe Federal Recognition Petition." Re: language and customs (Wise Owl [Morse] to Reckord and Davis, 1/16/1995).

[19]On June 5, 1995 the BIA received a third-party submission by Ron (Little Crow) Henries, a member of the petitioning group, primarily re the genealogies of the Jaha, Vickers, etc. families (Henries to Davis, 6/5/1995; R. Henries 1995). The BIA acknowledged the "additional submission to the Nipmuc petition" received by BAR on 6/9/1995 and stated that if the material was to be considered an official part of the petition, must be submitted by Morse, Vickers, or combined tribal council (Reckord to Henries, 6/20/1995).

[20]During this period, several attorneys and other third parties requested copies of the #69 petition files, which caused concern on Mr. Morse's part: "Someone told me that some lawers [*sic*] said to put a hold on the NIPMUCK petition, If you can would you please send me their names, and address. I would like to know where they got the permission or who gave them the permission to do a thing like that . . . I do hope that you will keep me advised on the people that are trying to claim that they are a new clan . . . ." (Morse[Wise Owl] to Reckord, undated, received 1/18/1995).

Query from Cossingham by FAX on status of Nipmuc petition, and requesting on behalf of the tribal council a copy of the "complaint" that had been filed (Cossingham to Davis, 5/1/1995).

Band, the Chaubunagungamaug Band, or the NTAP,[21] all of whom were now known under the general title of the Nipmuc Nation, with headquarters in Sutton, Massachusetts.[22]

On February 16, 1995, a letter from BAR to Edwin W. Morse Sr. [Wise Owl] declared the Nipmuc petition, #69, ready for active consideration (Reckord to Morse, 2/16/1995). However, a subsequent review by BAR staff indicated that the documentation was still not complete. On May 10, 1995, Reckord wrote Edwin W. Morse, Sr. [Wise Owl] stating that the full tribal membership list must be submitted before the petition could be placed on active consideration (Reckord to Morse, 5/10/1995). This material was received on July 11, 1995,[23] and the petition was officially placed on active consideration the same date.[24] The letters notifying active status were dated August 25, 1995, but noted that BAR had been informed that another addendum to the membership list was still forthcoming (Reckord to Morse, 8/25/1995).[25] During the next few months, the BIA remained in contact with the petitioner, with Edwin W. Morse, Sr., as the primary point of contact.[26] On January 17, 1996, a letter was sent by the Nipmuc Nation tribal

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[21]Farsight Marketing, Inc. Letterhead, Guy Conrad, President: Listing of Nipmuc Council, submitted by Cossingham: names included both Edwin W. Morse Sr. and Walter A. Vickers as "chiefs" (Cossingham to BAR, March 1995).

Hassanamisco Nipmuc Indian Council letterhead, "I look forward to working closely with you . . . as we finally move the Nipmuc Nation toward recognition . . . Please make sure that both Edwin Morse and myself receive all information during this process. As you've just heard (we should have passed this along earlier!) we've all come together as one 15 member council and you will be getting a letter from all of us to this effect" (Vickers to Davis, 5/11/1995).

Memorandum, James Cossingham to BAR thanking for meeting with himself and Guy Conrad. "Shortly, I believe you will receive a communication signed by all 15 members of the Tribal Council indicating we are working together as a nation" (Cossingham to Davis, 5/11/1995; letter, Cossingham to Reckord, 5/11/1995).

[22]In a July 6, 1995, letter to the Air Force Base conversion Agency, Edwin W. Morse Sr. signed as "Chief Wise Owl, Chief of the Nipmuck Nation" (Morse to Olsen, 7/6/1995).

[23]Nipmuck National Tribal Roll, Chaubunagungamaug Band and Hassanamisco Band distinguished from one another in the presentation, dated 4/9/1995. First copy: Received by BAR stamp 7/11/1995. Second copy: Received by BAR stamp 9/5/1995. Signed by: "Chief Wise Owl", Edwin Morse; Lucyann Loving One Swenson; "Chief Matachaman" (Walter A. Vickers), Pam Vickers, Conrad J. Luster, Pamela A. Ellis, James Eagle Hawk Cossingham, Wm. W. Gould Sr.; Donald R. Gould, Ronald Little Crow Henries, Ruth Star Bessette; "Chief Red Fox," Edwin Morse Jr.

[24]Under the 25 CFR Part 83 regulations, this established a deadline of July 11, 1996, for issuance of the proposed finding on petition #69 by the AS-IA.

[25]BIA to Edwin W. Morse Sr. [Wise Owl] notifying active status; cc: to BIA Eastern Area Office, Governor of Massachusetts, Attorney General of Massachusetts, Walter A. Vickers.

[26]Dr. Thomas L. Doughton requested copies of the most recent petition submissions on October 8. 1995 (Doughton to Davis 10/8/1995). These were provided by BAR on November 2 (Reckord to Doughton 11/2/1995).

There was a meeting of the Nipmuc Nation and counsel with BAR staff on December 4, 1995 (BAR Admin. File #69). As a follow-up to this meeting, Tadd Johnson [legal counsel] submitted, on letterhead of the

office to clarify certain matters pertaining to discussion at a meeting held with BAR on December 4, 1995. This letter was signed by several council members, including both Edwin W. Morse Sr. and Walter A. Vickers (Nipmuc Nation to Reckord, 1/17/1996). The BIA responded to the points raised on February 16 (Reckord to Morse, 2/16/1996). On February 28, BAR staff met again with the petitioner's counsel (Johnson to Reckord and Davis, 3/4/1996).[27]

During the spring of 1996, BAR planned for two staff members, to make a technical assistance visit to the various petitioners in the region. Since the petition was already on active consideration, and had been since July of 1995, BAR intended that the genealogist assigned to prepare one of the technical reports for the proposed finding combine the technical assistance meeting with a site visit. During the course of the planning for this visit, on March 31, 1996, Walter A. Vickers wrote "regarding certain recent conflicts and divisions within the Nipmuc Nation Tribal Council." Mr. Vickers stated, "If, as Mr. Morse alleges, you have chosen, for whatever reason or personal propensity, to deal exclusively with him and to treat him as the official representative or spokesperson for the Nipmuc petition, you have stepped well beyond the limits of your mandate of providing 'technical assistance' to tribes and have interfered in our sovereign affairs" (Vickers to Davis, 3/31/1996) [emphasis in original]. The letter continued:

> It is clear to us that your conversations with Mr. Morse are having an adverse effect on Nipmuc governance, and we must ask that you refrain from dealing with him on the Nipmuc Nation's petition which he does not represent in any official capacity. We ask that any and all technical assistance be provided to either our legal counsel, Tadd Johnson, or the head of our research team, Bill Starna, until the Council can select an official representative.
>
> We must request that you arrange immediately to come to Massachusetts to meet with our Council. We feel that, in addition to a written response, it has become necessary for us to meet with you in person. Please inform us as to your earliest availability for such a meeting (Vickers to Davis, 3/31/1996).

Nipmuc Nation Tribal Office, a listing of the current "official representatives and Council Members of the Nipmuc Nation": Ruth Bessette, Ray Cote, James Cossingham, Pam Ellis, William Gould, Don Gould, Charles Hamilton, Mary Ann Hendricks, Ron Henries, Conrad Luster, Edwin Morse, Edwin Morse Jr., Lucyann Swenson, Pam Vickers, Walter Vickers (Johnson to Reckord, 1/21/1996). This list included the names of both Edwin Morse Sr. and Walter Vickers (Johnson to Reckord, 1/21/1996). For continuing coperation, see also a letter from Edwin W. Morse Sr. [Wise Owl] to Holly Reckord. cosigned: Ruth Bessette, Edwin W. Morse Jr., Conrad L. Luster, Charles O. Hamilton, Walter A. Vickers, Wm. W. Gould Sr., Raymond Cote, Donald R. Gould (Morse to Reckord, 1/17/1996).

[27]On February 16, 1996, the BIA wrote to Edwin W. Morse Sr. [Wise Owl] covering six points "clarifying points of discussion following the Technical Assistance meeting of December 4, 1995" (Reckord to Morse, 2/16/1996). There was another meeting between BAR staff and Nipmuc counsel on February 28, 1996. As a follow-up to this meeting, the attorney wrote a letter indicating that the petitioner understood that they had until August 1, 1996, to submit supplementary materials (Johnson to Reckord, 3/4/1996).

Vickers requested that the BIA's reply be directed to himself, Ron Henries, Johnson (Vickers to Davis, 3/31/1996). On the same date, March 31, BAR received a fax from Edwin W. Morse Sr. transmitting copies of some genealogical documentation (BAR Admin. File, #69). Morse questioned the authenticity of some of this material.

Approximately two weeks later, on April 15, 1996, a lawyer in the firm of the Nipmuc legal counsel wrote BAR concerning the proposed technical assistance meeting in Massachusetts.[28] He stated that the Nipmuc Tribal Council wanted to limit the topics to be discussed at the meeting, had recently retained new consultants, and was in the process of "improving its baseline rolls and strengthening numerous areas of the overall petition" (Quigley to Reckord and Davis, 4/15/1996). The letter continued:

> Hence, the Tribal Council respectfully requests . . . that you refrain from reviewing its genealogical or other records at this time. The Tribal Council feels that such a review by you at this time would be unproductive and premature. The Tribal Council respectfully asks that you confirm in writing by April 19 that your visit will be limited to the matters covered in this letter. The Tribal Council also asks that prior to you actually conducting any formal site visit in which you review any materials that you provide it with at least thirty (30) days notice (Quigley to Reckord and Davis, 4/15/1996).

The attorney's letter also repeated the assertion that August 1, 1996,[29] was the date agreed upon for final submission of all Nipmuc Nation materials at the February 28, 1996 meeting (Quigley to Reckord and Davis, 4/15/1996).[30] On April 30, 1996, a letter was delivered to the BIA

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[28]During April of 1996, the BIA also received letters and copies of letters from some of the petitioner's members and would-be members:

Letter from Thomas L. Doughton to "Geneology Committee" at the Nipmuc Nation Tribal Office; cc: to Kay Davis, BAR. Re: procedures and membership standards (Doughton to Nipmuc Nation Tribal Office, 4/20/1996). Doughton directed a subsequent letter to BAR in September after "repeated and unsuccessful attempts on behalf of myself, my extended family, and other Nipmuc Indians to obtain information on either or both petitions to BAR . . . ." (Doughton to BAR, 9/9/1996).

4/20-21/1996 ANA Technical Assistance Consultation with Brian Myles at Nipmuc Nation Tribal Office. Present: Nipmuc Tribal Council Members Bill Gould, Charlie Hamilton, Conrad Luster, Pam Ellis; Nipmuc Tribal Member and Research Coordinator Rae Gould.

Pamela A. Ellis, "Research Director" for the Nipmuc Nation, welcoming visit from Holly Reckord and Kay Davis (Ellis to Reckord and Davis, 4/24/1996). Ellis had first requested a copy of the Nipmuc petition from BAR in 1994 (BAR Admin. File, #69).

[29]A date subsequent to July 11, 1996, when the proposed finding should have been issued under the regulations.

[30]Walter A. Vickers' letter of April 30, 1996, referred to a letter to BAR from Tadd Johnson, counsel, dated April 16, 1996. No such letter was located in BIA records. Possibly Vickers meant the April 15 letter from Kevin Quigley of Johnson's firm.

genealogist on behalf of the Nipmuc Nation Tribal Council signed by "Chief Natachaman" (Walter A. Vickers) "to address any misunderstanding that may have occurred regarding your visit Monday to the Nipmuc Tribal Offices for the purposes of document inspection." It stated:

> [W]e were under the impression that this visit would not include inspection of genealogical documentation by the actions (or more accurately inaction) of our original team of anthropologists. We were misled into believing much of the work we are now trying to complete in an accurate and timely manner had been accomplished by Ms. Grabowski. As Mr. Johnson's letter indicated, we feel there is much of value that may still be accomplished by your visit, other than a final survey of genealogical records (Vickers to Davis, 4/30/1996).
>
> We request that you forward to us, in writing, any questions, and the nature of their necessity, and we will do our utmost to facilitate answers. We also believe this will prove most helpful to the Tribe, in the nature of technical assistance, in identifying for us any rough spots in our petition. We will, of course, do our utmost to satisfactorily answer any outstanding concerns, and fully supplement our petition, in time for the next BAR visit in July (Vickers to Davis, 4/30/1996).[31] [footnote added]

Under these limited conditions, the technical assistance visit and the genealogical site visit took place the first week of May, 1996.

The dispute over access to the petitioner's genealogical records by the BAR genealogical researcher led to a renewal of the internal leadership conflicts within petitioner #69. On May 3, 1996, "Chief Wise Owl" [Edwin W. Morse, Sr.], Nipmuck Indian Council of Chaubunagungamaug wrote to the BIA that, "This letter is to inform you that the Chaubunagungamaug Band had nothing to do with the letter of April 30, 1996, from Walter Vickers. . . Walter A. Vickers does not represent us, nor does he speak for us at any time. Chaubunagungamaug files are always open to you and all your staff" (Morse to Davis, 5/3/1996). At a council meeting of the Nipmuc Nation, May 8, 1996, Morse announced that the Chaubunagungamaug Band was withdrawing from the petitioner (Nipmuc Nation Minutes

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[31] Petitioner's counsel later attempted to minimize the impact of the restrictions contained in Vickers' letter:

> Your comment [in recent phone conversation] that the April 30, 1996 letter, delivered directly to Kay Davis on behalf of the Tribal Council, somehow precluded Kay from reviewing tribal records is misplaced. The purpose of the letter was not to hinder at all Kay's review of tribal records; rather, it was meant to provide technical assistance to the Tribe by helping it focus on the specific records Kay wished to review. In this way, the Tribe would be in a better position to provide Kay with pertinent information which it would not otherwise understand to be relevant (Quigley to Reckord 5/9/1998).

5/8/1996; #69B Pet. Supp. 6/19/1997).[32] On May 22, 1996, an unsigned faxed copy of a letter from Edwin W. Morse ["Chief Wise Owl," Nipmuck Indian Council of Chaubunagungamaug] to Holly Reckord formally notified the BIA:

> of the decision of the Chaubunagungamaug Band regarding its petition . . . On May 8, 1996, as Chief of the Chaubunagungamaug Band, I informed a committee meeting of Nipmuck Indians of the decision of the Chaubunagungamaug Band to proceed for recognition solely on its own. We will not be allied, associated, or affiliated with the Hassanimisco Band or any other group of Nipmuck Indians (Morse to Reckord 5/22/1996).

Morse alleged the following reasons for the split:

> There have been excessive irreconcilable differences between us and the Hassanimisco Band and others, and it is our decision to separate. Among these differences have been improper and incomplete genealogies to the extent that many of the members of the Hassanimisco Band and others cannot be proven to be Nipmuck Indians and have subsequently delayed, denied or withheld information regarding genealogies. There have been overt attempts to keep incriminating evidence from surfacing. This is not acceptable to me and my Band (Morse to Reckord, 5/22/1996).

Also on May 22, 1996, the BIA received an unsigned fax copy of letter from "Chief Wise Owl" [Edwin W. Morse, Sr.] to Mr. Walter Vickers:

> This letter is a written notification and confirmation to you, as titular head of the Hassanimisco Band of Nipmuck, and to all members of the Nipmuck Nation of my actions at our meeting of May 8, 1996, whereby I announced that effective that day, May 8, 1996, the Chaubunagungamaug Band was proceeding for Federal Recognition solely on its own with no affiliation whatsoever with the Hassanimisco Band or any other group or groups (Morse to Vickers, 5/22/1996; BAR Admin. File #69).

On May 31, 1996, the BIA received a copy of the signed Chaubunagungamaug withdrawal letter from Edwin W. Morse, Sr. [Wise Owl] (Morse to Vickers, 5/22/1996) and also a partial membership list compiled by Robert DiNapoli (DiNapoli to Davis, 5/28/1996).

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[32]On May 7, 1996, BAR received a faxed copy of "Dear Member" letter from Edwin W. Morse Sr. [Wise Owl] to members of the Chaubunagungamaug Band, saying it was in their best interest to separate from Hassanamisco and that if they wished to remain with Chaubunagungamaug they should sign below and return the form to him by June 1, 1996 (Morse to Dear Member, 5/7/1996).

The BIA decided to accept the withdrawal of the Chaubunagungamaug band, thus separating the Nipmuc into two separate petitioners effective this date and regarding them as sharing the same petition up to the date of May 31, 1996; thenceforth to have two separate sets of petition materials. The Nipmuc Nation was denominated #69A. The Chaubunagungamaug Band was denominated #69B. Informally, the BIA indicated to the petitioners that in spite of the separation, the research on both petitions would be done at the same time. Counsel for #69A acknowledged this information: ". . . you indicated that even if the Tribe was to be split into two bands, BAR . . . would perform the remaining reviews (i.e. anthropological, genealogical, and historical) at the same time for both groups. this means that although each group would be on a different "track" under the petition, BAR will not proceed faster with one group or the other." (Quigley to Reckord 5/9/1996, 2).

The separation of the two groups was far from complete at this time. For example, two of Morse's daughters, although on the council of #69B, continued as well to serve on the council of #69A for several more months (see Swenson and Bessette to Holly Reckord, 6/13/1996; Swenson to Reckord, DeMarce, and Stearns, 12/2/1996). A document from #69A dated May 18, 1997, indicated that Swenson was no longer serving on the Nipmuc Nation council (Henries to Dear Nipmuc Nation Tribal Member, 5/18/1997). Throughout the summer of 1996, the BIA continued to receive indications of communications between the two Nipmuc groups (see discussion under criterion 83.7(e)). Additionally, as will be seen below under criterion 83.7(e), the numerical majority of the descendants of the former Dudley/Webster, or Chaubunagungamaug, Reservation have continued to maintain their enrollment in petitioner #69A. The situation leading up to and immediately following Morse's decision greatly delayed the BIA's processing of the Nipmuc petition, for as of May 1996, three months before the due date for the proposed finding on #69, the BIA did not have a current, complete, membership list for either of the two petitioners, #69A or #69B.

Since the separation was not amicable, #69B found it difficult to obtain access to the records held in the Sutton office.[33] Between August 1996 and January 1997, #69B submitted several partial and/or variant membership lists to the BIA. These are discussed below, in detail, in the section on enrollment history. On January 31, 1997, the BIA received a letter from Edwin W. Morse, Sr. stating, "We, the petitioner of Chaubunagungamaug (69B), are letting you know that we plan to proceed with our current process. We are not requesting an extension" (Morse to Reckord 1/31/1997).

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[33]FAX copy, letter of Edwin Morse to Nipmuc Nation Tribal Office re: letter that they sent out to both 69A and 69B requesting that genealogical charts and accompanying documentation be sent to the Sutton office (Morse to Nipmuc Nation Tribal Office, 7/9/1996).

Undated letter from Dolly Swenson (on behalf of Wise Owl) concerning genealogy of Thomas and Peleg Brown families. Asks BAR "to assist us in keeping our tribal roles [*sic*] accurate" (Swenson to Reckord, received by BAR 8/22/1996).

Petitioner #69B submitted supplementary documentation on February 24, 1997, April 1, 1997, and April 2, 1997. The BAR historian assigned to the case made a site visit in Massachusetts, including research on both Nipmuc petitioning groups, from May 27, 1997, through June 6, 1997. Petitioner #69B submitted documents, requested by the historian during the site visit, on June 16, 1997, and June 19, 1997. On August 15, 1997, the BAR staff met with Edwin W. Morse Sr., Edwin W. Morse Jr., Lucyann [Dolly] Swenson concerning the progress of evaluation. The BAR anthropologist's site visit took place in June 1998.

4. BIA Description of the Issues. From the perspective of Federal acknowledgment, the essential issues in this petition are as follows. The petitioner asserts continuity with the historical Chaubunagungamaug Band, or Dudley/Webster, Nipmuc Indians. The BIA's study of the history of that entity indicates that the majority of the petitioner's members do descend from the Dudley/Webster Indians as listed on the 1861 Earle Report (*Earle Report* 1861) compiled by the Massachusetts Superintendent of Indian Affairs and on the 1891 final distribution list for the assets of the reservation property in the Town of Webster, Massachusetts.

However, while the petitioner has shown genealogical descent from the historical tribe, the petitioner has not shown continuity either of community or of political authority. The evidence in the record shows continuity not only through 1869, the date of the Massachusetts Enfranchisement Act and termination of the Dudley/Webster reservation, but on a weaker level through 1891. However, after the 1891 final distribution list, there is no documentation in the record showing that the descendants of the Chaubunagungamaug Band, or Dudley/Webster Indians, continued to maintain either social interaction with one another or political authority or influence over an entity from 1891 through the late 1970's. References to descendants of the Dudley/Webster families in newspaper coverage of historical commemorations and other ceremonial events from the first 3/4 of the 20th century are to individuals or to nuclear families.

Additionally, the Chaubunagungamaug Band, or Clan, of Nipmuck Indians, as organized in the late 1970's and early 1980's, consisted essentially of only part of one family line of the Dudley/Webster descendants, namely most of the direct descendants of Elizabeth (Henries) Morse. There is little indication in the record that its leadership represented other branches of the Henries family, much less the other Dudley/Webster family lines. It was not until after the May 1996 split with petitioner #69A that the current petitioner, #69B, added some descendants of other Dudley/Webster lines to its council. Even now, the majority of identified descendants of the historical Dudley/Webster Indians are members of petitioner #69A rather than of petitioner #69B.

5. Irrelevant Issues. The Federal acknowledgment regulations do not require a study of some items, such as the archaeology, material culture, subsistence practices, or religious ideology of Indian groups prior to contact, except in instances where these may provide data which directly impact the 25 CFR Part 83 regulations. The regulations focus on the maintenance of tribal continuity since contact.

The proposed finding is not a legal brief and does not purport to analyze claims issues. A determination under 25 CFR Part 83 is a determination of tribal status of the petitioning group only. Neither this proposed finding nor the ensuing final determination will directly address claims issues or reservation ownership. In this instance, the reservation was, and since colonial times had been, a reservation established first by the colony and then by the state. It was never a Federal reservation. Materials pertaining to these topics have been reviewed only to determine whether they provided information concerning the status and character of the petitioner.

The 1790 Non-Intercourse Act is not immediately relevant to Federal acknowledgment. This Act pertains to the legitimacy of land transactions that took place after its enactment. It does not, however, determine the current tribal status of the group whose land has been or may have been affected by those transactions. The legality of the post-1790 sales transactions and the termination of the Dudley/Webster reservation by Massachusetts under this act are questions separate from the issue of Federal acknowledgment of the current petitioner.

Geographical Orientation

Pre-Contact Situation. The interrelationship of the early Nipmuc tribes, bands, villages, or settlements of central Massachusetts is most effectively described in a geographical context: how could the various settlements contact one another? The fresh water Indians of central Massachusetts did have a significant means of communication. The so-called Great Trail, Old Connecticut Trail, or Old Connecticut Path, began at Cambridge, Massachusetts. It ran westerly through Watertown, Waltham, Weston, Wayland, Natick, Framingham, Hopkinton, Westboro, Grafton, and Sutton in what is now Worcester County, continuing over Freeland Hill to Oxford. At or near Oxford it divided. One branch continued west through Oxford Center, Charlton, Sturbridge, Brimfield, Monson and Wilbraham to Springfield, Massachusetts. The other ran south through the modern towns of Webster and Dudley, into what is now Woodstock, Connecticut, and through Ashford and Coventry to Hartford, Connecticut (Humes 1952, 6; *Now and Then* c.1932, 18).

The region delineated by this prehistoric trail system will remain the focus of discussion throughout this survey of the Nipmuc Indians.[34] Within it, the people of the villages and

[34]"William Hubbard states that the Nipmucks' principal seat of government was located just outside Brookfield, Massachusetts. The Reverend Fiske, in his account of the settlement of Brookfield, mentions that this Nipmuck village was 'called Miminimisset . . . at the end of Wickaboag Pond.' It was a popular place of rendezvous for all the Nipmuck tribes. From this ancient seat, the Nipmucks had spread out in all directions; Nipmuck land reached its northern limits along the upper reaches of the Nashua River, its western extent at today's Quabbin Reservoir, to the south in Windham County, Connecticut, and to the east at Marlborough, Massachusetts, . . ." (Johnson 1995, 27-28).

settlements moved freely. For example, the Nipmucs of central Massachusetts are described as leaving their corn to ripen during the summer while going to the shore of Atlantic to gather shellfish (Russell 1980, 111).

Post-Contact Situation. Contact between English settlers and the Indians of the Chaubunagunagmaug and Wabaquasset regions began almost immediately after the beginnings of substantial settlement at Boston in 1630, largely because of the convenience of the Indian trail, or path, leading to the Connecticut River. During the scarcity of the first year of settlement, Indians brought corn from Wabaquasset, sixty miles away (*Now and Then* c.1932, 17, 20-23). By April of 1631, a sagamore from the Connecticut River visited Boston; by 1633, an Englishman named John Oldham from Plymouth Colony, with three companions, had explored as far as the river, lodging at Indian towns all the way, and bringing back samples of beaver, hemp, and black lead. Within a year, numerous settlers had explored the trail, and permanent English settlements, moving out from Massachusetts, along the Connecticut portion had begun by 1635 (*Now and Then* c.1932, 17, 20-23). The pattern of the trail, as the main thoroughfare between Boston and the Connecticut settlements, ensured that Chaubunagungamaug and Wabaquasset would be among the most traversed areas of central Massachusetts.

Roger Williams first used a variant of the term "Nipmuc" in the written records in 1637 (Connole 1976, 15). Massachusetts settlement began to expand into the Nipmuc country, what is now Worcester County, in the later 1660's, but proceeded very slowly. In 1667, Mendon, Massachusetts (then in Suffolk County) was organized as a town (Metcalf 1880, 4-5). The same year, Daniel Gookin, Superintendent of Indian Affairs for the colony of Massachusetts Bay, was appointed by the General Court to determine whether Worcester was suitable for a town and was one of the original proprietors of that place (Humes 1952, 8). These towns were situated in what was still predominantly Indian territory (Metcalf 1880, 43, 34). The organization of new English towns in the future Worcester County area continued in the early 1670's, with Brookfield in 1673 and the completion of the transaction at the future city of Worcester, itself, as Quinsigamond Plantation (Reese c1980, [21]; Mandell 1996, 17). In 1684, Worcester, Massachusetts, was organized as a town, and several others followed

Until the organization of Worcester County, Massachusetts, in 1731, the "Nipmuc country" in general[35] was a part of Suffolk County, Massachusetts (with the county seat at Boston). The published series of land records (hereinafter cited as *Suffolk Deeds*) provides a major source of information on 17th and early 18th century Indian land transactions in central Massachusetts. Throughout the 17th century and into the 18th century, the Nipmuc territory that now falls into

[35]"The native groups that lived west of the fringes of European settlement, in northern Connecticut and Rhode Island, central Massachusetts, and southern Vermont and New Hampshire, are the least known of any of the southern New England Indian societies. The local groups of the Connecticut River valley in Massachusetts and the so-called Nipmuck people of Massachusetts and northern Connecticut and Rhode Island appear to have spoken a southern New England language that the French called Loup . . . This classification would probably cover most of the local groups listed as Nipmuck and Pocumtuck by Swanton . . ." (Salwen 1978, 173-174).

Connecticut was part of Suffolk County as well. In 1713, the long-standing border dispute between Massachusetts and Connecticut was finally settled. Much of the land north of Killingly that is now included in Windham County was allowed to the Colony of Connecticut (Larned 1874, 1:175). Windham County, Connecticut, was organized in 1726. The north portion of the modern town of Woodstock, Connecticut, however, still lay within Massachusetts. Nipmuc territory extended 18 to 20 miles south of the modern state line. "The tract west of the Quinebaug River, north of a line running northwesterly from the junction of the Quinebaug and Assawaga Rivers, was Wabbaquasset . . ." (Larned 1894, 2:1).

The Towns of Central Worcester County from the End of Queen Anne's War until the Organization of Worcester County and the Town of Dudley, 1731. After the end of Queen Anne's War in 1713, the civic organization and white settlement of the towns of the future Worcester County, Massachusetts, proceeded rapidly.[36] In 1731, the General Court established Worcester County from Suffolk County, Massachusetts (Daniels 1892, 1). The town of Dudley was organized shortly thereafter, the act being passed by the General Court on June 1, 1732 (Conant 1893, 93),[37] one of the justifications given being that the inhabitants were inconveniently distant from a place of worship. On December 14, 1732, in response to a petition from the town, the General Court allowed the selectment to levy a tax, Indian lands excepted, for the next five years to pay the ministerial and other charges arising therein (Conant 1893, 97).

Historical Orientation[38]

Available Source Material. Essentially, all documentation available concerning the Nipmuc for the period from first sustained contact with non-Indian settlers, not only to the date of King Philip's War, but into the later 19th century, was generated by non-Indians and is found in the records of the colonies (later states) of Massachusetts, Connecticut, and to a lesser extent, New York and their constituent towns. The most extended series of relevant records is that generated by Massachusetts, consisting of the microfilmed records in the Massachusetts Archives

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[36]1714, Leicester, MA, organized as a town; 1714, Sutton, MA, organized as a town. Most of the Chaubunagungamaug tracts fell within this new town. 1717, Westborough, MA, organized as a town; 1720, Shrewsbury, MA, organized as a town; 1727, Uxbridge, MA, organized as a town.

[37]Dresser stated that Dudley was constituted from the Town of Sutton in 1731 [*sic*] (Dresser 1900, 117). The act itself described the area as "a tract of land lying between the towns of Woodstock and Oxford in the county of Worcester" (Conant 1893, 93). The abstracter of the vital records said that the town of Dudley was established February 2, 1732, from part of Oxford and certain common lands (Systematic History Fund 1908, Preface).

[38]The technical reports for petitioners #69A and #69B, containing historical and genealogical data, were in draft when the AS-IA signed the directive modifying internal procedures on February 7, 2000 (AS-IA 2/7/2000). Based on this directive, the draft technical reports which were being prepared under the prior procedures were not finalized.

(hereinafter cited as *Mass. Arch.*) and the published series of Massachusetts Colonial Records (hereinafter cited as *Mass. Col. Rec.*). Some relevant material is also to be found in the published Connecticut colonial records (Hoadly 1868, Hoadly 1870, Hoadly 1872, Hoadly 1873) and the New York colonial documents (O'Callaghan 1854). It is to be presumed that more data could be located in unpublished archival materials held by Connecticut, and in collections of the private papers of prominent European settlers of the area who had contact with the Nipmuc. BIA researchers did not examine depositories for such records, since the process would be time-consuming and it appeared that they would not be of major significance for the issues involved in Federal acknowledgment.

Of the narrative sources of data available concerning the Nipmuc in the 17th century, the most frequently cited have been the narratives prepared by Daniel Gookin and John Eliot. In 1656, Daniel Gookin was appointed to be the first superintendent of the "Praying Indian" reservations in Massachusetts Bay Colony (Johnson 1995, 147). He remained in this post until 1687 (Salwen 1978, 168). "Of the documentary sources, that of Gookin . . . seems most knowledgeable" (Salwen 1978, 168). His narratives were written in the 17th century, but are ordinarily cited by the dates of publication, whether the "Historical Collections of the Indians of New England" on the prehistorical period (Gookin 1792; reprinted as Gookin 1970) or the *Historical Account of the Doings and Sufferings of the Christian Indians in New England in the Years 1675, 1676, and 1677* which described the events of King Philip's War (Gookin 1836; reprinted as Gookin 1972).

John Eliot's narrative, "A Late and Further Manifestation of the Progress of the Gospel Amongst the Indians of New England," was published in the *Massachusetts Historical Society Collections*, 3rd series, vol. 4 (Eliot n.d.). It is discussed in more detail below in the section on the "Praying Towns." His "An Account of Indian Churches in New-England, in a Letter Written in 1673, . . ." was published in the *Massachusetts Historical Society Collections* 1809, 10:124-129 (Eliot 1673).

A considerable amount of relevant material is to be found in local histories written by amateurs in the second half of the 19th century (Larned 1874; Larned 1894; Daniels 1880, Freeland 1894), and in many ways the most useful 20th century publication covering this very early period was also by a local historian, an attorney interested in the history of the town of Sutton, Massachusetts (Hurnes 1952). The other most useful compilation for this early period was an unpublished summary of Massachusetts Native American land transactions prepared by the United States Department of Agriculture (Reese c1980), although it unfortunately lacked specific citations for many of the documents summarized. Connole's discussion of "Land Occupied by the Nipmuck Indians of Central New England 1600-1700" (Connole 1976) was less detailed. Recent general scholarly works include Howard S. Russell's *Indian New England Before the Mayflower* (Russell 1980), Steven F. Johnson's *Ninnuock (The People): The Algonkian People of New England* (Johnson 1995), and Kathleen J. Bragdon's *Native People of Southern New England, 1500-1650* (Bragdon 1996). None of these was specific to the Nipmuc, but all provide useful bibliographical references. Karen H. Dacey, *In the Shadow of the Great Blue Hill* (Dacey 1995), concentrated on the period through King Philip's War, dedicating less

than 20 pages to developments between the 17th century and the modern period (Dacey 1995, 123-138), while the discussion of the modern period relied almost entirely on the narrative portion of the 1984 Nipmuc petition for Federal acknowledgment (Dacey 1995, 139-150). Kelly Savage's recent publication *The Pond Dwellers: the People of the Freshwaters of Massachusetts 1620-1676* (Savage 1996), is anecdotal rather than of scholarly use.[39] There are several useful summaries of the early situation in Johnson's *Ninnuock* (Johnson 1995).

Theoretical Considerations of the Nature of Tribal Autonomy. Historians and anthropologists have made a number of general statements indicating that the 17th-century Nipmuc were not wholly independent,[40] such as Johnson's comment that, "Apparently, the Nipmucks had lost some of their tribal autonomy when certain of their villages began paying tribute to the Pequot, Narragansett, Massachusett and Pennacook" (Johnson 1995, 28).[41]

> With several strong Algonkian confederations surrounding central Massachusetts, it becomes obvious that a power vacuum had developed in Nipmuck country. The Nipmucks may have been a strong confederated tribal nation in the time before recorded history, and that nation may have slowly weakened before the English arrived. Gookin, who was familiar with several of the Nipmuck tribes, mentions that "the Nashuas had been a great people in former times; but of late years, have been consumed by the Maquas' [Mohawks'] wars and other ways." . . . Also by Gookin's time, Pennacook influence from the north had penetrated northern Worcester county . . ., where certain of the Nipmuck tribes had joined the Pennacook confederation. A semblance of the one-time Nipmuck confederation still existed in the 1670s under the leadership of Sachem Wattasacompanum, for this chief was said to be "ruler of the Nipmuck country . . . ruler of the Nipmuck Indians, a grave and pious man, of the chief sachem's blood of the Nipmuck country." (Johnson 1995, 27).

[39]See, for example, the author's own statement: "Note; Some marriages and confederacies mentioned in this chapter are based on the author's 'educated guess' and are not documented in other sources. They are not intended to be used for genealogical purposes" (Savage 1996, 40).

[40]"Some older men in the Massachusett nation told Gookin that in the days before the plague, the Nashuas, Nipmucks and Pocumtucks were members of the Massachusett confederation" (Johnson 1995, 10).

[41]For example, Larned's comment that in the 17th century, the Wabbaquassets in what is now Woodstock, Windham County, Connecticut, owed a varying allegiance to the Pequots, to Uncas of the Mohegans, or to the Narragansetts, depending on who was in power (Larned 1874, 1:4) or Bragdon's statement that "the Pequots did have influence among . . . the Nipmuck as far as Quinabaag (near Dudley, Massachusetts)" (Bragdon 1996, 25). "Apparently, even a few Nipmuck sagamores paid allegiance to the Wampanoag sachem" (Johnson 1995, 9). From another perspective, Russell commented that, "the power of the Mohawks by no means ended at the Connecticut River. Their emissaries collected tribute among the scattered Nipmuck villages of central Massachusetts, . . . (Russell 1980, 187). For this report, no useful purpose would be served by compiling an exhaustive listing of similar or parallel remarks in secondary sources.

The issue for this report is whether it has significant impact for Federal acknowledgment if, in the first half of the 17th century, some or all of the Indians of the Nipmuc country may have owed some kind or allegiance to the Narragansett, the Mohegan, or the Wampanoag.[42] The question of "autonomy" was addressed by the BIA in the Mohegan final determination (which was issued under the 1978 25 CFR Part 83 regulations and quotes from that version):

> The CTAG [Connecticut Attorney General] made two additional arguments for denying the MT [Mohegan Tribe] Federal acknowledgement [sic] under Criterion c. First, the CTAG argued that the Mohegan had once been subject to the Pequot Indians for a few years in the first half of the 17th century. Second the Mohegan had their affairs governed by a group of overseers appointed by the State of Connecticut (1769 to 1872). For these two reasons, the CTAG concluded the MT did not meet the "autonomous entity" requirement of Criterion c.
>
> Neither of these points means the petitioner fails to meet the criteria. First, the time period during which the Mohegan lived with the Pequot is so brief as to be inconsequential. Second the autonomy requirement is solely concerned with autonomy from other Indian tribes, not non-Indian systems of government that were imposed on the Mohegan by the state of Connecticut. The CTAG has misinterpreted the requirements of the criterion because the overseer system of the State of Connecticut is not an Indian tribe. A more detailed response to the CTAG argument concerning political autonomy can be found in the technical report accompanying this Final Determination (Mohegan FD, 26-27).[43]

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[42]"In 1647, the Commissioners of the United Colonies decided that 'the Nepnat Indians having noe sachem of their own are at liberty, part of them by their own choice, toe appertaine to the Narraganset sachem and part to the Mohegans'." (Butler in Speck 1947).

[43]The more extensive discussion in the technical report to the final determination read as follows:

> The CTAG Response discusses at considerable length the fact that the Mohegan were temporarily subject to the Pequot in the 1620's and 1630's, and argues that under the criteria of independence [or] "autonomy" from other Indian authority, this makes the MT ineligible for recognition. (CTAG Response 1:5-7 and 1:13-18). The CTAG Response claims that [the] Pequot War of 1637 was used by Uncas to escape this subordinate status (CTAG Response 1:8; 1:18-20) and that the Mohegan ancestry and language were largely Pequot (CTAG Response 1:21-28).
>
> The contention by the CTAG that the subordination of the Mohegan to the Pequot for a portion of the first half of the 17th century constitutes a disqualification for Federal acknowledgment of the MT as an Indian tribe under 25 CFR Part 83.7 misinterprets the intent of the regulations. The intent of the regulations under 83.7(f) is clarified by certain other statements in other portions of 25 CFR Part 83. Under "Scope" of the Federal acknowledgment process, 25 CFR 83.3(d) reads:
>
> > Nor is this part intended to apply to splinter groups, political factions, communities or groups of any character which separate form the main body of a tribe currently acknowledged as being an Indian tribe by the Department, unless

Early Contact. Scholars have indicated that the contact-era Nipmuc were not well documented, have phrased their descriptions tentatively,[44] and have provided varying descriptions of the internal political organization of the early historical Nipmuc. For example:

> There were other units, in the interior and on the western Connecticut coast, that seem to have normally functioned as almost completely independent local communities, without lasting political ties to any of their neighbors. Names like Nipmuck . . . sometimes appear in the literature as designations for large "tribes" or "confederacies" (Speck 1928a:pl. 20; Swanton 1952), but this usage does not seem to fit the seventeenth-century situation. At best, some of these names may reflect linguistic or cultural homogeneity, but the scarcity of evidence makes even linguistic identification difficult in most cases (Day 1962, 1969) (Salwen 1978, 173).

One modern scholar has stated that, ". . . the Nipmucks . . . added up to not much more than the changing sum of whichever interior villages chose to work together at a given time" (Bourne 1990, 126). Another commented that:

> . . . the Nipmucks were a loosely organized people residing in scattered villages, each separate group having its own sachem. Although these various rulers might confer on important matters from time to time, there seems to have been no single, clearly defined, over-all structure of government for the entire tribe (Leach 1958, 73).

Essentially, it makes no difference for Federal acknowledgment whether or not, in the 17th century, Nipmuc internal governance was very unstructured. The Federal acknowledgment criteria do not prescribe any specific type of governmental organization that a tribe, band, or other Indian group must have maintained at the time of first sustained contact with non-Indian settlers in order for its successors to be considered under 25 CFR 83.

> it can be clearly established that the group has functioned throughout history until the present as an autonomous Indian tribal entity.

> The petitioner can in no way be regarded as "separating from" the main body of a currently acknowledged tribe. . . . Neither do the type of rebellion and resistance against Uncas by the Pequot later placed under his supervision by Connecticut authorities, narrated by CTAG (CTAG Response 1:30-42), normally have the impact of destroying legal sovereignty when it exists (Mohegan FD, TR 169-170).

[44]"The native groups that lived west of the fringes of European settlement, in northern Connecticut and Rhode Island, central Massachusetts, and southern Vermont and New Hampshire, are the least known of any of the southern New England Indian societies. The local groups of the Connecticut River valley in Massachusetts and the so-called Nipmuck people of Massachusetts and northern Connecticut and Rhode Island appear to have spoken a southern New England language that the French called Loup . . . This classification would probably cover most of the local groups listed as Nipmuck and Pocumtuck by Swanton . . ." (Salwen 1978, 173-174).

By the time of first sustained contact, the number of Nipmuc was not large. Recently a historian, summarizing the consensus of numerous researchers, stated:

> There were a number of Nipmuck tribes, but the fighting force of the entire nation probably ranged from one to two thousand warriors. Some of the tribes that comprised this nation were the Wachusett, who lived in the area of Mount Wachsett, and the Nashua, or Washacum, who resided not only in the same areas as the Wachusett, but also along the upper course of the Nashua River. Their main seat was called *Washacum*, which was located in present-day Sterling, Massachusetts. To the southwest of this tribe, where Brookfield, Massachusetts is today, the Quabaug tribe occupied the land. The Quabaug and Nashua had close affiliations with one another. Other Nipmuck tribes were the Hassanamissit, Quiebaug, Wabaquasset, Wunnashowatuckoog and Wusquowhannanawkit (Johnson 1995, 27).

Little is known about the social system. A modern scholar has stated:

> Native society operated on three levels: clan, village, and tribe. The clan, an extended family that claimed a common ancestor, dominated an individual's life. Clans worked and held fields and hunting territories. The village, containing up to several hundred people from one or more clans, set field boundaries and organized the political and economic life. The tribe, the largest and least powerful grouping, connected villages and clans with a commmon dialect and culture, but lacked stable hierarchies and could be reshaped by outside influences or internal conflicts" (Mandell 1996, 10).

Contacts and Land Cessions prior to King Philip's War. The earliest formal interactions between non-Indian settlers of southern New England and the tribes of the Nipmuc country of central Massachusetts, in the 1640's, in the form of deeds and land cessions (Connole 1976, 15), confirmed that prior contacts had taken place, since the purchasers were aware of the terrain and the natural resources over which they wished to gain control, such as the lead mines at Tantiusque, near modern Sturbridge, Massachusetts (Reese c1980, [7])). Additionally, as will be seen below, the Nipmuc groups became closely associated with Natick, which had contacts with English settlers by the 1620's (Reese c1980, [3]). According to later testimony, the first transfer, about 1642, was by a sagamore from Chaubunagunagmaug (*Suffolk Deeds* Liber XIII 1903, 344; Leavens Papers n.d., 82-A). The earliest recorded transfer of Nipmuc land in what is now Connecticut, apparently by resident Narragansett and Mohegan rulers, took place in 1653 (Larned 1874, 1:4-6; Hoadly 1868, 305; Hoadly 1870, 10, 101-102, 395-396).

Two documents represented more formal relationships between Nipmuc leaders and the Massachusetts Bay Colony. On February 4, 1644, in the aftermath of the Pequot War in Connecticut, representatives signed the Treaty of Boston between Massachusetts Bay Colony

and sachems of the Nipmuc and Massachusetts Nations. The treaty was one of "peace and acknowledgment of sovereignty to the King of England" (Place of Small Stones n.d., 1, 3).

By the later 1660's, the Wabaquasset Nipmucs near Quanitisset, now in the Town of Thompson in northeastern Windham County, Connecticut, and south central Worcester County, Massachusetts, were engaging in attempts to play off the colonial authorities against the more powerful tribes to which they were tributary (Johnson 1995, 166; *Mass. Archives* 30:140) In connection with the above initiative, in May of 1668, several Nipmuc sagamores, including the one from Chaubunagungamaug, submitted to the English government of Massachusetts (*Mass. Archives* 30:146; Metcalf 1880, 35-36; typed transcript also in Nipmuc #69 Pet. Suppl. 1994). The submission resulted in the dispute between the Nipmuc and the Narragansett being heard in a Massachusetts Bay court in the same year (Johnson 1995, 166-167; no citation; typed transcript of testimony in Nipmuc #69 Pet. Suppl. 1994, dating the procedure from September 1667 through May 27, 1668). In conclusion, the Massachusetts court accepted the Nipmucs' change of allegiance from the Narragansett to themselves as valid (Johnson 1995, 167; Nipmuc #69 Pet. Suppl. 1994).

Establishment of Chaubunagungamaug and the Other Nipmuc "Praying Towns." From the 1640's through the early 1670's, the project of converting the Indians of Massachusetts to Christianity was actively under way. Metcalf, the 19th century historian of Mendon, commented, "Whether the Nipmuck Indians submitted to the English because they were 'convinced of their great sins,' and intended 'to turn unto the Lord and be his servants,' or because they had come to feel the need of protection against enemies of their own race we cannot, at this late day, fully determine" (Metcalf 1880, 36). By 1674, John Eliot had in fact organized several "praying towns" among the Nipmuc.

Neal Salisbury has interpreted the establishment of the "praying towns" of central Massachusetts in the following context: "Eliot's success rested mainly on his ability to protect Nipmuck communities from tribute demands and military attacks by Niantics and Mohegans" (Salisbury 1990, 92). Missionary interest in the Nipmuc of central Massachusetts substantially predated the 1668 "submission" of the sagamores to Massachusetts. (Johnson 1995, 146). The 1668 event had been preceded by submissions of the tribes further east, the Massachusett and the Wampanoag, to Massachusetts Bay authority (Johnson 1995, 146; Reese c1980, [8]). In 1650, Natick, Massachusetts, was organized as a town (Middlesex County), and in 1651, the General Court of Massachusetts Bay Colony granted a charter to John Eliot to construct the "praying Indian" village of Natick on a tract of 6,000 acres (Reese c1980, [8]). By 1651, Eliot was giving consideration to expanding his missionary effort beyond the eastern tribes. He wrote that, "There is a great country lying between Connecticut and Massachusetts, called Nipnet, where there be many Indians dispersed, many of whom have sent to our Indians desiring that some may be sent unto them to teach them to pray to God (Place of Small Stones n.d., 3).

In 1652, Eliot made an exploratory journey inland, some 60 miles as far as the Quinebaug River (Place of Small Stones n.d., 4). However, Natick was not formally established as an Indian

church until 1660 (Humes 1952, 8). In spite of preliminary efforts in laying out the land (see the proposed finding for petitioner #69A), Hassanamisco, the first "praying town" in the future Worcester County, was not established until 1671 (Humes 1952, 8). Within the next four years, it was quickly followed by several others: Waeuntug (Uxbridge), Quinshepauge (Mendon), Packachoag (Auburn), Manchaug (Sutton), Quabaug (Brookfield), Chaubunagungamaug (Dudley), and Wabaquasset (Woodstock, Connecticut) (Place of Small Stones n.d., 6; Reese c1980, [21])).[45] Eliot specified that Chaubunagungamaug, established in 1672 at the head of the lake, was a "new plantation," i.e. not the site of a prior Indian village, and well accommodated with upland and meadows. Gookin stated that it took its name from "a very great pond about five or six miles long that borders upon the south end of it" (The Great Trail of the Indians n.d., 5; Leavens Papers).[46]

The most extensive information concerning the situation within these "praying town" settlements comes from the report of a journey undertaken by Eliot and Daniel Gookin in the autumn of 1674. It made very clear that the "praying towns" were not large. On September 14, Gookin recorded that there were nine families with 45 persons at Chabunakongkomun (Dudley) (Gookin, *Indians of Massachusetts*; cited in *Earle Report* 1861, 102; Larned 1874, 1:7-8). Eliot appointed Black James of Chaubunagungamaug constable of all the praying towns (Larned 1874, 1:7). During this journey, Gookin and Eliot continued into and reported on the Connecticut praying towns.[47] Gookin's descriptions indicated close ties between the personnel of these towns, Chaubunagungamaug, and Hassanamisco (Larned 1874, 1:6-8), and provided a "praying town" population for this region approximated to just under 400 persons.

Impact of King Philip's War. The evaluation of the petitioner for purposes of Federal acknowledgment does not require a narrative of the overall progress of King Philip's War, which broke out in June 1675. For that purpose, the reader should consult standard studies such as Douglas Edward Leach's *Flintlock and Tomahawk: New England in King Philip's War* (Leach 1958) or Russell Bourne's *The Red King's Rebellion* (Bourne 1990). It is examined here only in the context of what the military records indicate about conditions within the Nipmuc country,

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[45]"Between 1646-1674, Eliot converted about eleven hundred tribal people in fourteen different villages, from Natick in the east to the Merrimac River in the north and as far west and south as the Nashua River and northeastern Connecticut. Natick, Punkapoag, Hassanamesitt (Grafton), Okommakamesit (Marlborough), Wamesit (Lowell), Nashoba (Littleton), Magunkaquog (Ashland), Manchage (Sutton), Chaganakongkomun (Webster), Pakachoog (Worcester) and Washacum (Sterling) were the 'Praying Indian' towns under the jurisdiction of the Massachusetts Bay Colony" (Johnson 1995, 147).

[46]"There was another village at the foot of the [Chaubunagungamaug or Webster] lake, near Bates Grove, these were the non-praying Indians, Nipmucs this village was destroyed by the English in King Philips war. After the war the Indians scatered, many returned afterward and settled near the old burying grounds on Harris street" [spelling and punctuation *sic*] (Leavens Papers n.d., unpaged).

[47]Objection announced by a representative of Uncas, who was "not well pleased that the English should pass over Mohegan River and call his Indians to pray to God" (Larned 1874, 1:8; see also Humes 1952, 3).

and specifically for information pertaining to Chaubunagungamaug and the settlements most closely connected to it.[48] In addition to the standard monographs, there is a short summary of Massachusetts' actions toward the "Praying Indians" during the course of this war in Johnson (Johnson 1995, 198-200).

Almost immediately after the war started, on June 24,1675, Massachusetts Bay Colony emissaries obtained an agreement of the leaders of the Christian Indians in the Nipmuc Country, including Chaubunagungamaug and Wabaquasset, not to aid Philip and to live under the Government of Massachusetts Bay (Mass. Archives 30:169-170; Place of Small Stones n.d., p. 9). About the first week of July, several more Indians from the "Praying Towns" of Hassanamesit, Magunkoog (Hopkinton), Manchauge (Sutton) and Chaugunagungamaug, making a total of about 40 men plus women and children, left their places and came into Marlborough "under the English wing, and there built a fort upon their own land, which stood near the centre of the English town....hence they hoped not only to be secured, but to be helpful to the English, and on this pass and frontier to curb the common enemy" (Gookin 1972, 443). In July 1675, Ephraim Curtis was employed to conduct "Uncas his six men" from Boston home. The expedition took a route that included Wabaquasset (Daniels 1892, 9n4; citing *Mass. Arch* 67:214). During the second week of July, the Massachusetts Bay legislature sent Curtis to negotiate with the Nipmuc leaders. He found no occupants at Chaubunagungamaug or at several other of the "new praying town" settlements (Leach 1958, 73-74; Bourne 1990, 127). On July 24, after a second conference, Curtis reported that several other Nipmuc leaders: "said that Black James the constable of Chabonagonkamug had . . . them that the English would kill them all without any exception, because they were not Praying Indians" (unidentified pages in Nipmuc #69 Pet. Suppl. 1994).

According to some historians' interpretation of the intelligence reports, one of the Nipmuc "praying Indians" found in Philip's camp during August 1675 was Black James, the Chaubunagungamaug constable (Humes 1952, 14), along with at least one of the Wabaquasset leaders.[49] On August 3, a company of men from Providence, Rhode Island, under Captain Nathaniel Thomas, went in pursuit of Philip. When it reached Wabaquasset, it reported that

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[48]Petitioner #69A, the Nipmuc Nation, states in its governing document that it represents descendants of all the historic Nipmuc bands. Therefore, the draft technical report on petition #69A contains more data on other Nipmuc settlements throughout the historical period.

[49]"As soon as the authorities had learned of Philip's plans, they despatched a messenger who effected treaties with the rulers of all the tribes in this region, whereby they bound themselves not to aid in Philip's scheme. The next month found four at least of these leaders in the enemy's camp in Brookfield, Black James of Chaubunagungamaug, Keehood of Wabquasset, John of Pakachoag and Conkganasco of Quaboag" (Daniels 1892, 4n1; citing *His. N. Brookfield* 74). This rests on the assumption that Wolomachin and Black James the constable were the same person, which does not appear to be borne out by Curtis' report. However, Gookin himself stated that the majority of the Indians from the "new" praying towns, " being but raw and lately initiated into the Christian profession, most of them fell off from the English and joined the enemy in the war, some few excepted, . . ." (Gookin 1972, 436).

there was "not one Indian to be seen," but this did not necessarily mean that they were in Philip's camp: Connecticut records indicated that at least some of the Wabaquasset were serving with the Mohegan (Larned 1874, 1:10). Throughout the war, the Mohegan attempted to use their support of Connecticut as leverage for obtaining confirmation of their claims to sovereignty over the Wabaquasset. Gookin reported that on September 9, 1675, Oneko, oldest son of Uncas, with about 28 Indians came to Boston desiring confirmation and assurance of their "ancient inheritance of land at Mohegan and Wabaquisit" (Gookin 1972, 463).

On September 24 and 25, 1675, an expedition under Captain Gorham of Plymouth Colony and and Lieutenant Phineas Upham of Massachusetts "marched from thence to Manchoag and Chabanamaguncok where we found some Corne fields and some wiggwams, corn and wiggwams wee burnt and destroyed, but could not find any of our enemies which was a great discouragement to us, having taken so much paynes to find them . . . ." (Metcalf 1880, 66-67).

On June 2, 1676, a Connecticut contingent, 240 English and 200 Indians under Major Talcott, departed from Norwich on an expedition through the Nipmuck Country. They marched north to Wabaquasset, found an Indian fort and about 40 acres of corn growing, but no Indians. They then proceeded to "Chaubongagum," where they killed and captured 52 of the enemy (Larned 1874, 1:10; Humes 1952, 16n4; see also Leach 1958, 205). By June 22, Talcott was back in Connecticut; on his way to the Narragansett country with 300 English soldiers plus Indian auxiliaries. He again went first to Wabaquasset (Leach 1958, 211). With the military success turning in favor of the colonial forces, the government of the Massachusetts Bay colony, on June 19, 1676, "Seeking to encourage mass surrenders of Indians who had become disillusioned with Philip's cause, . . . issued a special declaration of mercy. Some hope of leniency was held out to the rank and file of the enemy if they would surrender within a stated period of time" (Leach 1958, 213). In July, Massachusetts appointed a committee to deal with the issue of Indian children being bound as indentured servants (Leach 1958, 226; citing *Mass. Archives* 30:209; *Mass. Col. Rec.* 5:136). Some of these children were from Chaubunagungamaug or from the Connecticut praying towns (Place of Small Stones n.d., 14-16; citing "A list of Captive Children 1676," *Transactions of the Colonial Society of Massachusetts* 1916-1917, 19:25-28). The death of Philip on August 12, 1676, represented the official end of the war, but did not end the hostilities on the frontier.

Historians from the 17th through the 19th century often stated that the remainder of the Nipmuc fled central Massachusetts, either joining the northern Indians in Maine, Vermont, and Canada, or moving west into New York. This assumption may have been based in part on Gookin's statements concerning the Wamesit (Gookin 1972, 482-483, 491-492). Movement west did occur (Leach 1958, 236), but to some extent it was temporary. Larned stated, "The few remaining Nipmucks found a refuge with some distant tribes; the Wabbaquassets remained with Uncas at Mohegan. The aboriginal inhabitants of the future Windham County were destroyed or scattered, . . ." (Larned 1874, 1:11), but commented two pages later that, "[t]he Indians, as they recovered from the shock of defeat, gathered again around their old homes and laid claim to various sections" (Larned 1874, 1:13). The war and subsequent out-migration did not account

for all the population decline. On July 2, 1676, when James the Printer of Hassanamisco came into Cambridge with others, he "told the authorities that during the past year more Indians had died of disease than had been killed by the English--a most significant fact, if true" (Leach 1958, 213-214; citing *Mass. Archives* 30:207, 215; 5 *Collections of the Massachusetts Historical Society*, 5:14; Gookin 1972, 527-529).

From King Philip's War to the Establishment of the Reservations.[50] Extensive 18th-century records enable a demographic historian to reconstitute the Nipmuc population of Massachusetts, almost name-by-name. There was documentable continuity between the pre-war and post-war populations of the Nipmuc settlements in Worcester County. Small groups of pre-war inhabitants, sometimes in company with former Natick residents, resettled Hassanamisco and Chaubunagungamaug between 1680 and 1730. Throughout this 50-year period, there continued to be a considerable degree of migration back and forth between Natick and the Indian settlements lying to its west and southwest. Some individual Indian families re-settled their private landholdings in Worcester county, while a substantial number, perhaps as many as 150 persons, had returned to the Connecticut villages within a few years of the war's end. Throughout the 18th century, the Connecticut Nipmuc continued to intermarry with the Worcester County settlements. This process is documented not only by the records of Natick and the Worcester County reservations, but also evidenced by vital records kept by the towns and churches of the region and the land records of Suffolk, Middlesex, and Worcester Counties, Massachusetts, and Windham County, Connecticut. This represented, however, a remnant population. The pre-war Nipmuc numbers had already been greatly reduced by comparison to estimates for the prehistoric era. The population probably had numbered, however, in the thousands. The post-war Nipmuc of central Massachusetts and northeastern Connecticut numbered in the hundreds.[51]

Several recent works (Reese c1980, [24]; Mandell 1996, 26, 29; Doughton, A Place of Small Stones n.d., 17) have discussed the restrictions placed on Indians by various acts of the Massachusetts legislature between the end of King Philip's War and the American Revolution without coordinating the specific legal measures with the wider context of colonial warfare.

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[50]Very little secondary scholarship is available to illuminate Nipmuc development in the 18th century. In 1978, the Smithsonian Handbook's treatment provided one paragraph each for Natick, Dudley, and Hassanamisco between King Philip's War and the mid-19th century (Conkey, Boissevain, and Goddard 1978, 180). Daniel R. Mandell's *Behind the Frontier: Indians in Eighteenth-Century Eastern Massachusetts* (Mandell 1996) does focus primarily upon the coast and Natick, treating central Worcester county only incidentally and largely ignoring those Nipmuc who lived south of what is now the Massachusetts-Connecticut border. This is also true of Mandell's chapter in the collection of *Northeastern Indian Lives 1632-1816* edited by Robert S. Grumet (Grumet 1996). The recent collection edited by Colin G. Calloway, *After King Philip's War: Presence and Persistence in Indian New England* (Calloway 1997) contains little Nipmuc data, with none for this specific period.

[51]At Natick in 1698, the visitors found a "church" of seven men and three women, but a population of 59 men, 51 women, and 70 children under 16 (Rawson and Danforth 1809, 134). In 1749, the number at Natick was 166 (A List of Indians in Natick, A.D. 1749, *Massachusetts Historical Society Collections* 1809, 10:136).

This methodology makes it appear that the restrictions were imposed arbitrarily, without apparent cause, and were essentially the product of ethnic prejudice. Johnson provided a clearer summary of the interrelationships (Johnson 1995, 203-224). The following is not to be taken as a contradiction of Washburn's statement that during these colonial wars, "The Indians fought in what they judged to be their own interest and for reasons that may have borne little relation to the interests of two European protagonists" (Washburn 1978, 94), but rather as a statement that the specific actions of the Massachusetts legislature pertaining to the Indians residing in the colony were not taken independently of the broader political situation. Without discounting the element of ethnic prejudice and without presenting any argument that the colonists' apprehensions about the French and northern Indians provided an abstract moral justification for restrictions on the resident Indians of eastern and central Massachusetts, the following discussion is an attempt to coordinate the various developments. This procedure is necessary in order to determine the continuing "tribal" nature of the Nipmuc reservations in Massachusetts during the 18th century.

Indian attacks did not end with the end of King Philip's War: Deerfield and Hatfield, Massachusetts were attacked in 1677. Conflicts with the northern Indians (Abenaki, Mohawk, etc.) continued throughout the remainder of 1676, 1677, and 1678 (Johnson 1995, 192-196; Bourne 1990, 231, 241-242; Gookin, 516, 518), so that the activities of the "friendly" Indians were limited by both internal hostility from English settlers (Gookin 1972, 456) and the continuing danger of Indian raids coming from outside the borders of the colony (Leach 1966, 60; Gookin, 520-521; Mandell 1996, 26; citing Gookin, 519). However, these raids were apparently not sufficient to prevent resettlement in the succeeding years. In 1684, "John Eliot noted that, in addition to worship services at the four 'stated' reserves--Natick, Punkapoag, Wamesit, and Chabanakongkomun--they held 'occasional' prayer meetings 'at places of fishing, hunting, gathering chestnuts, in their seasons'" (Mandell 1996, 36; citing Eliot to Boyle 185, Mandell 1996, 212n48).

The series of Indian land transactions resumed and began to be recorded again in the county land records (Shurtleff 1854, 5:531-535; Metcalf 1880, 185-186) and those of the General Court (*Ecclesiastical History of Massachusetts* 1809, 13; Place of Small Stones n.d., 19, citing *Mass. Archives* 20[30?]:259a; Place of Small Stones n.d., 25; Mandell 1996, 43-44; Reese c1980, [24]; Humes 1952, 34). The majority of the individuals selling land in the "Nipmuc Country" during the postwar period were identified as residents of Natick (Mandell 1996, 32-33; see also *Mass.*

Archives 30:257-257a), though many had other origins.[52] For the specific transactions pertaining to the Chaubunagungamaug reservation, see the separate section of the overview, below.

On May 11, 1681, the General Court of Massachusetts Bay Colony authorized William Stoughton and Joseph Dudley to investigate land titles in the Nipmuc country (*Mass. Col. Rec.* 5:315, 5:328; Mandell 1996, 43, citing *Mass. Archives* 30:258; Mandell 1996, 213n74; Freeland 1894, 122-124; Daniels 1880, 32-33; Daniels 1892, 4). In June 1681, Stoughton and Dudley hosted a general meeting of the Indians at Cambridge, Massachusetts, reporting back that they found them "willing enough to make claym to the whole [Nipmuc] Country but Litigious & Doubtfull amngst [*sic*] themselves" (Mandell 1996, 44). The investigation continued into the autumn, with the commissioners filing a report to the General Court on October 17. They reported that of the Nipmuc Country, the southern part was claimed by Black James and company (*Mass. Col. Rec.* 5:328-329; Mandell 1996, 44), including the Nipmuc territory lying in what is now Windham County, Connecticut. During the 1680's, Black James participated in a sequence of deed transactions which led to the later establishment of the Chaubunagungamaug or Dudley/Webster reservation as it existed from the 1730's through the 1870's (see separate section below). Black James himself may have died by 1686, as a deed in that year was signed by his "heirs" (Reese c1980, [28]). However, a man bearing this name continued to be mentioned in the records, possibly retrospectively, until at least 1707. Throughout the 1680's and 1690's, the Natick rulers deeded large amounts of land to white settlers, with some of the transactions pertaining to the modern Worcester County, Massachusetts, and Windham County, Connecticut, areas (Daniels 1880, 36, citing *Mass. Col. Rec.* 5:361; Shurtleff 1854, 361; Reese c1980, [28]-[29]; Mandell 1996, 46; Metcalf 1880, 115-116).

Mandell asserted that about 1682, Black James led an emigration out of Natick to resettle Chaubunagungamaug (Mandell 1966, 30, citing Rawson and Danforth 1809, 134; *Mass. Archives* 30:279a, 265). No specific evidence confirms a resettlement at this date, though one deed associated with the title investigation may have identified him by name (Reese c1980, [25]; Temple, *Records of Oxford*, 549; Place of Small Stones n.d., 23, citing *Mass. Col. Rec.* 5:362-364). A 1684 letter of John Eliot's did indicate that there were Nipmuc residents at Chaubunagungamaug at that date (Mandell 1996, 36; citing Eliot to Boyle 185; Mandell 1996, 212n48). However, the petitioner did not submit the copy of the original letter, and no other document indicates that Chaubunagungamaug was a "stated reserve" in 1684 in addition to the three regularly mentioned in documents of the General Court. Mandell's further assertion that

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[52]About 1680, after the war, the "rulers" of Natick were Waban, Piambow, and Thomas Tray; counselors included John Awassamog, Peter Ephraim, and Daniel (probably Tokkohwompait, in 1674 the minister of Quantisset). "These links to other villages also highlight the community's sensitivity to its heterogeneous population. In addition to their prewar roles in Natick and Hassanamisset, all three claimed connections, through marriage or unrecorded allegiances, to a number of praying towns, including Okommakamesit, Nashoba, and Wamesit. Also prominent in postwar Natick were John Wiser, from Quabaug; James the Printer, from Hassanamisset; James Rumneymarsh, from Essex County; the Wamsquam family, from Okommakamesit; Jethro, from Nashoba; "Black James," from Chabanakongkomun; and Joseph Trask, John Thomas, and Thomas Dublett, from Wamesit" (Mandell 1996, 32).

"Chabanakongkomun [was] far from English settlements, and the village did not reappear in colonial records until the 1720s" (Mandell 1996, 36) is certainly invalid, as can be seen from documents cited below from the records of the town of Oxford, Massachusetts, and from Connecticut records.

Building upon these purchases, in 1684, Worcester, Massachusetts, then in Suffolk County, was organized as a town, and several others followed. Indians continued to reside in the organized English towns of the region (*Mass. Archives* 30:304), and various petitions from Indians indicated that they intended to continue to do so (Place of Small Stones n.d. 24-25, citing *Mass. Archives* 30:287, 300-300a). The restrictions placed on the Hassanamisco, Chaubunagungamaug, and Wabaquasset locations by the General Court during King William's War (see below) indicate that these were regularly inhabited locales during the 1690's.[53] In 1698, Grindal Rawson and Samuel Danforth's visitation of Indian congregations in Massachusetts did not mention Chaubunagungamaug or any of the three former towns that would come later to be south of the Connecticut line in Windham Co. (Rawson and Danforth 1809, 129-134; O'Callaghan 1854, 755; O'Callaghan 1854, 684n1; Metcalf 1880, 170-172), though other evidence indicates that they were in existence.

In the later 1680's, internal developments in Massachusetts were again impacted by controversies on the frontiers (Leach 1966, 110; Melvoin 1989, 186, 189, 193-194). By 1689, through 1697-1698,[54] Massachusetts was involved in King William's War (Leach 1988, 137; Melvoin 1989, 185), the colonial aspect of the War of the League of Augsburg (Melvoin 1989, 186). It necessarily impacted the Indians settled within the boundaries of the Massachusetts Bay colony. On August 21, 90 Indians were to be enlisted from Natick, Punkapoag, etc., to go with the army (*Mass. Archives* 30:314a). Most of the early action was outside the boundaries of the colony (Melvoin 1898, 188; Melvoin 1989, 194; Leach 1996, 111), but this did not make the General Court less apprehensive about the possibility of alliances between the Indians within the colony and those beyond the frontiers. In 1690, the Massachusetts General Court again "ordered all Indians in the Bay Colony to go to Natick or Punkapoag. This time the legislature also ordered "two meet persons to reside at Natick, and one at Punkapoag, who are to call over the Names of the Indians men & women every morning & evening" (Mandell 1996, 39; *Mass. Archives* 30:316). When describing this measure, Mandell wrote that, "The isolation of Chabanakongkomun, the westernmost Nipmuc town reestablished in the 1680s, is indicated by

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[53]BIA researchers did not locate documentation to support Mandell's contention that, "While the two Nipmuc towns (Chabanakongkomun and Hassanamisset) were isolated from English authority until the 1720s, family networks continued to bind these 'traditional' Indians to their 'reformed' brethen in Natick. The Hassanamisset leader, James Printer, occasionally traveled to Boston to help translate and print Algonquian-language publications, no doubt staying in Natick along the way (Mandell 1996, 57; citing Kellaway, New England Company, 240-41, 244; Mandell 1996 215n39).

[54]The war was formally ended in September 1697 by the Treaty of Ryswick (Leach 1966, 115). However, as late as June 1698, a war party of nearly 70 French and Indians on its way down from Canada struck at Hatfield, Massachusetts, killing three persons (Melvoin 1989, 202).

its absence from the 1690 restrictions" (Mandell 1996, 39). However, the absence of the Chaubunagungamaug settlement from these restrictions more probably resulted from the primary concern of the Connecticut government with this border settlement during the period of the 1690's (see the discussion of Nipmuc in Windham County, Connecticut, below).

Between 1693 and 1698, there were repeated Indian and combined French/Indian attacks on the colony's frontier towns, and the attacking groups were believed to include some of those Nipmuc who had moved north and west after King Philip's War (Melvoin 1989, 191-192). While settlements such as Deerfield were notably further to the north and west than Chaubunagumamaug (Melvoin 1989, 192-193), some attacks, such as the 1693 raid on Brookfield, pertained to newly established towns in the Worcester County area (Melvoin 1989, 203; Leach 1966, 112). It was at this juncture that, according to Reese,

> the legislature of Massachusetts Bay enacted the first law governing Native People as persons different from all others. It granted the Governor and his council the authority to appoint special commissioners (overseers) to rule over Native People. This act removed them from the protection (?) of the constitution of Massachusetts Bay and deprived them of their rights (Reese c1980, [30].

Reese also stated that in 1694, the General Court of the Province of Massachusetts Bay enacted legislation "for the better rule and government of the Indians in their several places and plantations" (Reese c1980, [30]). Mandell indicated that the 1694 measure was more extensive: "One year later the legislature reconfirmed the restrictions for Hassanamisset and imposed the same on Chabanakongkomun" (Mandell 1996, 39-40; citing *Mass. Archives* 30:358-59, 368, Mandell 1996, 212n59).[55] The most extensive information concerning the Nipmuc of the Chaubunagungamaug and Woodstock settlements in King William's War comes from the documents pertaining to the towns of Woodstock, Connecticut, and Oxford, Massachusetts.

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[55]On June 11, 1695, the General Court passed a bill authorizing the governor and the council to fix the places of residence of the Indians at Natick, Hassanamisco, Kekamoochock and others (*Mass. Archives* 30:368).

Mandell stated that in 1694, ". . . the General court passed a measure aimed at 'encouraging the prosecution of the Indian Enemy, and preserving such are Friends" by resettling all Indians east of the Boston-Rehoboth road with the exception of 'Kekamoochuck near Woodstock' (Chabanakongkomun)" (Mandell 1996, 39). This may refer to the September 8, 1695, bill to remove the friendly Indians west of the road from Boston to Rehoboth, to the east of the said road and any of them found west of the said road to deem them enemies (*Mass. Archives* 30:358; P.L. 1:175).

The restrictions placed upon the Indians within the colony took place in the context of widespread hostility toward "friendly" Indians. During the summer of 1695, Connecticut and Massachusetts abandoned the long-standing practice of trade with friendly Indians in the upper valley: Massachusetts forbade settlers to "give, trade, sell, deal, truck or barter any goods, wares, merchandizes, ammunition, or . . . stray liquors" under pain of a 100 pound fine (Melvoin 1989, 200). In March of 1697, letters from militia leader at Hatfield, stated that "Indians that pretend freindship" have brought "agrevation of our trouble & difficultie" and are "worse than open Enemys" (Melvoin 1989, 201).

Woodstock, Connecticut. Overall, the greatest deficiency in all currently published studies of the early history of the Nipmuc has been an insufficient use of the records of other colonies than Massachusetts Bay. In particular, the Connecticut records have been insufficiently utilized. Because of the involvement of the Mohegan in the affairs of the Nipmuc resident in what is now Windham County, Connecticut, there is considerable information available from that source (Leach 1958, 146; Larned 1874, 1:17-18; Larned 1874, 1:126-127). Although pertinent records are available from Connecticut, Woodstock had been founded from Roxbury, Massachusetts, in 1683-1684, the land being at that time under Massachusetts jurisdiction (Hoadly 1868, 135; Larned 1874, 1:18-19; Larned 1874, 15; Daniels 1892, 6). On November 27 and 28, 1690, there were town meetings in Woodstock and town officers (clerk, surveyors, selectmen) were chosen (Larned 1874, 1:32). The February 1691 Woodstock town meeting minutes referred to apportioning lands; building bridges, etc. (Larned 1874, 1:32-33). The original inhabitants were still in the neighborhood. The records of October 1691 indicated that:

> Now that Woodstock had secured minister, mills, pound, ways and bridges, she began to be seriously annoyed by Indians. Many Wabbaquassets [the Nipmuc band that occupied Eliot's praying towns south of the current Connecticut state line] had returned to their ancient homes and hunting fields, little improved by their sojourn in Mohegan, or inclined to be friendly with Massachusetts settlers in possession. Their chief, Tokekamowotchaug, and his followers, were idle, drunken and disorderly, "to the great grief of good men and the prejudice of themselves and better disposed Indians, who were oftentimes beaten and bruised and almost brought to death's door" by them (Larned 1874, 1:33).

As a result, in February 1691/92 [February 22, 1692], the selectmen of Woodstock complained to the Massachusetts General Court, with the phrasing indicating that the reference may have been to a place rather than to a chief: "whereas there are many Indians belonging to To-ke-ka-mo-woo-tchong and others who have been resident in this town for a long time who are often times very drunken, . . . the prejudice of themselves and other Indians who are often beaten and bruised and almost brought to death's door . . . (Daniels 1880, 77; citing *Mass. Archives* 38:308; see also Daniels 1892, 13, citing *Council Rec.*). The petition requested authority to punish such offenders, that for the future such "disorders and woful practices" might be prevented. "Among other Wabbaquassets now residing in Woodstock was found John Aquittamaug, who well remembered his transportation of corn to Boston at its first settlement, and ever maintained friendly relations with the Massachusetts settlers" (Larned 1874, 1:33-34).[56] A local historian

[56]The Woodstock records occasionally mentioned the local Indians in non-military contexts, as in the following reference: 1703, Woodstock, "it was voted that a piece of land formerly improved by an Indian, John Aquaticus, who pays rent, should, for the town's benefit, be a school forever" (Larned 1874, 1:43).

It is far from certain that the residency of the Aquitamaug, or Aquittocus, later Quittocus, family was limited to what is now Woodstock, Connecticut. A local historian well-acquainted with the local history of Dudley, Massachusetts, stated that, "Capt. Ebenezer Davis, who lived to be over ninety years old, born in 1811, declared that 'Nipmuck Hill,' lying south-east from Dudley hill and now cut into the by Grand Trunk railroad bed, was originally called Quittamug Hill, . . ." (Leavens Papers n.d., 81).

later wrote that these "Wabbaquassets were ready and willing to aid Connecticut, whose authority they acknowledged, but their dislike of Massachusetts jurisdiction made them very unsafe and unreliable residents, and obliged the settlers to exercise constant care and vigilance" (Larned 1894, 1:34).

Oxford, Massachusetts. Though its settlement had first been suggested in 1680, this was not followed up until it received a group of French Huguenots (Freeland 1894, 122). The land grant for Oxford, Massachusetts, eight miles square, dated May 16, 1683, was made to Robert Thompson, William Stoughton, and Joseph Dudley, Esq. (Freeland 1894, 130; citing *Mass. Col. Rec.* 5:408). In 1691, the Huguenot minister, Daniel Bondet was not only pastor of the French church at Oxford, Massachusetts, but also "missionary to the Nipmuck Indians, under the direction of the society for the Propagation of the Gospel in New England" (Daniels 1880, 76n2). Bondet did submit reports, as in the July 6, 1691, letter complaining about sale of rum to the Indians: "The 26 of last month there was about twenti indians so furious by drunkness that they fought like bears and fell upon one called remes . . . who is appointed for preaching the gospel amongst them he had been so much disfigured by his wonds that there is no hope of his recovery" (Daniels 1892, 12). Oxford was formally organized as a town in 1693. Mandell stated that,

> . . . the General court forcibly removed these [Wabbaquassett] Indians from their village when it established the town of Oxford deep in the frontier region . . . the court moved the Wabbaquassetts south to Woodstock, along the border with Connecticut and just below the resettled Chabanakongkomun community. The Wabbaquassett community vanished from colonial records until 1774, when Connecticut created an Indian reserve in the northwest corner of the town, but members undoubtedly maintained close connections with the nearby Chabanakongkomun (or Dudley) enclave (Mandell 1996, 27-28).

Mandell provided no source citation for either the supposed removal or the creation of the reserve.[57] It is certainly not the case that the Wabaquasset settlement at Woodstock was first created in 1693 (see discussion of the deeds and the praying towns), or that it disappeared from the records until 1774. Neither is it certain that the Indians residing near Oxford were actually

[57]His contention concerning the removal may have been based on the following passage: "In the summer of 1693 the northern Indians became a source of alarm. At Brookfield a band of 40 made an assault, 27th July, killing six persons and carrying away three others, one an infant, which was killed soon after the capture. Both Oxford and Woodstock having fears that unless precautionary measures were taken like disasters might come to these places, the case was laid before the authorities, and on 1 Aug., 1693, in Council, it was advised and ordered that the Indians of the Plantation of Tohkokomoowadchunt (Kekamoochong, adjoining Oxford] 'as well for their own security as that the Enemy may be better known,' be drawn into the town of Woodstock to be under the watch of the English" (Daniels 1892, 13; citing *Council Rec.*).

removed in 1693, since the local records continued to mention them.[58] Numerous records pertaining to the Indians of the region were generated in connection with the military events of the period.[59]

On August 25, 1696, there took place the "Johnson massacre" (killing of a man and three children), about 1 1/4 miles south of the present Oxford town hall, near the Webster road, which was either, according to tradition, by "a small band of Indians of some hostile Western tribe" (Daniels 1880, 83) or "perpetrated under the instigation of the Canadian authorities and the Jesuits by a willing servant of theirs, Toby, a Nipmuck Indian, dwelling at Woodstock, and was a precursor of the long series of atrocities later enacted on the frontier" (Daniels 1892, 14, 14n2, 15n2; see also Daniels 1880, 84n). This episode resulted in the temporary abandonment of Oxford by the Huguenots. Under Massachusetts law, the Indians were not supposed to be armed, but Connecticut took a different attitude, arming and equipping 18 of the Wabaquasset men to "range through Massachusetts" with Captain Daniel Fitch and his Connecticut and Mohegan troops to track the perpetrators (Larned 1874, 1:39-40). Massachusetts authorities found the attachment of the Wabbaquassets to Connecticut officials frustrating (Larned 1874, 1:40), but about October 1696, John Chandler, Jun., was appointed superintendent of the Wabbaquassets and Mohegans by the Massachusetts [*sic*] government. He directed them "where to hunt and what sign to wear that they might not be exposed by meeting with English scouts,'

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[58]"Laborie [*sic*] was stationed here not only to labor at New Oxford but also among the Indians at Keekamoochaug. This was a tract bounded north by Oxford south line, east by the large pond, south by "Dudley's Maanexit farm," and extended westerly so as to include the valley west of Dudley centre" (Daniels 1892, 16n1; see also a petition from Oxford at *Mass. Archives* 11:140).

Governor Bellomont of Massachusetts wrote Lords of Trade on July 9, 1700, "Monsr Labourie [Rev. James Laborie]is a French Minister plac'd at New Oxford by Mr Stoughton the Lieutenant Governour and myself at a yearly stipend of L30 out of the Corporation mony, there are 8 or 10 French families there that have farms, and he preaches to them, and at the same time instructed those Indians, having for that purpose learnt the Indian tongue to enable him to preach therein" (O'Callaghan 1854, 684).

On June 17, 1700, Laborie wrote Bellomont that, "As to our Indians, I feel constrained to inform your Excellency that the four who came back, notwithstanding all the protestations which they made to me upon arriving, had no other object in returning than to induce those who had been faithful, to depart with them. They have gained over the greater number, and to-day they leave for Penicook, twenty-five in all--men, women, and children. I preached to them yesterday in their own tongue. From all they say, I infer that the priests are vigorously at work, and that they are hatching some scheme which they will bring to light so soon as they find a favorable occasion" (Daniels 1892, 17).

[59]Most of these reports, however, pertained not to the local Indians, but to the hostile raiders (Daniels 1892, 12; Daniels 1880, 80-81; *Mass. Archives* 100:502).

Very little data is available to determine the size of the Nipmuc settlement that reached from Oxford to Woodstock. Much later, the Connecticut governor's 1730 report on population mentioned about 1600 Indians in the colony as a whole, but did not provide a breakdown by tribe or geographical sites, and additionally referred to about 700 "Indian and negro slaves" (Hoadly 1873, 584). Probably the best late 17th century estimate was Massachusetts Governor Lord Bellomont's July 9, 1700, letter to the Board of Trade, which indicated that about 40 families of Indians "about the town of Woodstock and New Oxford" had lately gone to live with the Penacook (O'Callaghan 1854, 684-685). However, we know neither what proportion of the total Indian population of the region these families may have been, or how many persons may have constituted a family.

while Captain Sabin made himself very serviceable by engaging many Wabbaquassets in the interest of the English, . . ." (Larned 1874, 1:40-41).

On the Massachusetts side of the border, in 1699, the Huguenots re-settled Oxford. On December 1, the minister, James Labourie, wrote: "We most humbly supplicate your Excellency and most Honorable Council to forbid said John Ingall to sell any rhoom, and to transport any meat out of the plantation that he hath bought of the Indians . . . (Daniels 1892, 16). On January 22, 1699/1700, at New London, Owaneco, chief of the Mohegan, provided information to the governor and council of Connecticut (O'Callaghan 1854, 613-616). He had specific information concerning the activities of the Indians at Woodstock (O'Callaghan 1854, 614-615), and direct information from Black James "taken from his own mouth on Febr the 1st 1699/1700" (O'Callaghan 1854, 615; see also Daniels 1892, 17).[60] The settlers at Woodstock also reported their observations. John Sabin, who had worked with the Wabaquassetts during 1696, provided lengthy information dated February 20, 1699/[1700], much relating to possible contacts among the Mohawk, Mohegan, Niantic, and Pennacook (O'Callaghan 1854, 619; Larned 1874, 1:41-42; see also O'Callaghan 1854, 636-639). Although the next two years brought moves toward peace (Melvoin 1989, 203, 210), there was only a brief hiatus before the outbreak of the next set of hostilities (Daniels 1892, 19; *Mass. Archives* 113:365; *Mass. Archives* 28: folio 18:127-128).

In May 1702, England declared war against France, initiating Queen Anne's War (Daniels 1892, 18). This war continued until the Treaty of Utrecht in 1713 ended the immediate threat of French and Abenaki attack in the Nipmuc country (Mandell 1996, 42). The concerns about connections between the local Indians and the northern Indians, expressed in 1700, continued after the outbreak of the war, one report mentioning "Ninnequabon [who] was bred & born at New Roxbury [Woodstock] . . ." and Black James (Daniels 1892, 19; citing *Mass. Archives* 70:618).

A financial account indicated that wages and subsistence were paid for 13 soldiers posted at Oxford and Hassanamisco during the summer of 1703 (ordered paid 24 December 1703; Daniels 1880, 95). Because of the apprehension about the French and Indians from Quebec and Acadia, the Massachusetts Bay General Court enacted a series of restrictive measures during 1704. These included measures to restrict the Indians, but were not limited to the Indians (Melvoin 1989, 229; *Mass. Archives* 30:493b).[61] During 1704, because of the continuing raids, Oxford, Massachusetts, was again abandoned by the Huguenots (Daniels 1892, 19). On June 9, 1704,

[60]It is not clear whether this was a different man from the one whose "heirs" were deeding land in 1686.

[61]Mandell indicates that the "other places" not specified by Melvoin were Punkapoag and Hassanamisco: "Again the General Court restricted Indians in Natick, Punkapoag, and Hassanamessit 'to prevent the sd Indians from travelling or hunting beyond the bounds and Limits then set them'" (Mandell 1996, 67). Several parties of Indians from Punkapoag and Natick were drawn for British military service by special recruiting parties sent by Indian superintendent John Leverett (Mandell 1996, 68). In 1703, similar limits were placed on the "friend Indians" by Connecticut (Hoadly 1868, 455).

Woodstock was visited by Major Fitch of Connecticut. He found it poorly provided and much exposed and left 15 men. The soldiers remained until the following January (Larned 1874, 1:42-43). Restrictions on the Massachusetts Indians continued for several years, but with no specific mention of Chaubunagungamaug (Mandell 1996, 67; *Mass. Archives* 31:11-12; *Mass. Archives* 31:53). However, on November 22, 1707, the General Court received a petition from Timothy Dwight of Dedham asking that the land conveyed to him by the family of Black James at Dudley "for furnishing provisions to the mother of Black James, to keep her and her children from starving, by his advice gave Mr. Dwight a deed of this tract of land," be confirmed to the said Dwight and his son, Josiah of Woodstock (*Mass. Archives* 31:46-48; Leavens Papers n.d.).[62]

By the end of Queen Anne's War, the condition of the Indians resident within the colony had apparently become very difficult. In July of 1712, the New England Company's commissioners decided that the "miserable Condition of the Indians at Natick" could best be solved "by Suitable Encouragement to endeavour to bring the Indians from Punkapog, and Hassanamisco, and such other near adjacent places as may have Scattering Indians in them; unto a Cohabitation at Natick" (Mandell 1996, 57; citing Commissioners' Minutes 3 July 1712, SPG, ms. 7953; Mandell 1996, 215n43). In February 1713, the SPG commissioners again discused a plan to combine the three Indian towns, but nothing resulted (Mandell 1996, 58). These deliberations did not specifically refer to either Chaubunagungamaug or Wabaquasset.

The documents do not provide a clear connection between the people who are documented to have comprised the group of "Black James and Company" in the 1680's and the people who emerge into the record as constituting the population of the Dudley Indians after 1735. The documents name occasional individuals, but are not sufficient to permit a reconstitution of the population. There is certainly not sufficient documentation to justify the 1923 Braxton claim that the Belden family were "descendants of Black James" (see below).

In 1722, the peace of the country was,

> again disturbed by the renewal of Indian alarms and hostilities, which continued for some years . . . A company of scouts, raised mostly in Woodstock and

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[62]"There is an ancient plan in the Massachusetts Archives, showing 240 acres lying north of 'Chabanaguncamogue Pond.' That undoubtedly shows the land where the [praying] town stood.---- It was 'Cirveied Octob 23. 1700.' and was filed with a petition which recites that Timothy Dwight of Dedham asks the General Court to confirm to him or his son Josiah Dwight of Woodstock, a piece of land as described etc. The purpose was to provide for the mother of Black James. Black James had been an important chieftain, and he was also active in the government and development of the praying towns through that expansive territory. The land shown on that survey of 1700 is clearly the land where the praying town stood." An old fort is indicated in the center of that plan . . . This tract of land was on the hill above the Slater East Village Mill plan showed the fort on the left of the present road top of hill. There was no road there at that time" (*Great Trail of the Indians* n.d., 5).

"This is the land which Josiah Dwight sold to Josiah Kingsbury in what is now the east village, and includes the Home Farm land, where the mill stands and toward the Sucker Brook at the head of the lake" (Leavens Papers n.d.).

> Pomfret by Major Chandler, guarded the frontier from August to November, 1722. The Indians in the Reservation north of Woodstock occasioned some alarm and were not allowed to live in the woods by themselves, but were drawn in and placed under the conduct of one Englishman--and only allowed to hunt under his charge and permission (Larned 1874, 1:58; no citation).

Larned may have been referring to Governor Samuel Shute's July 5, 1722, declaration against the hostile Eastern Indians, which ordered the friendly Indians to confine themselves to their plantations (*Mass. Archives* 31:106-108). They did not confine themselves very closely, for in August of 1723, the newspapers reported a visit to Boston, at Judge Sewall's and Judge Dudley's of John Quittamog, living in the Nipmuck Country near Woodstock, reckoned to be about 112 years old. The report indicated that he had been remembered as a "very old man" for 40 years past by the inhabitants of Woodstock; Larned speculated that he was the same person as the John Aquiticus who occupied the school land (Larned 1874, 1:58; citing *News-Letter* of August 29, 1723). Quittimaug's death two years later also made the newspapers.[63]

Dudley, Massachusetts. Mandell commented that in the 1720's, ". . . pre- and postwar connections also allowed the human tide to flow west. Samuel Pegan, for example, left Natick to join his Chabanakongkomun relatives (in fact, the entire community became known as the Pegan Indians)" (Mandell 1996, 84; citing *Mass. Archives* 32:6-7; *Acts & Resolves* 1730, Ch. 28, 3 July 1730; Mandell 1996, 219n14). Mandell hypothesized that the Dudley settlement might have maintained strong elements of an aboriginal lifestyle:

> A similar situation [a loose network of extended families scattered throughout the town] existed in Chabanakongkomun, for there are few letters or records from this community, and the reserve's rich diversity--including a cedar swamp, dense woodlands, and a good-sized lake--would have supported aboriginal settlement patterns (Mandell 1996, 85; citing only to the mid-19th century reports; Mandell 1996, 219n18).

Mandell seems to have been unaware that the lands described by the mid-19th century report were a new purchase made in 1797, and not a remnant of the earlier reserve of lands in the central portion of the town of Dudley. Mandell also suggested that the emigrants from Natick might have influenced the lifestyle choices of their new neighbors,

> Changes in Natick's material culture rippled out to other Indian villages in the area. After Samuel Pegan moved to Chabanakongkomun, for example, he sold

[63]June 30, 1725, Woodstock: On the 21 instant, died near this place, John Aquittimaug, age 114 years or 123 years; Capt. Ebenezer Davis, an old resident of Dudley, says that John Quittemaug lived on the east side of a bare round hill, about a mile and a half southeast of Dudley Hill, known as Quittemaug or Nipmuck Hill *The Boston News-Letter* (Larned); July 1-8, 1725, Boston *News-Letter* reported the death of John Aquittimaug at Woodstock on 21 June, aged about 114 years (Larned 1874, 1:58).

> land in Natick "to build a comfortable House after the English Fashion for the Convenience of him self & his Family (Mandell 1996, 97; citing *Acts & Resolves* 1730, Ch. 28, 3 July 1730; Mandell 1996, 221n64).

but also indicated that there was little actual evidence for continuing ties between Dudley and Hassanamisco:

> More hidden were the persistent ties between the two Nipmuc enclaves of Hassanamisco and Chabanakongkomun, even though the two were located only twelve miles apart. One incident spotlights the connections between the two groups. In 1733, the colonists in the new town of Dudley, which was created around the small Chabanakongkomun reserve, invited several ministers to ordain their new pastor, including "the Rev. Mr. Printer of Hassanamisco"--Sarah Printer's father. The invitation not only reveals ties between the two Nipmuc groups, but is our only hint that one of the Hassanamiscos was an ordained minister. It also points to the hidden influence of the Chabanakongkomun Indians on the English town, for why else would the colonists have invited a native minister living several towns away? (Mandell 1996, 84; citing *Town Records of Dudley, Massachusetts*, 1732-1754 (Pawtucket: The Adam Sutcliffe Co., 1893), 18; Mandell 1996, 219n16).

In fact, the town meeting in Dudley, February 26, 1732/1733, that led to this invitation contained additional information that placed the invitation in perspective. The inhabitants agreed to raise 25 pounds to cover the expenses of the ordination of the town's new minister, to hold it at Joshua Healy's house, and to have "Mr Joseph Edmunds hous to be the hous to provid for the minesters and meshoners which com to atend upon the ordinaitoon" (Conant 1893, 97). They invited a fairly wide sample of neighboring clergy to attend, some of whom lived farther away than Grafton: "The reverend Mr Fisk of Killingly, the reved Mr Williams of Pomfret, the Revd Mr Jackson of Woborn the Revd Mr Combell of Oxford the Revd Mr Throop of Woodstock the Revd Mr Cobbot of Thomson the Revd Mr Printee of Hassanamiseco ware chosen by the Town to assist at the ordination of the Reverend Mr Isaac Richardson" (Conant 1893, 97). Since the deed for the land on which the church was built provided that the Dudley Indians should always have free pews assigned in return for the gift of the land (see section IV.E.2), their influence on the English town was scarcely "hidden." The deed provided in particular that:

> If the Town of Dudley doth build a Meeting there the Indians should have some Convenient room to set together in when it is done. This to be in full of our charges towards building the meeting house, unless the town should want some Particular Sticks of Timber towards the building said house, and this to be put on the records in Dudley Town Book as an Obligation on both Parties (Leboeuf and Wakefield 1929, 6).

It is true that the Massachusetts Archives contain little information about the Indian settlement in Dudley prior to 1735, when the series of records resumed. However, all Mandell's speculation ignored the substantial amount of information about the Indians of the Dudley and Woodstock areas which can be gained from the Woodstock, Connecticut, records of the first third of the 18th century and the records of the various towns and churches in the south central part of Worcester County, Massachusetts. These indicated, if nothing else, that there continued to be very strong ties and intermarriages between Dudley and the villages in Connecticut as well as between Dudley and Natick (see below).

One of the most extensive sources of information pertaining to this period results from the desire of the desire of Dudley, expressed at a town meeting held January 30, 1733/1734, to build a meeting house on the Indian Joshua Pegan's old field (Dresser 1900, 117; Conant 1893, 99). The deed for land on top of present Dudley Hill, Dudley, Massachusetts, was dated March 20, 1733/1734 and recorded August 15, 1738 (Worcester County Registry of Deeds 1738, 10:230).[64] It was then known as "Pegin Hill." The four acres were to be used for the purpose of a church, meeting house, and training ground and were accepted by vote of the town meting on March 27 (Leboeuf and Wakefield 1929, 6). It was surveyed on June 19, 1738 (Worcester county Registry of Deed 1738, 10:230), the land constituting an irregular triangle at the northwest corner of the Indians' square mile of land (copy of Chandler's Survey *in* Leboeuf and Wakefield 1929).[65]

At present, the title relationship between the above deed for the four acres to the reservation land sold by the Indians to William Dudley in 1724 (see below) is not clear. It is possible that the land included in the 1734 deed could have been the private property of the Pegan and Aquitticus families: the records of the settlement of the estate of Samuel Pegan in the years following 1735 certainly imply that the family were private landholders in fee simple.

Other Indian families, not mentioned in the above deed, were apparently residing in the area on the 1730's. A survey of a road from the East Village to Dudley Hill, laid out by the selectmen on March 17, 1737, mentioned as a landmark not only "the Indian land" in general, but "a pitch pine near Collicom's wigwam" in particular (Leavens Papers).

The Dudley (Chaubunagungamaug) Reservation Deeds, 1685-1763. Chronologically, this section represents an excursus, and may duplicate some data presented elsewhere. It is designed

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[64]The Nipmuc Petition indicated the date as June 30, 1734 (Nipmuc #69 Pet. Narr. 1984, 51).

[65]A partial copy of the deed shows the signers as: Samuel Pegon, Solomen Babysuck, Joshua Peagun, Samuel Peagon Jr., Joseph Peagon, Jonathan Pegon, Thomas Pegon, Samuel Quiticus . . . [at least one line containing names missing?] John Whitticus, Hannah Bollicup, Bettey Peagon. At Windham, Thompson Parish in Killingly, Connecticut May 3, 1734, Solomon Babesuck, Joshua Pegon, Thomas Pegon, and Samuel Quitticus four of the signers acknowledged the above to be their act and deed; at the same day and place Samuel Pegon Jr. and Solomon Pegon acknowledged the above instrument. April 30, 1734 (Worcester, ss; A true photostatic copy of record, of Worcester District Registry of Deeds, Book 10, page 236. Survey made 19 June 1738; Nipmuc #69B Suppl. 3/28/97).

to present a close analysis of the land transactions which led to the establishment of the Chaubunagungamaug (Dudley) reservation and its subsequent reduction to the geographical limits that existed in the 19th century.

Purchase of the "Nipmuc country" on Behalf of the Colony of Massachusetts Bay in February 1681/1682. After the examinations of Indian title to the Nipmuc country that had been conducted in 1681, on February 8, 1681/82, Dudley and Stoughton reported to the General Court that they had agreed with the Hassanamesit and Natick Indians for the northern portion (Shurtleff 1854, 5:364) and Black James and Company for the purchase of the southern[66] portion (Daniels 1880, 34; citing *Mass. Col. Rec.* 5:342). On March 17, 1682, Stoughton and Dudley, acting on behalf of the colony, purchased the two large parcels, a combined total of 10,000 square miles.[67] The land description for Black James' deed has been printed (Shurtleff 1854, 5:365-368; Freeland 1894, 127-128; citing 1 *Mass. Col. Rec.* 5:362-365; *Mass. Archives* 30:265). The two deeds dated February 10, 1681/82, were formally delivered May 19, 1682, at Natick (Daniels 1880, 36; Freeland 1894, 124).

Reservation of Two Tracts. In the above sale , Black James and Company reserved a certain tract of five miles square in two parcels (Place of Small Stones n.d., 21-23; citing *Mass. Col. Rec.* 5:341-343). The petition described as this reservation as 5000 acres at Quinnatisset and a large tract at Myanexet (Nipmuc #69 Pet. Narr. 1984, 50).[68] The best description of the exact dimensions and locations of the territories reserved for Black James and Company came, naturally enough, in the descriptions provided by the legal survey of the territory. Although the survey was made in October 1684, after the sale of part of the territory, it was nonetheless made

[66]February 10, 1682, deed, for twenty pounds, signature of Black James of Chaubunagungamaug, followed by 29 other signatures, "all that part of the Nipmug country, . . . lying and being beyond the great ryver called Kuttatuck, or Nipmug [Blackstone] Ryver, and between a rainge of marked trees, beginning at said river and running south east till it fall upon the south lyne of the said Massachusets colony on the south, and a certaine imaginary lyne fowre miles on the north side of the road, as it now lieth, to Springfeild on the north, the said great river Kuttatuck of Nipmuck on the eastward, and the said patent lyne on the westward" (Freeland 1894, 125; citing *Mass. Col. Rec.* 5:361).

[67]February 10, 1681/1682, another report made by Stoughton and Dudley to the General Court stating that they had agreed for all the land belonging to the Hassanamesit and Natick Indians, "lying fower miles northward of the present Springfield road, & southward to that, have agreed betweene Blacke James & them, of which we advised in our late returne, wee have purchased at thirty pounds money & a coate. The southern halfe of said country we have purchased of Blacke James & Company for twenty pounds" (Freeland 1894, 123; citing 1 *Mass. Col. Rec.* 5:342). The commissioners reported to the Court, "the whole tract in both deeds conteyned is in a forme of a triangle & reduced to a square, conteyneth a tract about fifty miles long and twenty miles wide" (Freeland 1894, 127).

[68]"In the second deed there was a reservation of five miles square, to the native Indians, which might be chosen in two separate tracts of land. The first was on the Quinebaug river at Maanexit, three or four miles southerly of Chaubunagungamaug. The other tract of land, four or five miles southeasterly of Maanexit, in the present town of Thompson.--1 *Mass. Col. Rec.*, V, 488" (Freeland 1894, 127).

in the name of the original grantee (Freeland 1894, 128).[69] A substantial portion of this reserved territory fell within the modern Connecticut boundaries.[70] These reserved tracts were later confirmed to Black James and Company by the General Court on June 20, 1685 (Daniels 1892, 5-6n6; citing *Mass. Col. Rec.* 5:488). By that time, however, they had already sold a substantial portion of them.

This land was not a "reservation" in the modern sense of the word, which implies the existence of a trust relationship between an Indian tribe and the Federal Government, or between a tribe and a State government which holds title to the reservation on behalf of the tribe. Rather, "reservation" in these deeds explicitly meant only that the sellers were withholding part of the territory from sale, and intended that they themselves should have it in fee simple, with all the rights implied by that, including the right to sell it at will. The "reservation" in the second deed of February 10, 1681/1682, stated: "Reserving always unto ourselves, our heirs and assigns, out of the above said grant, a certain tract of land five miles square, at such two places as we shall choose, to be wholly at our own use and dispose."

In accordance with the terms of this "reservation," on April 28, 1682, a deed of Black James and Company conveyed to Stoughton and Dudley half of the reservation of five miles square. It provides the best evidence of who was comprised in the "company" of Black James (Temple, *Records of Oxford*, 549; *Suffolk Deeds Liber XIII* 1902, 297-299; Nipmuc #69 Pet. Narr. 1984, 50).[71] On May 20, 1685, Benjamin the brother of Black James & Simon Wolomp son of Black James, granted seisin (Freeland 1894, 124n; citing *The Huguenots in the Nipmuck Country* [no page specified]; Freeland 1894, 550). "Heirs" of Black James made another, unratified, deed in 1686 covering territory later organized into the Towns of Monson, Palmer, and Brimfield (Reese c1980, [28]).

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[69]"Chaubunagungamaug, surveyed in October 1684, to Black James and others. It extended west from Chaubunagungamaug pond (from which the Indian town here took its name), over Maanexit river (French river). Nearly all this tract, with other lands between the towns of Oxford and Woodstock, became the property of Joseph Dudley, and afterwards fell to his sons, the Hon. Paul and William Dudley. Part of this Indian land is now within the limits of Thompson, Ct., and part in Dudley" (Freeland 1894, 128).

"Plat of five miles square; one running from the west side of Chaubungagungamaug Pond over Mayanexit River containing 11,000 acres; complement of the other plat of five thousand to sixteen thousand, surveyed by John Gore, one at Quinnatisset and the other at Mayanexit" (Daniels 1892, 5-6n6; citing *Mass. Col. Rec.* 5:488).

[70]"This Indian Reservation was laid out in two sections--one 'at a place called Myanexet,' east of the Quinebaug, now included in the towns of Dudley, Webster and Thompson,--the other at Quinnatisset, now the south part of Thompson" (Larned 1894, 1:14).

"Most of the first reservation was subsequently conveyed to Dudley or his heirs, and a part of the land was incorporated in the town which received his name" (Freeland 1894, 127).

[71]There are several variant transcriptions of this deed. The 23 signatures contain more names than the text (Daniels 1892, 755-756; *Suffolk Deeds Liber XII* 1902, 297-299; Shurtleff 1854, 5:368).

Disposition of the Reserved Lands to the Dimensions of the Mid-18th Century Reservation. Disposition of Indian lands in Massachusetts was controlled by the legislature and the General Court. On June 26, 1702, published June 28, the legislature passed "An Act to Prevent and Make Void Clandestine and Illegal Purchases of Lands from Indians" (*Province Laws* 1701-02, Chapter 11).[72] Further disposition of the lands reserved by Black James and Company fell under its provisions.

Black James and Company apparently retained the second half of the reservation made in the 1682 deed, approximately 8000 acres, until 1707, when "the remaining full moiety of the five miles square consisting of 8000 acres" was sold by Black James *et al.* to William Dudley for 10 pounds, because of the "great love and good will, esteem and affections" which they bore toward Joseph Dudley and his family, reserving to themselves, their heirs and descendants forever, the right to fish, hunt, and "on great ponds or rivers necessary for their support" (Nipmuc Pet. Narr. 1984, 50; Dresser 1900, 117; see also Mandell 1996, 39 citing "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachusetts," circ. 1890, photocopy, Nipmuc Tribal Acknowledgment Project, Worcester, Mandell 1996, 212n58).[73] The attorney for the Dudley Indians in 1890 asserted that this deed had never received the approbation of the General Court (Brief 1890). The land conveyed to Dudley in this 1707 deed comprised more than half of the territory of the town of Dudley when it was incorporated (Eddy 1912b). The petition submissions do not include a copy of this deed.

The significance of this sale must be analyzed in the context of what has been seen, above, of the impact of the colonial wars on the Massachusetts frontier. If, as reported by the Oxford records,

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[72]". . . to the intent the native Indians might not be injured or defeated of their just rights and possessions, or be imposed on and abused in selling and disposing of their lands, and thereby deprive themselves of such places as were suitable for their settlement and improvement, did, by an act and law [of June 4, 1685] . . . inhibit and forbid all persons purchasing any lands of the Indians without the licence and approbation of the general court, . . . [be it enacted] That all deeds of bargain, sale, lease, release or quitclaim, titles and conveyances whatsoever, of any lands, tenements of hereditaments within the province, as well for term of years as forever, had, made, gotten, procured or obtained from any Indian or Indians by any person or persons whatsoever, at any time or times since the year of our Lord one thousand six hundred thirty three, without license or approbation of the respective general courts . . . or shall hereafter be had, made, gotten, obtained, or procured from any Indian or Indians, by any person or persons whomsoever, without the license, approbation and allowance of the great and general court or assembly of this province for the same, shall be deemed and adjudged in the law to be null, void and of none effect . . ." (*Province Laws* 1701-1702, Chapter 11).

[73]The brief described it as: Black James et. Als. Sachem and tribe, for a nominal and insufficient consideration, conveyed to Wm. Dudley the half part of remaining Moiety of the reserved tract of five miles (of which they held the fee) reserving to them, the Indians, their Heirs and descendants forever, the right to plant, hunt, and use such parts as would be necessary for their support (a reservation in fee), see Suffolk Reg., Deeds, Libro 26, Folio 215. There is no act of the Genl. Courts allowing this sale, moreover at that time the tribe were under Guardianship, and had been previous thereto, Chap 10, acts 1694, 2d session, Province Laws 1701, Chap. 11, 1st session. Penalty for so purchasing twice the value and six months imprisonment. Leases to be approved by the Court of sessions . . . (In the Matter of the Dudley Indians. Brief, Before the House Judiciary Committee of Massachusetts c.1890).

a substantial portion of the Nipmuc families from the area had joined the Pennacook about 1700, combined with the substantial restrictions on movement, hunting, and fishing imposed by the General Court between 1704 and 1708, the Indians may have seen little advantage in retaining title to the land. According to the Suffolk County, Massachusetts, records, Joseph Dudley did not re-sell any of these lands prior to his death on April 2, 1720 (*History of Dudley*, 106), which probably would indicate that in any case, the usage of the land did not change until that date. They were inherited by his sons, Chief Justice Paul Dudley and the Hon. William Dudley, who began selling them to prospective settlers in 1721 (*History of Dudley*, 106).

According to the 1890 brief,[74] on April 9, 1724, William Dudley conveyed by deed to the Nipmuc Indians title [*sic*] to a tract of land approximately one mile square (640 acres) which was part of their former reservation, "to plant and improve," henceforth to be reckoned as the only reserve and exception in the deed of 1707. This square mile extended from a brook at the northeast corner of Isaac Newell's farm, south to the north line of Paul Dudley's Manexet farm (Nipmuc #69 Pet. Narr. 1984, 50-51).[75] For a fairly extensive study of the location of this square mile, based on copies of old deeds held by the heirs of William Dudley, see an extensive letter to the *Webster Times* by a local historian (Eddy 1912a *in* Leavens Papers). An 1887 newspaper article written in connection with the sale of the land of the Dudley/Webster Indians, however, indicated that it had been a lease: "William Dudley allowed the Indians to improve land south of Powder Horn Brook, "so much west of the road from Woodstock to Oxford as said Indians may have occasion for subsisting cattle, not exceeding 15 acres, for a period of 20 years, and for such further time as may be agreed upon." The rent agreed upon was "one salmon trout in the month of May annually, if demanded on the premises'" (Sale of Indian Land at Webster 1887). The 1763 deed by Dudley's heirs to Davis (see next paragraph) indicated that this 1724 document was a lease to the Indians (Daniels 1892, 774-775). The petition record contains no copy of this deed. Therefore, BIA researchers have no way to evaluate whether it conveyed a title or lease to a group of Nipmuc Indians as such, or to specific individuals; and if to individuals, to whom (whether to identifiable descendants of Black James and Company, or possibly to persons such as Samuel Pagan who had come to Dudley from Natick).

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[74] "In 1724, Wm. Dudley, from some design (which each one of this Committee will judge for himself, but leave to the Law the right or wrong of, you however, will note they held a reservation in fee unconfined by metes, bounds of quantity, on this tract which by the puritanical Law of Justice had dwindled down to eight thousand acres, Lib. 26, Fol. 215, Suf. R.D.) Made a Deed (no act of Leg. Recorded) to the Indians the contents of more than one square mile, title a fee bieng to them, their heirs and descendants forever (they being under Guardianship at that time) Suffolk Reg. Deeds, Lib. 37, Fol. 269. Also a Deed was made of a tract for a meeting-house in Dudley at this time by Indians which was found invalid, because they could not Deed without sanction of state, see Reg. Deeds B. 59, Page 20, W.R. Dudley undertook to cure the defect but it is not cured as yet legally" (In the Matter of the Dudley Indians. Brief, Before the House Judiciary Committee of Massachusetts c.1890).

[75] The petition (Nipmuc #69 Pet. Narr. 1984) stated that nothing was known of the other plot located near Thompson, Connecticut. For the prior sale of that property, see above.

On January 31, 1763, the heirs of Joseph Dudley sold to Edward Davis of Oxford, Massachusetts, one square mile, "adjoining the Meeting-house in the town of Dudley," being that which William Dudley leased [*sic*] to the Indian natives April 9, 1724, excepting for said Indians 200 acres on the east side thereof . . . so long as they shall continue to improve the same, agreeable to a resolve of the General Court, Jan., 1763., etc." (Daniels 1892, 774-775; citing Worcester Records XLIX., 314; the 1890 brief gave the cite as Worcester Reg., Deed Lib. 49, Folio 313, 317).[76] The record contains no copy of the deed nor list of the signers. A recent scholar has described these transactions as follows:

> . . . the Dudley guardians persuaded the General Court to allow William Dudley's heirs to purchase [*sic*; the transaction was a sale] two-thirds of the remaining reserve for two hundred pounds. The Indians, they told the court, no longer farmed the tract, and so had broken the stipulation on the lease obtained three decades before from Dudley. The truth, however, was that the Indians had owned the land since the 1680s (see chapter 2), and that in 1724, when Dudley managed to shrink their holdings to a square mile (in a somewhat mysterious and probably fraudulent manner), he inserted the phrase 'to plant and improve' into the deed. the money was needed more than the land, the guardians told the court, to meet growing medical bills and other 'necessaries.' The court agreed to the proposal, and in exchange the Dudley heirs [*sic*; the payment was to come from the purchaser, Edward Davis] were to pay fifty pounds into the Indians' account (controlled by the guardians) and nine pounds each year as long as the Indians 'improved' the remaining land (Mandell 1996, 149-150; citing *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763).[77]

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[76]Other descriptions of this transaction: 1763, 440 [or 444] acres of square mile plot sold (Dresser 1900, 118). Sold to Edward Davis by the heirs of Joseph Dudley, with permission of the General Court (Nipmuc #69 Pet. Narr. 1984, 52). "In 1763, the Heirs of Dudley and guardians of the Indians persuaded the Genl. Court to make sale of the same, alleging they held the fee. While as a matter of fact the fee was in the Indians, less 200 (201) acres, see Court Records Book 24, Folio 543, Sect'y State's Office. . . . In that sale 20 pounds was paid and 9 pounds per year thereafter until the $500.00 was paid in by act . . ." (In the Matter of the Dudley Indians. Brief, Before the House Judiciary Committee of Massachusetts c.1890, 2).

[77]"Like the other two inland communities, the Indians in Dudley held a diminishing amount of land. Stiles wrote that of 'a Mile square in the Center of Dudley reserved for Indians. . .about 25 Acres are lately sold by Permission of the General Assembly.' In fact, in 1763 William Dudley's heirs had purchased [*sic*, the transaction was a sale] not 25 but 440 acres, or two-thirds of the Indians' 'Mile Square.' Only thirty-five years later, all but 26 acres were sold to cover debts and to 'give the town Liberty to act and dispose of [the Indians'] Interests as they do with their other Poor'" (Mandell 1996, 168; citing Dexter, *Itineraries of Ezra Stiles*, 228; *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763; John Chamberlain, Dudley, to the Massachusetts legislature, in documents relating to Unpassed Senate Legislation, no. 2151, 12 Feb. 1796, Massachusetts Archives; Mandell 1996, 231n24, 231n25, 231n26).

The defect in Mandell's analysis of the transactions lay in his ignorance of the 1707 deed of sale. Its provisions eliminate any mystery that might apply to the subsequent 1724 transaction. Mandell made the following argument concerning the economic impact of the sale:

> The Indians who remained in the shrinking reserve mixed farm labor and subsistence hunting, fishing, and gathering, an economy quite different from that of their relatives in Natick and Grafton. The Chaganakongkomuns could maintain these older ways because their isolated village lay far from colonial roads, in the middle of a forested valley guarded by two high hills, with substantial resources, including a cedar swamp and a large lake (Mandell 1996, 168-169).

The BIA researchers have not located any documentation concerning this hypothesis concerning a distinction between the economy of the Indians at Dudley compared to those of the Indians at Natick and Grafton. The limited documentation located indicated a considerable similarity (see below).

The Dudley (Chaubunagungamaug) Reservation under the Colonial Government of Massachusetts, 1735-1785. For no apparent reason, after nearly a quarter-century of very sparse mentions, the Indians residing in the vicinity of Dudley, Massachusetts, reappeared in the Massachusetts records beginning in approximately 1735. It is not known whether the sparse mentions in the prior period were because they were not recorded, or because the currently existing record series is incomplete.

The various guardians of the Dudley Indians mentioned in the records prior to the Act of 1746 were presumably appointed by the governor of the colony under the Act of 1693. However, no records were located pertaining to their selection and appointment. During the 1730's, all of the Dudley Indians appearing in the Massachusetts records held land at Natick. From a legal standpoint, they may have appeared in the records under guardianship because of the Natick connection.

General Court Records Prior to 1746. All of the records in this section, even when specifying that an Indian was "of Dudley," indicated that he or she had rights to property in Natick. It may be that prior to the General Court's Act of 1746, the Chaubunagungamaug Indians as such, if they did not hold land at Natick, were not, in fact, under guardianship, and their transactions therefore did not fall under the supervision of the General Court. Certainly there is no indication that the 1734 Pegan deed for the church lands at Dudley required approval. It would be desirable to search the land records of Suffolk County[78] and Worcester County before 1746 for additional deeds.

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[78]The printed series of Suffolk Deeds terminates in 1684; transactions subsequent to that date must be searched in microfilms of the original deed books.

Samuel Pegan was the man described by Mandell (see above) has having left Natick during the 1720's to "join his relatives" at Chaubunagungamaug. He was dead by November 19, 1735, when two of his sons, Jonathan Pegan and Isaac Pegan, on behalf of the heirs, petitioned for a General Court order for the sale of the estate (*Mass. Archives* 31:265-266, 268-269; *Mass. Acts & Resolves* XII, 1735-36, 208). Subsequent records, such as the January 1739/40 memorial of John Chandler Esq. & Mr. William Lyon, upon the petition of Jonathan & Isaac Pegan, two of the sons of Samuel Pegan of Dudley, Indian (*Acts and Resolves* 659), did not indicate that the family was maintaining a traditional economic lifestyle in the "Chaubunagungamaug enclave":

> The said deceased at his death left a widow (who is since dead) and five sones and two daughters the youngest Son lives with ye Rev[d] Mr. How of Dudley and is in his 14th year, the two Daughters live with Mr Morris, the youngest of whom is in her 17th Year the Eldest son is marryed but has no children, the second is also married and has two children, the third follows the sea some times and altho married has no children, the fourth son is a single man of about 22 years of age who also talks of going to Sea (*Mass. Archives* 31, 265-270).

The petitioners queried whether the money from the land sale should be divided, as the older sons wished, or put at interest; it was ordered to be put at interest. The associated documents included a copy of the earlier 1735 petition from Isaac and Jonathan Pegan for sale of a lot at Natick (MA State Archives, *Mass. Archives* 31, 265-270). A few years later, another petition provided further illumination of the complicated interconnections and residency patterns, not only of the heirs, but also of the guardians, when in 1745-46, Samuel Pegan, Jonathan Pegan, Solomon Pegan, Hannah Pegan and Patience Pegan, children of Samuel Pegan late of Dudley, Indian, decd., noted that the General Court had impowered John Chandler Esqr. and William Lyon both of Woodstock to sell land in Natick. Both of these men were now deceased, so they requested that that Jabez Lyon of Woodstock or some other person be impowered to conduct the sale (*Acts and Resolves* 523-524). A few years later, the 1757 will of Abigail Quittocus of Dudley named several of these children of Samuel Pegan as her cousins. The real estate and personal property --- household possessions and clothing — that she bequeathed to them also indicated that her economic status and lifestyle were very similar to those of her non-Indian neighbors, and typical for a middle-class woman of the time and place (Dresser 1900, 118-119; *Now and Then* c.1932, 67).[79] Almost all of the persons listed on reports of the guardians as

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[79]Such cultural adaptation is not in itself negative evidence for Federal acknowledgment under the 25 CFR Part 83 regulations. There have been several variant transcriptions of this document.

Dudley, September 19, 1757.

The last will and Testament of abigail quittocus of Dudley, I being by the providence of god, layed upon a sic bead and in a languishing condition and thinking myself drawing naigh to the gates of the grave, and being of Sound Mind, I am clined and disposed to give away my temporal estate that god in his providence has been pleased to bless me with; and in the first place I commit my body to the Dust and my soul to god who gave it; first I appoint My Cousin Jonathan Pagan, executor to fulfil this my will and order him to decently bury my body after my death; and to pay all my just Depts, 2dly, I give unto my Cousin Jonathan Pagan all my Real Estate hous and barn and improved land, 3dly I order so much of my liveing stock sold as to pay all my Depts,; 4thly I give the rest of my

Dudley Indians, between 1768 and 1774, were descendants of this Natick-connected Pegan family.

Overseers and Records of the Dudley Reservation, 1746-1785. In 1746, an act of the Massachusetts Bay legislature called "Better Regulating the Indians" provided for the appointment of three people for each plantation to act as guardian. "The guardian had the power of a justice of the peace and could lease out land on the plantation not in use by Native People" (Reese c1980, [36]).[80] Under this bill, Grafton (Hassanamisco) and Dudley (Chaubunagungamaug) were paired. In subsequent years, however, the two groups came to have different guardians, although there is no record of a formal separation by legislative act. Further measures concerning the sale of Indian lands were passed in the spring of 1748.[81] The 1746 measure was elaborated on June 12 and 13, 1758, by a bill providing that there be three guardians near every Indian plantation to allot lands to the Indians and guard against trespass; also, to regulate incomes and expenditures in behalf of the tribes; and that no sale or lease of Indian property was to be made except by consent of the guardians (*Mass. Archives* 33:64-66).

The records of the Massachusetts legislature provide a full record of the men who were chosen as guardians of the Dudley Indians between 1746 and the Revolution ((*Acts & Resolves* XIV, 39; 1746/1747, *Acts and Resolves* 694; *Mass. Archives* 32:350; *Mass. Archives* 32:453; Doughton's

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live stock to my two cousins hannah quittocus and Patience Pagan to be Equily divided between them; 5thly I give unto my cousin hannah quittocus my calico gown, also my quilted potecots [petticoats] and best pare of stojs [stays] a long cloak, also my peat [great] cheast and Iron pots and 2 woollin blankets, silk hood and a white apron also my blue camblet Riding hood and frying pan. 6thly I give to my cousin Patience pagan my silk gown my bead [bed] and beadstead cord and coverlid [coverlet] and two blankets and Iron Kettle; and my old pare of stojs and my old black silk hood and cotten handkerchief and an apron and Iron tongs; 7thly I give to my cousin Patience, Sam Pagan's wife on of my gounds [gowns]; 8thly I give unto my cousin Martha Pagan Joseph's wife one of my gounds. 9thly I give unol my cosin hanna Pagan, Thomas pagans widow one of my gounds [gowns], This is my mind and last will to be Don, Hereunto I set my hand abigail quittocus, In presence of us, William Carter, Elkanah Day, Jonathan Hewell (Dresser 1900, 118-119; *Now and Then* c.1932, 67 [spelling of name corrected from "quittocur" to "quittocus"]). [capitalization *sic*]

[80]According to Mandell, the act authorized, "the appointment of three guardians for each native enclave in the colony. These guardians were given the power not only to act as justices and to manage the community's account, but also to take land that the Indians were not using and lease it to white farmers or cattlemen. Guardians were to submit annual reports to the court--few of which are extant, if they were ever submitted. Three men were elected by a joint meeting of the Governor's council and assembly for eight Indian communities (or cluster of small enclaves): Natick, Plymouth, Pembroke, and Middleborough; Stoughton (Punkapoag); Yarmouth, Harwich and Eastham (Potawaumacut); Grafton and Dudley; Mashpee, Barnstable, Sandwich, and Falmouth; Martha's Vineyard; and Nantucket . . . As a result, Dudley, Mashpee, and other Indian enclaves in the commonwealth suddenly found their land and fortunes controlled by outsiders" (Mandell 1996, 144).

[81]February 15, 19, 1747/1748; an order of the General Court that the committee frame a bill designed to protect the Indians in the disposal of their lands (*Mass. Archives* 31:564-564a); March 2, 1747/1748. Resolve of the General Court that the guardians of the Indians must endorse future petitions of the Indians for the sale of their lands (*Mass. Archives* 31:567).

index, *Mass. Archives* 33:76; *Journals of the House of Representatives of Massachusetts* 1770-1771 1978, 148; *Mass. Archives* 33:602; *Mass. Archives* 33:602; *Journals of the House of Representatives of Massachusetts* 1773-1774 1981, 106, 108).). For names and details, see the draft technical report for petition #69B.[82] If collections of the private papers of any of these individuals exist in manuscript repositories, it is possible that they might contain additional information on Chaubunagungamaug/Dudley in the mid-18th century.

Actions Taken by the Overseers and Legislature, 1746-1785. Like the earlier records, the documents from this period indicate numerous continuing interactions between the Indians of central Worcester County, only some of whom were "Dudley Indians," and Natick. The continuing records pertaining to the settlement of the estate of Samuel Bowman never indicated that he was, jurisdictionally, a "Dudley Indian," but only that he was a Natick property holder whose extended family resided in various towns of Worcester County. He did not reside at Dudley, but at or near Worcester itself, as indicated by a June 20, 1743, authorization by a committee of the General Court for guardians to sell land purchased from Samuel Bowman of Worcester, an Indian proprietor at Natick (O'Brien 1990, 271), in behalf of Moses and Joshua Waban (*Mass. Archives* 31:444). Bowman did have ties to Chaubunagungamaug: the husband of one of his daughters was Joseph Pegan of Dudley (*Mass Archives* 32:607; *Mass. Archives* 32:316-318; *Mass. Archives* 32:316-318; *Acts and Resolves* 668; *Mass Archives* 33:128; *Acts and Resolves*, XVII, chap. 223 of 1764-65, pp. 605-606). Similarly, John Ephraim of Natick had married a Dudley woman (O'Brien 1990, 299-300; Mandell 1996, 166-167). Elizabeth (Brooks) Lawrence Senah was a Natick Indian residing at Dudley, but never appeared in the records of the Dudley guardians (Mandell 1996, 170-171, 235n127; see the draft technical report for petition #69B for further details).

Several guardians' reports from 1768 to 1774 reported on disbursements of Dudley funds and indicated the names of the beneficiaries. "The guardians' accounts reflect these small numbers [as given by Ezra Stiles], for one year after Stiles's visit six households obtained assistance, half headed by apparently unmarried women" (Mandell 1996, 168; citing *Mass. Archives* 33:463; Mandell 1996, 231n23).[83] The 1793 resolve on the petition of Thomas Pegan indicated that his

[82]For further details and citations to sources, see the draft technical report.

[83]On March 1 and 3, 1768, those listed on the account, approved by a committee and accepted by the General Court, were: Samuel Pagon & family, Thomas Awonsamug, Patience Pagon for nursing, Mary Pagon & son & daughter; John Ephraim & Mary [*sic*] his wife; Anna Pagon (*Mass. Archives* 33:463). An account from March 1767 onwards, presented April 9 and approved April 12, 1770, showed "Patience Pagan; Samuel Pagon; Samuel Pagon his garl, a pair of shoes; Thomas Awonsamug & Hannah his Wives acct; Mary Pagan when sick at Worcester; Awonsamug when sick & his funeral; Simon Peagon; Sam[ll] Peagon; Hannah Awansamog, Anna Peagon, Patience Pagan, Esther Peagon" (*Mass. Archives* 33:518-520). Fewer names, but no different names, appeared on the account settled April 16 and 21, 1772 (*Mass. Archives* 33:551-552; *Journals of the House of Representatives of Massachusetts 1771-1772* 1979, 147), and the one settled February 14 and 24, 1774 (*Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 179; see also *Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 193).

lands had been "set off" to him approximately 1777, but that in the intervening years, he had not received any income from the guardians for their rent (see below). BIA researchers found no record of any "setting off" of the Dudley lands to individuals during this period.

Population. During the mid-18th century, the guardians' records show only a small population at Dudley. Mandell concluded that, "The Chabanakongkomuns, in Dudley, shared the demographic decline and some of the economic problems of their cousins in Natick and Hassanamisco. According to the enclave's guardians in 1763, the Indians 'are now mostly Females,' and more of their land needed to be sold in order to meet growing medical bills and other 'necessaries'" (Mandell 1996, 168; citing *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763; Mandell 1996, 231n.21). For more information on the 1763 report, see the discussion of the sale of land by the Dudley heirs to Edward Davis, discussed above. The names mentioned by the guardians appear to have been only those persons who received some form of assistance from the Dudley funds under their supervision: they did not represent an enumeration of the total population. However, no other records were found to indicate that the total population was significantly larger.

In the 1765 census of Massachusetts, the distribution of non-white population for Worcester County did not show a large number of Indians overall (12 males and 14 females). Neither did it indicate a really large number of African-Americans with whom Indians might have been amalgamated by white neighbors, although the overall total for that sub-population was larger. The copy located by the BIA researcher (Benton 1905, 45) omitted the Town of Dudley's statistics. They are supposedly available from another manuscript (*Mass. Archives* 58), but this data was not submitted by the petitioner. In May of 1767, "Ezra Stiles found 'now Ten families or less. Diminished three quarters in Memory. Mr. Gleason of Dudley says there are but Two Men, & inclusive of these but nine Souls Indians now living.'" (Mandell 1996, 168; citing Dexter, *Itineraries of Ezra Stiles* 228; Mandell 1996, 231 n. 22).

A January 1, 1774, report on the Indian population of Windham County, Connecticut, indicated:

Towns	Males under 20	Males over 20	Females under 20	Females over 20	Total
Canterbury	1	1	7	2	11
Coventry			2		2
Pomfret	2	4	3	2	12
Killingly	2	4	1	5	12
Lebanon	9	5	4	3	21
Mansfield	3	6	1	2	12
Plainfield	9	8	3	5	25
Voluntown	2	3		1	6
Windham	2	7	3	7	19
Woodstock	13	9	7	9	38
	43	47	31	37	158

(The Number of Indians in Connecticut. From "An Account of the Number of Inhabitants" in that Colony, taken January 1, 1774, and Published by Order of the General Assembly, *Collections of the Massachusetts Historical Society* 1809, 10:118).

The number of Indians in the town of Woodstock by itself, 38, was considerably larger than the total number of Indians reported for Worcester County, Massachusetts, nine years earlier. On the basis of the documentation available to BIA researchers for preparation of this report, there was no way to determine what proportion of these Indians were tied by ancestry, marriage, or social structure to the Dudley Indians in Massachusetts.

After 1735, data concerning the births, marriages, and deaths of the Dudley Indians began to appear in the vital records of various towns. The marriages, births, and deaths mentioned in this context account for most of the persons mentioned in the guardians' records and the petitions submitted to the General Court, and also for most of the persons mentioned in the will of Abigail Quittocus. They refer to some additional spouses from Natick, and confirm that the Quittocus family, under a variety of phonetic spellings, was still residing at Woodstock.[84] The vital records from all the towns of the area do not provide any indication that there were significant numbers of Indian residents in addition to those found in the centralized records of the colony (Systematic History Fund 1908; *Vital Records of Woodstock 1686-1854* 1914, 66, 286; O'Brien 190, 299, 308, 311; *Vital Records of Sturbridge 1906,* 175, 291; Worcester Probate Registry: Ser. A, Case #32910; Systematic History Fund 1904b, 57; see draft technical report for petition #69B for additional details).

Of the men who were identified on the accounts of the Dudley guardians between 1768 and 1774, at least three served in the army during the American Revolution. One of these, Joseph Pegan, survived until 1819 and collected a pension under the act of 1818, still a resident of Dudley (*Massachusetts Soldiers and Sailors* 1901, 12; Nipmuc Pet. #69A Suppl., Index to Dudley Guardians Accounts; NARA M-804, Jason Phipps Deposition, Nipmuc Pet. #69A Suppl.; Systematic History Fund 1908, 277).[85] The other two, Samuel Pegan and Eleazer Pegan, apparently never returned to Dudley after the Revolution (*Massachusetts Soldiers and Sailors* 1901, 12-13).

Documents Reflecting the Existence of Political Leadership. On June 12 and 14, 1758, on petition of Nanny Pagan and other Dudley Indians complaining of the unjust actions of their

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[84]The one Connecticut Indian described as a "Dudley" Indian for whom significant amounts of information was submitted during this period was Mary (nicknamed Molly) (Pegan) Pollock Woodland, who resided in the part of Killingly that later became the town of Thompson, Connecticut. The data came from her application for a Revolutionary War pension in right of her first husband (NARA M-804; Nipmuc Pet. #69A, BIA historian's site visit) and from the statements of a granddaughter at the time the *Earle Report* was compiled, 1859-1861. She has no descendants in the current petitioner (#69B). The data will therefore not be discussed in detail here, but rather in the proposed finding for petitioner #69A. In the post-revolutionary period, descendants of Mary (Pegan) Pollock Woodland settled in Rhode Island. However, there is no evidence that there were any Dudley-associated Indians in Rhode Island during the pre-Revolutionary era.

[85]See also: 1819 PEGAN and PEAGAN, Joseph, Dudley, Administration 45844 (Worcester Co., MA, Index to Probate Records vol. 2). No copy of this administration was submitted in petition #69, #69A, or #69B.

guardians[86] and requesting the discharge of the said guardians and appointment of new men, the General Court passed an order for the investigation.[87] The specific complaints were that their guardians had deprived them of many rights and overcharged them in a list of debts. A committee that heard the complaint advised an investigation and the Court appointed a committee to go to Dudley and investigate (*Mass. Archives* 33:61-63). Unfortunately, no record or report of the investigation at Dudley has been located.

On January 27, 1774, a "Number of the Dudley Indians" submitted a petition "praying that a Guardian may be appointed for them." This was done the following day (*Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 106, 108). The documents in the record do not indicate that the Indians expressed any preference as to the choice of guardian.

The Dudley (Chaubunagungamaug) Reservation under Supervision of the Commonwealth of Massachusetts, 1785-1861. Aside from the few documents recording individual military service, the Dudley Indians were not mentioned in Massachusetts records for the duration of the Revolution. The first reappearance in the records, in January 1793, was a resolve dealing with the petition of Thomas Pegan, a Dudley Indian, requesting that the guardians furnish him the income due from his lands, since he had been at considerable expense in supporting his mother during her last illness (*Massachusetts Resolves* 1793, 622; Massachusetts State Archives, *Acts*

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[86]Signers of the complaint were: Joseph Pagan, Samuel Pagan, Eleazer Pagan, Hannah Quitticus, Nanny Pagan, Mary Pagan, Esther Pagan, Deborah Pagan, Pashants Pagan, and Sarah Pagan (*Mass. Archives* 33:61; see also *Acts and Resolves* 21). They denied that they signed a 1757 petition and mentioned the guardian's "taking away grass & fruit of Jonathan Pagan's plantation anno 1756 at that time Joseph Pagan had Jonathan's power of attorney during his absence in his Majestie's service" (*Mass. Archives* 31:61). This power of attorney from one relative to another again implies that the Dudley Indians had long been accustomed to handling their legal affairs and real estate without guardianship. Mandell may have been referring to this unlocated 1757 petition in the following passage: "A few years later the Chabanakongkomuns, now usually called the Dudley Indians, for the English town that surrounded their 640-acre reserve, reported a more elaborate fraud. Their guardians had asked the legislature to approve some debts 'said to be owed by us,' and had submitted a petition supporting the request that 'is said to be signed by at least some of us, but both were done without our knowledge or permission.' There is no other record of this petition, which either shows that the Indians were mistaken or, more likely, reminds us that we have only a partial record of this period" (Mandell 1996, 149; citing *Mass. Archives* 33:61-62; Mandell 1996, 228n155).

[87]Mandell indicates, citing the same source: "The Chabanakongkomuns told the General Court that in 1756 their guardians had taken 'the grass and fruit of our land'--probably not fraud but the sale and leasing of 'surplus' to other whites -- 'particularly of Jonathan Pagan's plantation.' Pegan had given use of his land and control of his affairs to a relative, Joseph Pegan, while Jonathan left to join the colonial militia, but the guardians refused to recognize Joseph's claim and leased the land to whites" (Mandell 1996, 148). The BIA researcher did not locate any such lease in the record.

"In 1758, the Dudley Indians complained not only that their guardians had submitted false charges, but also that they had failed to prevent other whites from poaching wood and timber. Perhaps the guardians' error was neglect rather than fraud, for they were also responsible for the Hassanamiscos in Grafton--but neglect can be deliberate, particularly when racism is a factor. Indeed, the Nipmuc guardians did not neglect the opportunity to profit, for the Dudleys also charged them with grazing their cattle in the Indians' fields and pastures without permission or compensation" (Mandell 1996, 149; citing *Mass. Archives* 33:61-63; Mandell 1996, 228n157).

and Laws of the Commonwealth of Massachusetts 1792-1793, 622, Resolves 1793.--January Session, Chapter 37A.* [* = Not printed in previous editions.]; see also, *Acts and Laws of the Commonwealth of Massachusetts 1792-1793*, 475: same order dated 23 September 1793).

Reduction of the Reservation Land. Mandell indicated that in the late 18th century, the status of the Dudley Indians' land base underwent a major change, in that, "All but 26 acres were sold to cover debts and to 'give the Town Liberty to act and dispose of [the Indians'] Interests as they do with their other Poor'" (Mandell 1996, 168; citing John Chamberlain, Dudley, to the Massachusetts legislature, in documents relating to Unpassed Senate Legislation, no. 2151, 12 Feb. 1796, Massachusetts Archives; Mandell 1996, 231n26). This is not an accurate description of the land transactions. In fact, on June 7 (Brief c.1890, 3, says June 17), 1797, all of the 200 acres of land which remained after the sale of 440 acres to Edward Davis in 1763 was conveyed to Levi Davis, of Charlton, to satisfy debts of $300 owed by the Indians.[88] The deed was signed by the guardians, Lemuel Corbin, Mark Dodge, and John Healy. On his part, Davis deeded to the Commonwealth a different tract of land in Dudley Township of 26 acres, 58 rods and agreed to pay, or secure the payment of, $667.00 [*sic* in Nipmuc #69 Pet. Narr. 1984; Brief c.1890, 3, says $1,667] plus interest into the state treasury for the benefit of the Indians.[89] The sale was completed June 17 (Nipmuc #69 Pet. Narr. 1984, 53, 78).

By this transaction, the physical locale of the Dudley Indians' land base, which since at least 1724 had been in the immediate neighborhood of the church in Dudley, Massachusetts, was transferred to a site near Lake Chaubunagungamaug which would, with the establishment of Webster in 1832, fall into a different town (Webster was constituted from what had been the eastern portion of Dudley and a small part of Oxford). The record submitted for petitions #69, #69A, and #69B contains no copy of this deed and no evidence concerning which individual Indians may have held interests in the land at the time.

At the time of the 1797 sale, the Dudley guardians still received, as annual income, the payment agreed to at the time of the earlier 1763 sale. It was not until 1814, pursuant to a resolve of the legislature, that the heirs of Edward Davis agreed to pay to the Commonwealth the sum of $500 pounds in commutation of the annual sum due from the estate stemming from the 1763

[88]"In 1797, June 17th, the Guardians with Levi Davis, persuaded the Gen'l-Court to sell the remainder of the square mile, alleging Levi Davis held the fee (not the use of the fraudulent term fee in the former prayer of 1763, a Kismet the word fee for those kind of persons apparently), the Comnonwealth [*sic*] obliging allowed sale *giving him* a title in fee (thus he held two fees)... See pet. State house Sec'y office and Worcester Reg. Deeds, Book 132, Page 22. The consideration was $300.00 claimed by the Guardians, due them from the Indians, $1667.00 [*sic*] paid into the state treasury for the benefit of the Indians" (Brief c.1890, 3).

[89]For location of this line relative to the Connecticut state line and surrounding landowners in 1831, see map (Leavens Papers n.d.).

purchase.[90] The interest on this 1814 commutation payment was to be paid annually out of the state treasury to the guardians of the Indians until such time as the Dudley Indians should become extinct (Nipmuc #69 Pet. Narr. 1984, 80). The two sets of later disbursement records pertaining to the Dudley Indians resulted from these two separate funding sources: one set was for the funds resulting from the sale of the 26 acres of land; the other set was for the capital in the interest-bearing fund resulting from the various stages of the Edward Davis sale between 1763 and 1814.

Personnel of the Dudley Guardians. The names of the Dudley guardians for this period are known (Dudley Guardians' Accounts, Nipmuc #69A Pet. Suppl; Worcester County, Massachusetts Probate Records; Nipmuc #69 Pet. Narr. 1984, 53; *Briggs Report* 1849, 43; *Resolves of the General Court* 1838, 674; *Acts and Resolves Passed by the General Court of Massachusetts* 1848, 835; *Acts and Resolves* 1849, Chap. 21; *Acts & Resolves* Ch. 21; Nipmuc #69 Pet. Suppl. 1994, Ex.; for detailed listing of names by year see the draft technical report for Petition #69B). It is possible that collections of private papers of these men might have additional information on developments.

Data Concerning Dudley Indians from 1800 to the 1849 *Briggs Report*. Petitioner #69A submitted photocopies of the Dudley/Webster guardians' accounts for the first half of the 19th century. The series began with accounts dated May 11-30, 1801, for disbursement of income which accrued to the guardians of the Dudley Indians from the estate of Edward Davis (see discussion of land sale transactions, above). The guardians' records indicate receipt of some additional income from the state, with no explanation of its source or reason why it was provided to the guardians (Nipmuc #69 Pet. Narr. 1984, 81). The disbursements were not entirely to beneficiaries to the fund: many represented the payment of bills to persons who were not Dudley Indians for the provision of supplies, services, and medical care (Nipmuc Pet. #69A Suppl.). Beginning in 1803, the accounts began to list more names of individual beneficiaries (Nipmuc Pet. #69A, Index to Dudley Guardian Records; for names and dates see the draft technical report for petition #69B).

The names of the beneficiaries cannot be equated with a listing of the people who were residing on the 26 acres of the reservation for this time period, since some entries in the records clearly indicate that benefits were extended and expenditures made on behalf of individuals who lived elsewhere (Nipmuc Pet. #69A Suppl.). The accounts for 1808-1809 showed the first appearance of the Sprague (or Sparrow) family, from which the majority of the petitioner's members descend, in the reservation accounts (Nipmuc Pet. #69A Suppl., Index to Dudley Guardian Accounts). Israel Sprague, direct ancestor of most of the petitioner's members, was first named

[90]See *Acts & Resolves 1762-63*, Ch. 184, 29 Jan. 1763. The petition gave a date 11 years later for this commutation payment: 1825, June 24, the heirs of Edward Davis (purchaser of Dudley Indian land in 1763) agreed to pay to the Commonwealth $500 pounds in commutation of the annual payments to the Indians of nine pounds under the terms of the original purchase (Nipmuc #69 Pet. Narr. 1984, 80). The total of both trust funds amounted to $2,199.84.

in the guardians' records in 1825-1826,[91] with his name continuing to appear in subsequent years (Dudley Guardians' Accounts 1827-1834).

The guardians' accounts do not contain any notations to explain the appearance of new names in the records. The appearance of some, such as Peter Mevus or Nevus, can be accounted for by in-marriage (Systematic History Fund 1908, 170; NARA M-252, Roll 3, 1810 U.S. Census, Windham County, Connecticut, Town of Thompson; NARA M-33, Roll 54, 1820 U.S. Census, Town of Dudley, Worcester County, Massachusetts, 9), but others, such as the 1819 listing of Esther Humphrey,[92] cannot. Matilda Hull, probably descended from the Molly (or Polly) Ephraim listed in 1805, was first mentioned in the guardians' accounts in 1825. She had married ten years earlier, being at that time a resident of Sturbridge, another town in southern Worcester County (Systematic History Fund 1908, 143); in the 1820 census, she and her husband had lived in the Town of Woodstock, Connecticut (NARA M-33, Roll 3, 1820 U.S. Census, Windham Co., CT, 397). The accounts continued to be under the supervision of the Dudley selectmen until 1832, when the town of Webster was formed from the town of Dudley. The accounts henceforth were reviewed by the Selectmen of Webster.[93] The change in jurisdiction did not result in any significant change in the lists of beneficiaries of the funds. However, in 1835, the selectmen of Webster did provide a document, addressee unknown (to whom it may concern) listing all the individuals whom they considered to be members of the Dudley Tribe of Indians at that date. It apparently comprised the first known attempt at a census, totalling 36 individuals (Dudley Guardians' Accounts 1835). After the preparation of this 1835 census, no new family lines appeared on the guardians' disbursement records, and no new individuals who cannot be documented as members of the immediate family of prior

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[91]May 15, 1826, - Roll 95, Acc't 72 - Dudley - $194.51. Accounts for: Edward Peagan, Luke Jaha, Bridget Jaha, Isreal Spreague. General Accounts for 1825-26: Isreal Sprague (begins Aug. 1825), Luke Jaha, Bridget Jaha, Freelove Jaha, Edward Peagan, Esther Humphrey, Betsey Peagan (#69A Index to Dudley Guardian Accounts). Also written as Israel Spragin.

[92] According to the 1860 census she was born about 1760; according to her death record, about 1763; according to the Briggs Report and Earle Report, about 1775. She died October 12, 1860, at Spencer, Massachusetts. The births of the children of Thomas and Esther Humphrey appeared in the vital records of Barre, Massachusetts, beginning in 1795 (Systematic History Fund 1903a). Her family was listed on the 1820 census under the name of Thomas Umphry (NARA M-33, Roll 55, 1820 U.S. Census, Worcester County, Massachusetts, Town of Spencer, 157).

A descendant wrote that the family had lived "in the Brookfields," the children were told they were "Quabog Indians," and that their identification with Dudley was an "interesting story in itself" (Garr to Wise Owl, undated, Nipmuc Pet. #69B Suppl. June 1997, 1990's folder). The letter did not include the "interesting story." The maiden name of "Peginy" or Pegan for Esther Humphrey is undocumented other than by her death record. Barre is some 20 miles northwest of the city of Worcester; Spencer some 10 miles to the west of Worcester and 20 miles northwest of Dudley/Webster. A son, Aaron Humphrey, appeared on the 1840 census of Charlton (NARA M-704, Roll 200, 1840 U.S. Census, Worcester County, Massachusetts, Town of Charlton, Frame 0071).

[93]The BIA historian examined the microfilmed records of Webster town meetings from 1832 through 1863, locating all entries under the heading of "Paupers" (there were no entries under a heading of "Indian"). None were found to be relevant to the petitioner (LDS Microfilm 935,983, Worcester County, Massachusetts).

beneficiaries, until the publication of the Briggs Report in 1849 (Dudley Guardians' Accounts 1836-1849).

One piece of hearsay evidence (Bergner c.1990) provides a second-hand description of the lifestyle on the reservation in the first half of the 19th century. In his reminiscences concerning the author George Washington Sears (1821-1890), who was born in the Oxford Gore near what would later be the Webster town boundary, he stated that:

> There was a remnant of the NIPMUCK tribe still in existence, about thirty-six, where they spent most of their time hunting, fishing, making baskets, setting snares for rabbits and grouse. Old Ja-ha was the head man of the tribe and he was past ninety years old.[94]
>
> The best indian [*sic*] of the tribe was INJUN LEVI[95] as the whites called him, but to his tribe he was known as NESSMUK. Their reservation was on Nipmuck-pond now owned by the 200 Sportsman Club.
>
> NESSMUK was probably twenty- twenty two years old and George Sears was about five years old. Nessmuk was a fine speciman of a man as anyone has ever seen his equal. Nessmuk used to take George on his well formed shoulders, a little leg on each side of his neck, and George would hold on to Nessmuk's long black hair for dear life, and show him the ways of the forest . . . Those indians [*sic*] passed away. When George went back to look for Nessmuk's grave, no one knew the spot" (Bergner c.1990; Nipmuc Pet. #69B Suppl. 3/31/1997, 1890 folder). [footnotes added] [emphasis in original]

While the coverage was far from comprehensive from the Revolution until 1849, persons who were listed on the Dudley guardians's accounts, and who would later be listed on the 1890 Dudley disbursement records, did also at times appear in the vital records kept by the towns of the region (Systematic History Fund 1908; *Vital Records of Sturbridge* 1906; Holbrook, *Webster, Massachusetts, Vital Records*). Additionally, the vital records showed some individuals who can be identified as Indians, but who did not appear in either the Dudley or Grafton (Hassanamisco) records (*Vital Records of Sturbridge* 1906). Aside from the guardians' records and vital records, however, there were very few mentions of the Dudley Indians during the first half of the 19th century. In 1828, Jeremiah Spofford's *Gazetteer of Massachusetts*,

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[94]Probably Luke Jaha, b. 1771, Shrewsbury, Massachusetts--d. 1841, Webster, Massachusetts (see Nipmuc GTKY file, BAR). The attribution of leadership status to him is somewhat verified by the 1840 Federal census, which apparently listed the entire population of the reservation, 11 males and 12 females, under his name as head of household (NARA M-704, Roll 201, 1840 U.S. Census, Worcester County, Massachusetts, Town of Webster, Frame 0069).

[95]Probably Levi Jaha, b. 1814, Dudley, Massachusetts--d. 1873, Dudley, Massachusetts (see Nipmuc GTKY file, BAR). These dates are compatible with the estimates provided by Bergner.

referred to "half a dozen" Indians at Dudley (Nipmuc #69 Pet. Narr. 1984, 84-85).[96] The #69 petition stated that Nipmuc families living "on the reservation or near it in 1848" were Jaha, Humphrey, Freeman, Daily, Willard, Kile, Belden, and Sprague (Nipmuc #69 Pet. Narr. 1984, 84). These were families listed as Dudley Indians on the 1849 *Briggs Report*, but the description in the petition was not accurate, in that other evidence indicates that the Daily, Willard, Kile, and Belden families were certainly living elsewhere in Worcester County.

1849 *Briggs Report*.[97] According to the preface by Governor George N. Briggs written February 21, 1849, the Massachusetts legislature had appointed commissioners on May 10, 1848, "to visit the several tribes, and parts of tribes, of Indians, remaining within this Commonwealth, to examine into their condition and circumstances, and report to the next Legislature what legislation, in their opinion, is necessary in order best to promote the improvement and interests of said Indians" (*Briggs Report* 1849, 3). The governor concluded:

> These scattered and poor remains of tribes, who were once the numerous and powerful occupants of our hills and valleys, our lakes and rivers, of which advancing civilization has dispossessed them, have the strongest claims upon the government of the Commonwealth to do every thing in their power to preserve their existence, protect their rights, and improve their condition.
>
> I commend the subject to your consideration, with the hope that the Report of the commissioners, who have given to it great labor and attention, will lead to such legislative provisions as are demanded by justice and humanity (*Briggs Report* 1849, 3).

The comissioners themselves described their task and procedures in some detail:

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[96]Jeremiah Spofford, *The Gazetteer of Massachusetts*, Newburyport, 1828. "Casually mentions a report of the legislature which lists "a few Indians at Grafton," "half a dozen" at Dudley and four at Mendon. These would all be Nipmuc" (Speck 1943. 51).

[97]Commissioners F.W. Bird, Whiting Griswold and Cyrus Weeks, February 1849, to MA Governor George N. Briggs, a document frequently called the "Briggs Report." F.W. Bird, W. Griswold, and C. Weekes, "Indians," House Report # 46, in *Mass. Legislative Reports of 1849*, hereafter *Briggs Report* (Boston: Wright & Potter, 1840) (Doughton, "Unseen Neighbors" 1997, 70). The petitioner submitted a full copy of the report (Nipmuc #69 Pet. Suppl. 1987, Attachment 4).

This report was cited by Plane and Button as the "Bird Report." They described it as an investigation commissioned by the Legislature in 1849, led by Francis W. Bird (Plane and Button 1993, 590). "Report of the Commissioners Relating to the Condition of the Indians in Massachusetts," 1849 House Document 46. "The men who served on the Indian commissions in the years from 1849 to 1862 had strong links to the abolitionist and radical Republican camp" (Plane and Button 1993, 592). "Francis W. Bird, the chair of the 1949 [*sic*] commission and a member of the 1869 commission, was an illustrious Massachusetts Republican and a close advisor to the state's Radical Republican Senator, Charles Sumner" (Plane and Button 1993, 611n38).

> The duty imposed upon us by the first two clauses of the extract, recited from the Resolve, has proved far more laborious than was supposed, when its performance was commenced; especially the recommendation of measures "to promote the improvement and interests of the Indians," requires a wisdom to which we dare not claim, and involves a responsibility which we hesitate to meet.
>
> Unwilling, as we should have been, to have assumed the task, had we been aware of its difficulties and importance, we have yet endeavored to carry out, to the extent of our abilities, the intentions of the Legislature. We have visited all the tribes and parts of tribes of Indians in the Commonwealth, except, perhaps, a few scattered over the State, who have long since ceased to be the wards of the State, and who are, practically, merged in the general community. We have seen them in their dwellings and on their farms, in their school-houses and meeting-houses, have partaken of their hospitalities of bed and board, have become familiar with their private griefs and public grievances, . . . If we fail in making a satisfactory statement of their condition and wants, it will not be for want of opportunities of observation (*Briggs Report* 1849, 4-5).

As far as is known, the original notes kept by these commissioners are not extant. With the exception of Natick, they identified 847 Indians in the state, including Chappaquiddick, Christiantown, Gay Head, Fall River or Troy, Mashpee, Herring Pond, Grafton or Hassanamisco, Dudley, Punkapog, and Yarmouth. They concluded that all but six or eight of these (including the entire Dudley group) were of mixed ancestry (*Briggs Report* 1849, 5-6).

Concerning the Dudley/Webster Indians, the *Briggs Report* found a total of 48 individuals, about half of whom "live on the territory," which was described as about 30 acres in Webster. The commissioners were aware that the original land in the center of the town of Dudley had been sold "some years since" and "the present territory purchased for them" (*Briggs Report* 1849, 42-43). These comprised about 11 families: 22 males, 21 females, 2 unknown, 40 natives, 8 foreigners.[98] The age distribution comprised: 6 were under 5; 7 were 5-10; 8 were 10-21; 21 were 21-50; 5 were 50-70; and 1 was over 70, aged 74 (*Briggs Report* 1849, 43).

One of the most significant aspects of this report was that it added to the list of "Dudley Indians" some family lines that had not been on the 1835 census (see above) and had never appeared on the disbursement lists, namely the Kyle/Belden line, Ezra Pichens, and Noyes B. Shelby. Pichens and Shelby would not appear in subsequent years, but the Kyle/Belden line continued thereafter to be listed among the Dudley Indians (see Nipmuc GTKY File, BAR). According to the Petition, the 1849 Briggs Report did not mention a leader for the group or provide any information concerning its internal structure (Nipmuc #69 Pet. Suppl. 1987, 1). It did list the amount of money that the state had provided toward the group's support since 1843, a total of

[98]"Under the head of foreigners, we include all, one or both of whose parents are not of Indian blood."

$1805.50 which included $250.00 for five years' salary for the guardian (*Briggs Report* 1849, 43). It found the group to be in miserable condition: "This tribe have reached a lower deep than any other in the State. A few get an honest living by cultivating their land, and by going out to work. The rest subsist upon the bounty of the State, and by prostitution. They have no schools and no preaching, are ignorant, improvident, and degraded to the lowest degree" (*Briggs Report* 1849, 43).

Mandell asserted that the report reflected the continuation of a traditional economy and lifestyle on the 26 acres of land in Webster and found that the above description constituted a condemnation of this practice: "The continuation of their subsistence economy was later condemned by state investigators, who reported with undisguised disgust that Indians on the reserve 'had reached a lower deep than any other in the State . . .'" (Mandell 1996, 169; citing *1849 House Report* 46, 43; Mandell 1996, 231n27). There is, however, no objective evidence that the group was continuing a traditional economy and lifestyle. The "practice" being condemned, on the basis of a concatenation of all the available evidence, was apparently that Rhoda Jaha, who usually resided on the reservation, had borne three children to three different white men of the locality, without benefit of wedlock--a condemnation which ignored the respectable lives of her sisters.

Records Generated between the 1849 *Briggs Report* and the 1861 *Earle Report.* The 1850 U.S. census (NARA M-432) did not list the inhabitants of the 26-acre reservation in Webster, but it did enumerate the Dudley Indians (persons identified as Dudley Indians by the *Briggs Report* and who continued to be mentioned in the guardians' records) who were residing off the reservation. None of the off-reservation residents were identified as Indian.[99]

The 1855 state census of Massachusetts listed "Dudley Indians, State Paupers" as a special category in the town of Webster (Massachusetts State Archives, 1855 Census, Worcester

[99]It listed Esbon Dorus, with his wife Angenette [a Dudley Indian], their children, his mother, her mother Betsey White [a Dudley Indian], and a nephew, in the town of Woodstock, Windham County, Connecticut. All were enumerated as mulatto (NARA M-432, Roll 1, 1850 U.S. Census, Windham Co., CT, 2604, #232/263). Also listed in Connecticut, in the town of Thompson, were the wife and oldest son of James Pegan of the Dudley Indians, living next door to her mother, but his name was not included (NARA M-432, Roll 51, 151, #576/653). James E. Belden, with his wife and children, was enumerated in the third ward of the city of Worcester, as black (NARA M-432, Roll 342, 1850 U.S. Census, Worcester Co., MA, 169r, #203/352); Huldah Kyle, the mother of James E. Belden, was enumerated in the town of Northampton, Hampshire County, Massachusetts, as a 40 year old black woman, born in Massachusetts, residing in the household of William Tyler (NARA M-432, Roll 320, 1850 U.S. Census, Hampshire Co., MA, 81r, #70/92). Julia (Jaha) Daly [Dailey] was residing in Oxford with her 12-year-old daughter and two of the children of her sister Rhoda, Martha A. Fiske, age 15, and William N. Cady, age 9, all enumerated as mulatto (NARA M-432, 1840 U.S. Census, Worcester Co., MA, Roll 345, 281, #1570/1673). Esther Humphrey was residing in Spencer with her son William, both listed as mulatto (NARA M-432, Roll 343, 1850 U.S. Census, Worcester Co., MA, 50r, #341/457). Rebecca (Jaha) Willard, was, with her husband and children, enumerated as black in Uxbridge (NARA M-432, Roll 345, 1850 U.S. Census, Worcester Co., MA, Town of Uxbridge, 382, #209/276).

County, #30, Southborough to Westborough).[100] Others of the persons listed as Dudley Indians on the 1849 *Briggs Report* were listed elsewhere in the county.[101] In April 1857, the guardian reported that about 20 members of the tribe were living on the reservation and claiming support of the guardian; others lived in the neighborhood and were seeking assistance (Nipmuc #69 Pet. Narr. 1984, 88).

On May 29, 1857, the Massachusetts legislature passed a resolution to require all Indians claiming support of the Commonwealth, to reside upon the land set apart for their use, and under the guardian's immediate supervision. On November 28, 1857, the following entry occurred: "please pay to the order of C.R. Ransome the sum of one hundred and twenty five and 11/100 dollars on account of appropriation for the building houses for the Dudley Indians per Resolves of 1857, Ch. 80 signed by Selectmen of Webster." This was in connection with a project whereby the portion of the Dudley Indians who were receiving public assistance (the "State Paupers") were moved from the 26-acre reservation to one acre "on the public highway, about half a mile from the principal village in Webster,"[102] and "more directly under the public eye, where a healthy public sentiment could have its sanitary influence, and where the civil authority could have a more direct supervision over them" (*Earle Report* 1861, 103). The new lot was described by Earle as only 1/4 mile from the 26 acres and "convenient of access to it" (*Earle*

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[100]The listing was as follows:

#223/343	Rhoda Jaha	36	f	Indian	b. MA	State Pauper
	William H. Cady	15	m	Indian	b. MA	State Pauper
	Joseph E. Bowman	7	m	Indian	b. MA	State Pauper
#224/344	Paris Jaha	38	m	Indian	b. MA	State Pauper, Blind
	Mary Jaha	41	f	Indian	b. MA	State Pauper
#225/345	Israel Sprague	22	m	Indian	b. MA	State Pauper
	Sally Sprague	22	f	Indian	b. MA	State Pauper
	Mary E. Sprague	3	f	Indian	b. MA	State Pauper
	Matilda White	15	f	Indian	b. MA	State Pauper
#225/346	Henry Hull	69	m	Indian	b. MA	State Pauper
	Matilda Hull	56	f	Indian	b. MA	State Pauper
#326/347	Edward Piggin	66	m	Indian	b. MA	State Pauper
	Betsy White	52	f	Indian	b. MA	State Pauper

(Massachusetts State Census 1855, #30).

[101]For example, James E. Belden, his wife, children, and half-brother were listed in the city of Worcester:

#125/257	James E. Belding		40	m	B	Laborer	b. VT
	Rebecka	26	f	M		b. MA	
	Caroline	14	f	B		b. MA	
	Ella	2	f	B		b. MA	
	James	9 m.	M	B		b. MA	
	Charles Cyle	25	m	B	Laborer	b. M	

(Massachusetts State Census 1855, #31, City of Worcester, second numbering sequence.)

[102]Handwritten map showing exact location (Leavens Papers, n.d.).

Report 1861, 103). According to the #69 petition narrative, the larger lot remained held "in trust for the Indians" by the state (Nipmuc #69 Pet. Narr. 1984, 88-89).

On April 6, 1859, the legislature approved an expenditure of $400 for clearing and fencing of the land occupied by the Dudley Indians and for erecting woodsheds upon the same: administration by the selectmen of the town of Webster (Nipmuc Pet. Narr. 1984, 94-95; copy Nipmuc Pet. Suppl. 1994, Ex.). The report by guardian Asher Joslin, dated September 30, 1859, indicated that there were 80 persons belonging to the tribe of whom only 13 resided on the land in Webster. The remainder were living in different sections of Massachusetts, Connecticut and Rhode Island. In the past year, there had been one death and one birth. Joslin provided a fairly extensive report on the ages of those persons residing on the reservation, his expenditures, and the obligations of the guardian as he perceived them (Public Document No. 42; Nipmuc Pet. #67A Suppl. 4/21/97). Joslin's 1860 report , dated September 30, gave the "whole number of the tribe, living in different places, is 93 as far as can be ascertained" (Public Document No. 41). The 1860 U.S. census provided some additional listings of persons who had been identified as Dudley Indians in the *Briggs Report*[103] and would be identified as Dudley Indians in the *Earle Report.*[104] There was no consistency in the identification of their ethnicity.

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[103]The woman who would be listed in the Earle Report as Helen [nee Kyle] Bakeman was living with her non-Indian husband at Northampton, Hampshire County, Massachusetts, under the spelling of Bateman, counted as black (NARA M-653, Roll 505, 873, #802/804). Her brother Charles Alexander Kyle's widow and children, in Ward 1, city of Worcester, were also enumerated as black (NARA M-653, Roll 527, 21 #90/168). Their half-brother, James E. Belden [Belding per the census taker] was counted as Indian in the third ward of Worcester, with a black wife and mulatto children (NARA M-653, Roll 532, 269 #72/92).

Julia (Jaha) Dailey, her husband, daughter, and niece Martha, were in the Town of Oxford in Worcester County, identified as black (NARA M-653, Roll 534, 717-718, #1698/2120).

William Humphrey, his wife, and his mother Esther, enumerated as 100 years old, were in Spencer, identified as black (NARA M-653, Roll 530, 744, #722/819). Luke Willard, his wife "Nilley" [Eleanor Freeman, a granddaughter of Esther Humphrey] and children had been enumerated as black in the town of Warren on the 1850 census (NARA M-432, Roll 341, 70, #312/322). Under the alternative surname of Esau, they were also in Warren, as black, in 1860 (NARA M-653, Roll 533, 140, #1014/1155).

Lemuel Henry [Henries], his wife Lydia A. (nee Sprague), and the children of her three marriages to Nichols, Shelley, and Henries, were in Sturbridge, all identified as Indian (NARA M-653, Roll 530, 919, #1924/2230). While the obituary of one of their sons indicated that he was born in Brimfield in 1865 (Last of Nipmucks 1936), a residence there can have been only temporary, as census records consistently showed them in south central Worcester County.

The children of Rebecca (Jaha) Willard, residing with non-Indian relatives in Uxbridge, were enumerated as black (NARA M-653, Roll 531, 756 #369/537; 756 #371/539). William Cady, working on a farm in Webster, was enumerated as mulatto (NARA M-653, Roll 534, 591, #838/1102).

[104]The *Earle Report* in 1861 would identify as Dudley Indians a number of families that had never been mentioned in the overseers' reports, nor on the 1849 *Briggs Report.* These included Orrin and Ruth Corbin. It also added many additional descendants of Esther Humphrey through her daughter Amy (Humphrey) Freeman Robinson. No descendants of these lines are found within the current petitioning group.

Earle Report, 1859-1861.[105] The petition stated that this report included even those "remotely connected with the tribe" (Nipmuc #69 Pet. Narr. 1984, 95). It was compiled by John Milton Earle, Massachusetts Commissioner of Indian Affairs, in response to an April 6, 1859, act of the legislature. Earle's correspondence and notes, compiled during his investigation, primarily in 1859 (Earle Papers),[106] are at the American Antiquarian Society in Worcester, Massachusetts, and provide background information beyond that in the published report (*Earle Report* 1861; sometimes cited in the secondary literature as Massachusetts Senate Report No. 96, 1861).

The purpose of the investigation was, to a considerable extent, to ascertain the dimensions of the Commonwealth of Massachusetts' financial responsibility for the Indians residing within its boundaries. Earle noted in his introduction the amount of support as state paupers that the Dudley Indians had received between 1849 and 1859. Payments on account of the Dudley Indians had been about $2,000 for the lot and buildings now occupied by them at Webster, and the balance, about $5,900, for their support and the guardian's salary (*Earle Report* 1861, 13-14). He summed up the financial aspect with the comment: "From this it will be seen that there are only three tribes, whose poor are now dependant on the treasury of the State for their support. These are, first, and largest in amount, the Dudley tribe" (*Earle Report* 1861, 14).[107]

The published report began with a definition: "The Dudley Indians, so called, are a remnant of that portion of the Nipmugs [*sic*], called the Pegan tribe, which formerly inhabited the track [*sic*] of land in Worcester County, now known as Charlton, Dudley, Sturbridge, Oxford, Southbridge, and Webster, with portions of some of the adjoining towns" (*Earle Report* 1861, 101). Earle's

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[105]Earle, John Milton, Indian Commissioner, "Report to the Governor and Council, Concerning the Indians of the Commonwealth, Under the Act of April 6, 1859," Senate Document No. 96. Boston: William White, Printer to the State, 1861 (*Earle Report* 1861).

[106]Letter, E.W. Mixer, Webster, to Earle, June 8, 1859; letter, David K. Porter to Earle, July 14, 1859; letter concerning Piggin family from Thompson, Connecticut, to Earle, June 9, 1859; letters, Luke Lyman of Northampton, Massachusetts to Earle, July 11, 1859 and August 4, 1859; letters, Asher Joslin to Earle, August 4, 1859, and September 18, 1859; letter, Warren, Massachusetts, town clerk to Earle, July 29, 1859; letters, South Gardner, Massachusetts, to Earle, July 30, 1859, August 27, 1859, and September 6, 1859; Asher Joslin to Earle, October 31, 1860; attempts to locate members of the Humphrey family ranged as far as Eastford, Connecticut, and Johnson, Rhode Island.

[107]"Of those who do not live on the reservation, three families, consisting of nineteen persons, including, in two of them, foreign husbands of Indian women, reside in neighboring towns, and, if they should need assistance--which is quite probable,--would, as members of the tribe, look to the State for relief, having never acquired a settlement in the towns, or exercised the rights of citizenship. The remainder of the tribe, as will be seen by the accompanying table, are scattered in various places, and some of them could not be found, nor their present residence be ascertained. These latter have long ceased to identify themselves with the tribe, and more or less of them, it is probable, have acquired local settlements" (*Earle Report* 1861, 104).

He provided a more detailed summary of the expenditures also: Summary of expenditures of the state for support of the tribe since the former report in 1849, exclusive of the salary of the guardian, amounted to $1,975 for lot purchase and capital improvements, $ [bring calculator to add it up] for direct assistance, and about $150 per year for fuel since 1855 when the timber on the reservation was exhausted (*Earle Report* 1861, 108).

summary indicated that he was not fully aware of the various land transactions pertaining to the reservation nor of the disposition of the funds that had accrued to the Dudley Indians' guardians from the Edward Davis estate (*Earle Report* 1861, 102). It appears that he did not have access to the guardians' accounts discussed above. He knew about the reservation land of 26 acres and 28 rods and the lot of one acre bought for them by the commonwealth in 1857 (*Earle Report* 1861, 102-103).

He identified the total number as 94 individuals,[108] and described the group as follows:

> Two, only, of this tribe, claim to be of pure Indian blood, and of the validity of their claim, there is much reason to doubt. There are several others in whom the Indian blood is so strongly characterized as to indicate its predominance but far the larger portion are so mixed with foreign blood, that traces of the Indian race are slightly or not at all discernible.
>
> A few are nearly white, but most of them have the general appearance of Africans, either pure or with a greater or less admixture of white blood. In their personal characteristics, habits, manners, and modes of life, there is generally nothing to distinguish them from the mass of our colored population, with whom they are mostly commingled. A very few, in whom the native blood predominates, have the roving disposition and unsettled habits so characteristic of the race. This is remarkably prominent in one of the families[109] (*Earle Report* 1861, 104-105). [footnote added]

Much of Earle's report was directed to the issue of the 1849 *Briggs Report*'s estimate of the moral condition of the group, adding his own information and analysis:

> Heretofore the families were located on the larger lot. It is situated at some distance from any public highway, and the buildings, being in a small clearing,

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[108]The total number of 94 included, "those, as well, who have gone out into the community, and by obtaining a legal settlement and exercising the rights of citizens, have abandoned the *legal* condition of Indians, as those who have not obtained a settlement or exercised those rights, and those, who, remaining on the reservation, are to a greater or less extent, dependent on the State for support" (*Earle Report* 1861, 103). He analyzed the population into the following subcategories:

19 families
41 males
51 females
2 unknown
83 natives; 11 foreigners
17 under 5, 9 5-10, 18 10-21; 35 21-50; 9 50-70; 4 over 70; 2 unknown.

He then made a further analysis of those residing on the reservations, whom he described as: five families, being 13 persons, (comprising 6 males and 7 females; of whom 1 under 5, 1 age 5-10; 2 age 10-21; 5 age 21-50; 2 age 50-70; 2 over 70) (*Earle Report* 1861, 103-104).

[109]This was the Humphrey family, based on comments elsewhere.

> surrounded by woods, and thus obscured from public observation, became a resort for the idle and dissolute of the country about, to the great detriment of morals and annoyance of the sober and orderly portion of the community. Their buildings having become so dilapidated as to require extensive repairs or rebuilding, it was though best to transfer them from that location, and bring them more directly under the public eye, where a healthy public sentiment could have its sanitary influence, and where the civil authority could have a more direct supervision over them (*Earle Report* 1861, 103).
>
> The experiment has been measurably successful--the irregularities and disorder which formerly prevailed among them, have, to a considerable extent, been suppressed, and it is to be hoped, that, under a careful supervision, such as has been exercised over them by their present guardian, Asher Joslin, Esq., the evils which have been such just cause of public complaint and reproach, may be still further mitigated (*Earle Report* 1861, 103).

Concerning *Briggs Report*'s evaluation, he stated that:

> This statement, to say the least, does *the tribe* great injustice, and could have been based only on information of an unreliable character. The members, both on the reservation and off of it, have the same advantages for education in the public schools, and for religious instruction, that other people do, in the communities where they respectively reside, and the whole are of as much average intelligence as those of the other tribes in the State. The remarks were true, to a certain extent, as affecting the *moral* standing of a *small* portion of those residing on the reservation, where, formerly, intemperance prevailed to a considerable extent, and, in some instances, its not unusual concomitant, licentiousness, carrying in their train moral and social degradation. The writer of this would not seek to disguise or palliate these evils, fearful as they are, where they do exist, and so much to be deprecated. He only wants the truth, and the whole truth be known, and that this tribe should stand before the world, positively and relatively, in its true character. He does not believe, that, eleven years ago, there was much more, if any, or moral and social degradation in it, than in some of the other tribes, and he is sure, from personal observation, that the external evidences of its prevalence, at the present day, are not so great as in some others. The use of intoxicating drinks, with the evils tht flow therefrom, still prevail to too great an extent on the reservation, yet, in this respect there has, unquestionably been considerable improvement, and the present guardian is deserving of special commendation for the firmness and decision he has manifested in promoting this desirable reform (*Earle Report* 1861, 106). [emphasis in original]

Overall, Earle's conclusion was that there was an absence of tribal institutions:

> As will be inferred from what has already been stated, this tribe has no municipal, religious, or educational organization. The better portion of them, scattered in various towns, belong to . . . municipal orgnizations, and have the benefits of religious and educational institutions, such as are common to those in their condition of life. Those who reside on the reservation, though subject to the legal disabilities of Indians, enjoy the benefits of the public schools of the town, and have the usual opportunities for religious worship and instruction, so far as they choose to avail themselves thereof (*Earle Report* 1861, 105).

Earle's recommendations were in favor of ending the trust relationship:

> The number now residing there [on the reservation] is thirteen, a reduction of nearly one-half in eleven years. Of those remaining, seven vary from 40 years of age to 75, two of them being unmarried females between 40 and 50 years of age. There is but one young married couple,[110] and but four children, two of whom are boys of 17 and 12 years of age. The former of these earns his own living and the latter will soon be able to learn his. Under these circumstances, no good reason can be perceived, why all who are now minors should not, as fast as they come of age, be placed on the same legal footing, as all other residents of the State, who are born upon its soil (*Earle Report* 1861, 106-107). [footnote added]

Mandell found that the Earle Report was highly critical of the Dudley Indians for reasons of ethnic prejudice and failure to appreciate traditional lifestyles:

> Another observer reported that the reserve had "become a resort for the idle and dissolute of the county about, to the great detriment of morals and annoyance of the sober and orderly portion of the community." But state welfare ("bounty") was hardly sufficient to maintain a family, and prostitution (assuming that Indians were involved in the trade) could only support a few. The earliest colonists had, of course, called native men "idle and dissolute" for resting in the village while the women worked. The similarly scornful language of the contemporary observers points to how the residents of the reserve (of all races) continued to support themselves through small-scale intensive agriculture, hunting, gathering, and occasional labor for neighboring whites (Mandell 1996, 169; citing *1861 Senate Report 96*, 103; Mandell 1996, 231n28).

The content of the *Earle Report* does not appear to support Mandell's analysis, but some other limited evidence does exist that the Indians had maintained traditional practices. The grandmother of Angela Sprague made baskets and peddled them, carrying the infant Angela on her back (see below).

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[110]Israel and Sally Maria (White) Sprague.

From the Civil War through Disbursement of the Reservation Funds, 1891. Between 1861 and 1865, five Dudley Indians served in the Union army: Hezekiah Dorus, William H.N. Cady, Theophilus D. Freeman, Joseph E. Beaumont/Bowman,[111] and James N. Pegan (Nipmuc #69 Pet. Narr. 1984, 95), but only Dorus served from Dudley (Morton 1907, 7). Freeman's enlistment records described him as a barber, resident of North Brookfield, who served in the 54th Regiment. Doughton indicated that Anstis Dailey, "son" of Julia (Jaha) also served, but Julia Dailey had only a daughter: no son named Anstis or Augustus (see Nipmuc GTKY File, BAR, for details). The guardian's reports continued to be filed regularly throughout the war years (1861 Public Document No. 36, Nipmuc #69B Supplement 3/28/97; 1862 Public Document No. 36; 1863 Public Document No. 35; 1864 Public Document No. 32; Nipmuc #69B Pet. Suppl. 3/28/1997; Nipmuc Pet. #69A 4/21/1997), and are supplemented by a record book maintained by the Town of Webster for the "Remnant of the Indians of Webster"containing accounts and expenditures for the individual Indians (American Antiquarian Society, Worcester, MA; Nipmuc #69A Suppl. 4/21/1997). On September 30, 1865, the guardian commented: "Four have died; Israel Sprague, Joseph H.P. White, William H.N. Cady, and Hezekiah Dorus, the last two being victims to the inhuman treatment of Andersonville prison" (Public Document No. 32; Nipmuc Pet. #69A Suppl. 4/21/1997).

On the 1865 state census of Massachusetts, the "Dudley Indians" were not listed as a special category in the Town of Webster. However, they were grouped together, apparently as either residents or, possibly, potential residents,[112] of the group home that had been built for them on the one-acre plot.[113] However, the special category in the town of Webster did not, by any

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[111]Buried in the G.A.R. lot in Mt. Zion Cemetery. "Joseph Bowman, an Indian, fought in the Civil War and was a widely known character, a great fisherman, who sold his catches thruout the town" (unidentified source; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1920).

[112]Several of the persons included in this listing were also enumerated by census takers in other towns.

[113]The listing was as follows:

#77/111	Edward Pagan	77	m	Indian	b. MA	married	Laborer
	Betsey White	65	f	Indian	b. MA	widow	Housekeeper
	Mary Sprague	12	f	Indian	b. MA		
	Maria Sprague	5	f	Indian	b. MA		
/112	Esbon Dorus	50	m	Indian	b. MA		Laborer
	Antonnette Dorus	36	f	Indian	b. MA		Housekeeper
	Rhoda Jayhay	51	f	Indian	b. MA		Washwoman
	Martha A. Jayhay	25	f	Indian	b. MA		Washwoman
	Joseph D. Bowman	18	m	Indian	b. MA	single	Shoemaker
#77/113	Henry Hull	81	m	Black	b. MA		Laborer
	Matilda Hull	74	f	"	b. MA		Housekeeper
/114	Paris Jayhay	53	m	Indian	b. MA	single	Laborer
	Mary Jayhay	50	f	Indian	b. MA	single	Washwoman
	Levi Jayhay	52	m	Indian	b. MA		Laborer
	Julia Daley	60	f	Indian	b. MA	widow	Housekeeper

(1865 Massachusetts State Census Reel #36, Town of Webster).

means, comprise the totality of the families who can be, through other documentation of the period, defined as Dudley Indians.[114] The guardians' reports filed by Erastus Alton for the period from the Civil War to 1870 continued to mention many of the same individuals, and provided some specific data about residency, funerals, and deaths.[115]

On June 23, 1869, as a delayed follow-up to the recommendations of the 1861 Earle Report, Indians were granted state citizenship in Massachusetts (Nipmuc #69 Pet. Narr. 1984, 95; for more extensive information, see Plane and Button 1993). The act provided that the state board of charities should take charge of both the house and all property associated with it in the town of Webster, formerly used by "the Dudley Tribe of Indians." The act gave the board the option of either leasing the house and land to the Dudley Indians on terms similar to those upon which they had occupied it, or of selling both at public auction (Nipmuc #69 Pet. Narr. 1984, 96; Massachusetts Statutes 1869, 780, Chapter 463, Section 5). In August 1870 [*sic*, 1869?), the multi-family tenement house in Webster was sold, pursuant to Section Five of the Act, to Thomas McQuaid [McQuade], for $1790.00. The funds were paid into the state treasury and the remaining Indians, formerly inhabiting the premises, were moved to the town of Dudley and accommodated and supported at the state's expense until January 1, 1870 [*sic*] (Nipmuc #69 Pet. Narr. 1984, 97).

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[114]In the town of Dudley, itself, Angenette B. (White) Dorus was counted again as living with her husband plus, this time, her children, and her mother in law. All residents of the household were identified as Indian, and as born in Massachusetts (1865 State Census Massachusetts Reel #33, Worcester County, Town of Dudley, #44/96). James E. Belden and his family were living in Grafton. All were identified as mulatto, and his birthplace was given as Pittsfield, Massachusetts (1865 State Census Massachusetts Reel #34, Worcester County, Town of Grafton, #401/488). Julia (Jaha) Dailey and her niece Martha were counted again as living in the town of Oxford, identified as mulatto, with Julia's birthplace given as Rhode Island (1865 State Census Massachusetts Reel #35, Town of Oxford, #317/387). Lemuel Henry [Henries] and his wife Lydia A. (nee Sprague) with the children from all three of her marriages (Nichols, Shelley, and Henries], with her oldest daughter and son-in-law, were in Sturbridge. Lydia and her two daughters by the Nichols marriage were identified as Indian; the remainder of the household as mulatto, with three members born in Connecticut and the remainder in Massachusetts (1865 State Census Massachusetts Reel #36, Town of Southbridge, #345/367). Three of the children of the late Rebecca (Jaha) Willard were residing with their father's non-Indian relatives in Uxbridge (1865 State Census Massachusetts Reel #36, Town of Uxbridge, #166/258, #167/259).

[115]September 30, 1867, mentioned Paris Jaha in Webster, Mary Jaha in Webster, Matilda Hull in Webster, Betsey White in Webster, Rhoda Jaha in Webster; Julia Dailey in Oxford; Martha Fisk in Oxford (Public Document No. 31; Nipmuc Pet. #69A Suppl. 4/21/1997).

September 30, 1868, listed burial expenses of Eunis Beaumont, Edw. Pegan, Christobell Stapleton, and Henry Hull. "There have been four deaths during the year and one birth; . . . there are two large families which will have to come there as soon as room can be made for them, . . ." (1868 Public Document No. 31; Nipmuc Pet. #69A Suppl. 4/21/1997). Christobell Stapleton is unidentified: the name did not appear in any other record of the Dudley Indians.

September 30, 1869, reported a total membership of 60 and state payments of $1412.50 for the year (1869 Public Document No. 31; Nipmuc Pet. #69A Suppl. 4/21/1997; Nipmuc #69 Pet. Narr. 1984, 95).

The 1870 atlas of Worcester County, Massachusetts, Town of Dudley showed "Nipmuc Indians" on upper reaches of Freemans Brook, separated from Chaubunagungamaug Pond by a hill (*Atlas of Worcester County* 1971, 92; handwritten copy of 1870 map with annotations, Leavens Papers n.d.).

Federal Census Records, 1870 and 1880. By the summer of 1870, only a small number of the Dudley Indians were living near the former reservation in Webster.[116] The majority were living elsewhere in Worcester County, Massachusetts,[117] or in Windham County, Connecticut.[118] The 1880 population distribution was very similar.[119] In these census records from the second half of the 19th century, BIA researchers located only a small proportion of the persons listed as Dudley

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[116]On the 1870 census of Webster, Massachusetts, four former residents of the reservation were grouped together at the end of the enumeration of the town of Webster: Rhoda Jaha, Matilda Hull, Mary J. White, and Joseph Bowman (State copy, American Antiquarian Society, Worcester, Massachusetts, 119-120, #618/944, #619/945, #620/946; #621/947). The household of Lemuel and Lydia A. (Sprague) Henries, although in Webster, was not grouped with the others (State copy, American Antiquarian Society, Worcester, Massachusetts, 55-56, #279/502). Angela Sprague, daughter of Israel Sprague Jr. and Sally White, was working as a servant in a non-Indian household in Sturbridge (NARA M-593, 46r, #391/415).

[117]James E. Belden (first identified as "Ind.", that crossed out and replaced with "M" like the remainder of his family, was still residing in the city of Worcester, in Ward 1 (NARA M-653, Roll 658, 4 #49/59). Theophilus D. Freeman, a Humphrey descendant, with his family, was in Ward 2 (NARA M-653, Roll 658, 83 #195/310).

[118]James Pegan (as Piggin) was in the town of Thompson, Connecticut, with his wife and their four younger children (NARA M-593, Roll 117, 1870 U.S. Census, Windham Co., CT, 612r, #56/61); a short distance away was his oldest son Edgar, who had changed the family name to Wilson (NARA M-593, Roll 117, 613r, #78/85). In Woodstock, Angenette B. (White) Dorus Hazzard was living with her second husband Samuel Hazzard and their two children (NARA M-593, 744r, #56/65). Angenette Dorus had purchased land in Woodstock in 1867 (Windham County, Connecticut, Deeds, Handy to Dorus, November 4, 1867).

Lydia A. Sprague's oldest daughter, Matilda (Nichols) Dixon, and her husband, Hosea Dixon, had two of her half-sisters in their household in Woodstock, in addition to their own three children (NARA M-653, 774r #598/643).

[119]Lemuel Henry [Henries] and his wife Lydia A., nee Sprague, were living in Webster, with numerous children and a granddaughter (NARA T-9, 337-337r, #34/47). Esbon Dorus, divorced husband of Angenette White, was also in Webster with his unmarried daughter Edith, two married daughters, Betsey Arkless and Matilda A. Jackson, and their children. He and two of his daughters were identified as Indian; the remainder of the house as mulatto (NARA T-9, 367 #96/161). Mary Jaha was also still in Webster, age 63, and identified as Indian (NARA T-9, 375 #182/316).

James E. Belden and his family were still in the city of Worcester (NARA T-9, Roll 567, 56r #58 #82/124); Angela Sprague was still working in a non-Indian household in Sturbridge (NARA T-9, Roll 563, 582, #301/358), while her sister Mary had married William Mason in the same town (NARA T-9, Roll 563, 588 #352/477). Lydia Sprague's daughter Ida Shelley had married Peleg Brown Jr. and was living in Sturbridge as well, as stepmother to the son of her half-sister Hannah Nichols (NARA T-9, Roll 563, 571r #93/102).

Edgar E. Wilson [formerly Pegan] with his wife and children were in Thompson, Connecticut (NARA T-9, Roll 555, #48/56); Samuel and Angenette Hazzard with their sons were in Woodstock (NARA T-9, 467 #84/87). Amanda Dorus, Angenette's daughter by her first marriage, was working as a servant in a boarding house in Dudley (NARA T-9, 191r, #195/246).

Indians on the Earle Report in 1861. However, the direct ancestors of the current members of petitioner #69B were located.

Miscellaneous Documentation. One unidentified set of recollections or reminiscences, found in the papers of a former Webster town official, appear to have been discussing the period of the latter 19th century, probably between 1850 and 1880:

> Some of the oldest and most picturesque of the Webster Indians, were Nildco Hull a quiet and a peaceful body whose tears fell like rain when her house was torn down. There was old Vickers the club footed wood sawyer, There was blind Paris Jaha wandering in darkness for many years and her sister Mary Jaha, devoted Methodist. There was James Nedson who served in the Civil War, (buried in the G.A.R. lot at Mt Zion cemetery) and John Nicholas[120] who after being banished from some other tribe came to Webster.
>
> But most picturesque and notorious of all was Rhoda Jaha[121] savage and wicket [*sic*], a striking contrast to her sister Mary. un tamed by civilization she was the terror of the children and her solitary attack on the old Center School with stones and sundry missles is still remembered by many (Leavens[122] Papers n.d.; Nipmuc Pet. #69B Suppl. 3/28/1997). [footnotes added]

The local history coverage and obituary records of Rhoda Jaha's sisters Julia (Freeland 1894, 31-33) and Mary (Worcester Society of Antiquity 1890, 9:139-140) struck very different tones. Freeland indicated that Julia (Jaha) Dailey "was the last of the Nipmuck Indians in Oxford, her mother was of the Pegan tribe of Nipmuck Indians living on a reservation in Webster, Mass., and the father of Julia was a Mohegan" (Freeland 1894, 31), that after her mother's death, she had been removed from her home and "placed at service in the family of the late Major John Brown of Dudley, where she was taught all the nice arts of housekeeping" (Freeland 1894, 32), and that she had been a guest of honor on June 29, 1881, at a Memorial Day held in memory of the Huguenots of Oxford (Freeland 1894, 33). A local historian recalled that, "Julia ever testified that her tribe were conscious of great injustice done to them in all their transactions with the English, and then added with much feeling of grief, 'They would destroy the graves of our dead as of no account and make a field of grain of our Indian sepulchre'" (Leavens Papers n.d., 163).

Mary Jaha was mentioned as the "only one of the original descendants . . . now living" in an 1888 article on the sale of the reservation lands (Indians Lands 1888), and her obituary read:

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[120]Or Nichols; first husband of Lydia A. Sprague.

[121]See long letter from her daughter, Martha A. Fiske, to John Milton Earle, dated February 2, 1860, Webster, Massachusetts, complaining about her conduct (Earle Papers).

[122]Charles M. Leavens, long-time Town Clerk of Webster and devoted amateur historian of Dudley and Webster (Town's History Is His Hobby c.1932, 33).

> In Webster, June 11, Miss Mary Jaha, the last survivor of the once powerful tribe of Nipmuck Indians, who for many years controlled this part of New England. She was born in Dudley, Feb. 9, 1814, and moved with her father Lucas Jaha to the Webster woods in the following years, where, with her people, she dwelt many years. She was a member of the Methodist church, and a regular attendant upon its services (Worcester Society of Antiquity 1890, 9:139-140).

Dudley/Webster Disbursement Records, 1886-1891. The largest body of documentation concerning the Dudley Indians between the Civil War and the 20th century was generated by the various court suits aimed at obtaining a per capita disbursement of any remaining property or trust funds held on their behalf by the Commonwealth of Massachusetts. On December 22, 1886, F.M. Morrison, attorney for the Pegan Indians,[123] filed a petition at Probate Court in Worcester seeking permission to authorize the sale of the remaining 26 acres, 58 rods left in Worcester County.[124] The sale was authorized by the Probate Court on this date, as provided in Section Three of the Act of Enfranchisement. The court appointed two commissioners to handle the sale, Charles E. Stevens and Thomas Harrington, both of Worcester (Nipmuc Pet. Narr. 1984, 96, 98-99). A follow-up newspaper article described this property as the last 26 acres and 58 rods, sold "yesterday by auctioneer Clemence" and including a small cemetery (County News. Sale of Indian Land at Webster, 1887 [undated]).[125] The article commented that Nipmuc territory had not been very clearly defined, but that historically the "best conditioned Indian village" was on the east side of Dudley Hill and belonged to the Pegans. According to the article, the suit also reminded residents of an incident when "last year" someone desired to run a road through a certain tract of land at Woodstock, Connecticut and it was discovered "that the

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[123]At this date, the claimants were listed as: "The Pegan Indians," (The Pegan Indians, unidentified newspaper article hand-dated 1887; Nipmuc Pet. #69B, Suppl. 2/28/1997, Leavens Papers n.d.). Adam Thayer, Judge of the Probate, special session in Worcester, took up the petition of members of the Pegan or Dudley tribe of Indians to sell land held in common; T.D. Freeman, Mercy H. Oliver, Mandy Davis [*sic*, should be Dorus], Martha Fiske, of Webster, and James Pegan, of Thompson; 26 acres and 58 rods (as described); under chapter 463 of the Mass. Special act, 1869. Other tenants-in-common are Joseph Beaumont of Webster; Angenett B. Hazard of Woodstock, CT; Esau of So. Gardner; Angeline M. Sprague of Sturbridge; James Beldon of Worcester, H.J. Williard alias Williams of Boston; each have 1/20; represented by F. Morrison (Nipmuc #69B Pet. Suppl. 3/28/1997).

[124]The petition mentioned other parcels of land as well in addition to the tract in Dudley, which was described by metes and bounds. These included a tract adjoining land formerly or now held by Erastus Alton in Dudley; another tract between Leicester and Spencer, and a tract near Webster known as the Burying Ground (The Pegan Indians, unidentified newspaper articlehand-dated 1887; Nipmuc Pet. #69B, Suppl. 2/28/1997, Leavens Papers n.d.).

[125]A retrospective newspaper article published in the mid-20th century gave the date of the sale as 1897: the date was mistaken. "1897," sale of Indian-owned land to Atty. Charles Haggerty, small tract situation between Spring Street, Myrtle Avenue, and George Street (*South County Advertiser*, August 3, 1981; Nipmuc #69 Pet. Suppl. 1994 Ex.).

owners had not title" (Sale of Indian Land at Webster 1887).[126] Old settlers remembered that the Indians owned land there not so very long ago, between Woodstock and Thompson (Nipmuc #69B Pet. Suppl. 3/28/97). There was additional newspaper coverage (Webster Indian Land Sold: The last Indian Tribal Proprietorship in Worcester County Passes Away--Story of the Pegans and Certain Unanswered Questions [unidentified newspaper article, c. November 22/25, 1887], Nipmuc #69B Suppl. 3/28/1997; Sale of Indian Lands, *Webster Times*, November 25, 1887; Nipmuc Pet. #69B Suppl. 3/27/1997), some of which was not logically thought out, such as the article which, in the face of numerous claimants, stated that only one descendant was then living (Additional facts about the Indian lands recently sold are found in the Boston Globe of last Sunday 1888; Nipmuc Pet. #69B Suppl. 3/28/1997).

Once the sale had been made, additional descendants began to advance claims. The first partition list was not complete (1887 November 12, First Partition List, Worcester Probate Register, Case 6045, Vol. 438, p. 549). Additional lists were filed, one on October 16, 1888 (1888, Undated list in connection with above suit. Computerized version from NTAP indicates Case 6045, Filed 16 October 1888), which was amended on October 19 (1888 October 19. Case 6045, Motion to filed Oct. 19, 1888. By Francis M. Morrison Atty and Trustee for the Dudley Indians), and followed by a "final" list on November 28 (Individuals paid by Commonwealth for Dudley claim, November 28, 1888; Worcester Probate Registry Vol. 446, p. 192: New Series; Nipmuc Pet. Supp. 1987, Attachment 9). There was controversy among the claimants. In particular, the Sprague descendents challenged some other families. Their attorney wrote: "They inform me that parties of the names of Freeman, Beaumont, Belden and others ought not to be included as distributees and that they can show this if they have an opportunity. They claim that some at least of the above names are of wholly African and not Indian blood. . . ." (Letter, Edgar M. Warner, Putnam, Connecticut, Counsel for Ida and Emma Shelley and others, to to Hon. W.T. Forbes, Judge, Probate Court, Worcester, Massachusetts, December 15, 1888; Worcester Probate Register, Case 6045). However, these families were not removed from the final distribution list (Worcester Probate Register, Case 6045, Vol. 446, p. 175, Distribution List: List pertaining to distribution of land sale monies; list of names, amounts received, to whom paid, 12/24/1888. Photocopy of original and computerized list, alphabetized).

At the beginning of 1888, action began in the state legislature to investigate the issue of other trust money that had been held by the state on behalf of the Dudley Indians (*Journal of the House*, 139; *Acts & Resolves*, 230-231; *Journal of the House*, 56, 807, 845; Nipmuc #69 Pet.

[126]This sale covered 26 acres and 58 rods, land situated about a half mile from the Norwich and Worcester Railroad station; includes a small cemetery in which there are 30 or 40 Indian graves. One narrative stated that it was sold in five parcels of five or six acres each, to as many different people. However, a local historian stated that it was purchased by Mr. Charles Haggerty who tried to spare the Old Indian burying grounds (Leavens Papers n.d.). Another parcel was sold to a Dr. E.A. Brown (unidentified document; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1920). Under "Indians (Dudley or Pegan) the Worcester County Grantors Index for 1887 showed a plan in Webster, Book 1248, page 653; and deeds, township not named, to Frederick A. Brown, Wladislaw Jonaknowski, Francis M. Morrison, Harris J. Potter, and James Quan (Book 1260, 16, 18, 20, 22, 24) (Nipmuc Pet. #69B Suppl. June 1997).

Suppl. 1994, Ex.). On June 7, 1889, the Massachusetts legislature passed an Act authorizing the comissioners for the Pegan Indians to bring suit against the Commonwealth for recover of funds held in two trust accounts (Nipmuc #69 Pet. Narr. 1984, 100; Chap. 443, An Act to Enable the Commissioners for the Dudley Tribe of Indians to Prosecute in the Superior Court Certain Claims Against the Commonwealth.). On November 7, 1889, the Associate Justices of the Superior Court in Suffolk County, Massachusetts, decided in favor of the petitioners (Nipmuc Pet. Narr. 1984, 102), in spite of the state's argument that the tribe was extinct (Nipmuc Pet. Narr. 1984, 102-103). The court determined that a principal of $2,199 plus interest was due from January 1870 to March 1890 (Nipmuc #69 Pet. Narr. 1984, 103).[127]

On June 5, 1890, the Massachusetts legislature resolved that the sum owned to the Pegan Indians should be paid to the commissioners. The Worcester County Probate Court was instructed to compile a list of all bona fide descendants of the Pegan Indians alive in 1869 at the time of enfranchisement and *bona fide* descendants (Nipmuc #69 Pet. Narr. 1984, 103). This resulted in the preparation of yet another list of Dudley Indians, dated October 27, 1890 (Worcester county, Massachusetts, Probate Registry, 474:242, New Series, List of Dudley Indians Prepared by Charles T. Stevens and Thomas Harrington, State Indian Commissioners. 10/27/1890). According to this list, which includes the place of residence for each individual the distributees were to receive equal shares of $61.62 (Nipmuc #69 Pet. Suppl. 1987, Attachment 10). By November 18, 1890, the commissioners and attorneys for the Indians concluded that, based upon an examination of genealogical evidence supporting the claims of various individuals, there were as of 1890 a total of 72 blood descendants of the tribe's members who had been living at the time of the passage of the Act of Enfranchisement (Nipmuc #69 Pet. Narr. 1984, 103). The disbursement list included 48 persons living in 1869 and still alive (Nipmuc #69 Pet. Narr. 1984, 104-105); 22 living in 1869 who had died in the intervening period (Nipmuc #69 Pet. Narr. 1984, 105); and a supplementary list of 12 persons, December 5, 1890 (Nipmuc #69 Pet. Narr. 1984, 105), for a total of 80. Omitting the 22 decedents, 58 individuals received $61.61 each (1891 Distribution List [photocopy of original and computerized alphabetical version]; see also Case 6045, Vol. 476, p. 387, Filed Sept. 1, 1891[128]). The petition stated that the trust funds were distributed on January 13, 1891 (Nipmuc #69 Pet. Narr. 1984, 106).[129]

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[127]BAR files include a copy of the brief and full decision, copied at the American Antiquarian Society, Worcester, Massachusetts.

[128]Distribution List for $4,926.48 plus 12% interest paid to 80 people. This list apparently resulted from an order signed by William T. Forbes, Judge of Probate court, January 6, 1891. Each person received an equal share of $61.62

[129]The list of claimants was not a complete list of the known descendants of these family lines. For example, Edgar P. Brown, the son of the late Hannah (Nichols) Brown and grandson of Lydia A. (Sprague) Nichols Shelley Humphries did not appear on these distribution lists. He was still a minor. Apparently, his father did not submit a claim on his behalf.

In association with this distribution, the Worcester County Probate Court also processed numerous estate administrations for those claimants who had died between 1869 and 1891, to allow for the apportionment of their

Possibly as a result of the interest generated by this series of lawsuits, John E. Lynch published a monographic study, "The Dudley, or Pegan Indians," in 1891 in the *Collections of the Worcester Society of Antiquities* Vol. 9, No. 35 (Lynch 1891). For the Dudley Indians, the intense study generated by this series of lawsuits more than adequately compensates for the missing 1890 Federal census records and provides an excellent study of the group and its geographical distribution as of 1890 (the 1891 final list did not include residency). After the completion of the distribution of the funds which Massachusetts had held in trust on behalf of the Dudley Indians, documentation levels dropped off sharply in succeeding years.

The 1890 list indicated that the geographical distribution was scattered, though the heaviest concentration was still in Webster, Massachusetts, itself. The residents of Webster and Dudley in 1890 represented the Sprague, Pegan, and Jaha family lines. Additional members of these three family lines also resided nearby in Sturbridge, Massachusetts; Thompson, Connecticut; and Woodstock, Connecticut, as well as single individuals in more distant locations (Marlborough, Massachusetts; Providence, Rhode Island; Albany, New York). The majority of the Belden descendants were in Boston, with one in the city of Worcester and another in Lynn, with a half-brother in South Abington. Humphrey descendants were in the city of Worcester, Gardner, Cambridgeport, Spencer, Uxbridge, and Boston, Massachusetts, and Providence, Rhode Island. No one location provided a clear concentration of Humphrey descendants.

The historical overview section does not continue into the 20th century because of the need to combine the evaluation of the records done by the BIA historian with the evaluation of the records done by the BIA anthropologist, under the individual mandatory criteria.

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copies (Nipmuc Pet. #69B, Suppl. 2/24/1997).

Residency Distribution of Dudley/Webster Nipmucs in 1890

October 27, 1890, Geographical Distribution, Dudley Indians Distribution List, 43 Living Dudley Indian Adults:

Webster, MA	12
Worcester, MA	7
Boston, MA	6
Cambridgeport, MA	3
Spencer, MA	2
Woodstock, CT	2
Providence, RI	2
Dudley, MA	1
Gardner, MA	1
Lynn, MA	1
Marlborough, MA	1
So. Abington, MA	1
Sturbridge, MA	1
Thompson, CT	1
Albany, NY	1
Total	43

Total Residency Shown on October 27, 1890, Dudley Indians Distribution List, including the 23 persons who had died between 1869 and 1890:

Webster, MA	19
Boston, MA	9
Worcester, MA	7
Cambridgeport, MA	3
Dudley, MA	3
Palmer, MA	3
Spencer, MA	3
Providence, RI	3
Oxford, MA	2
Uxbridge, MA	2
Thompson, CT	2
Woodstock, CT	2
Barre, MA	1
Gardner, MA	1
Lynn, MA	1
Marlborough, MA	1
Northampton, MA	1
So. Abington, MA	1
Sturbridge, MA	1
Uxbridge, MA	1
Albany, NY	1
Total	66

(See also Nipmuc #69 Pet. 1984, 107; map, Location of Dudley Nipmucs in 1890).

SUMMARY UNDER THE CRITERIA 83.7(a-g)

Executive Summary. The general arguments under the criteria were presented in the 1984 petition. Petitioner #69B has not presented additional specific arguments which pertain to it alone. The Summary under the Criteria has had to address petition materials submitted in 1984, 1987, 1995, and 1997, only the latter of which pertained specifically to #69B as an independent entity rather than as part of the larger petitioner #69. It has also been necessary to address the 1996 split between #69A and #69B.

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

Criterion 83.7(b). The Chaubunagungamaug, or Dudley/Webster, Nipmuc, the historical tribe antecedent to the current petitioner, as a whole met criterion 83.7(b), on the basis of precedent, from first contact through 1870, largely because of the residence of more than 50% of the membership in a defined territory, namely on a state-supervised reservation. For the period from 1870 through 1891, the evidence for community among the Dudley/Webster descendants as a whole is minimal. The evidence from 1891 through the 1970's does not demonstrate community between the extended Morse family and other Nipmucs of Dudley/Webster descent. For most of the period, there is not even evidence of community between the extended Morse family and other descendants of the Sprague/Henries family line from which it stems. From 1981, when it was formally established, through the mid-1990's, the Chaubunagungamaug Band appears to have consisted, essentially, only of the extended Morse family. There is some evidence that the petitioner may meet criterion 83.7(b) from 1990 to 1998, but it is not sufficient to demonstrate that the petitioner does meet the criterion for this time period. Therefore, the petitioner does not meet criterion 83.7(b).

Criterion 83.7(c). From the late 17th century through 1870, in the context of the existence of a reservation upon which the majority (over 50%) of the Chaubunagungamaug, or Dudley/Webster, Indians resided, there is sufficient evidence to meet 83.7(c) based on the carryover provisions at 83.7(b)(2). From 1870 through 1891, the only evidence of political authority is provided by the group's hiring of a lawyer and pursuit of a suit against the State of Massachusetts. From 1891 through 1976, there is no documentary evidence of continuing

formal or informal political influence or organization within the petitioner's antecedent group, whether that group be defined as the Dudley/Webster descendants as a whole, or limited to the direct ancestors of the current members of petitioner #69B. For 1977-1980, there is limited evidence that the leaders of the current group began to interact with the Nipmuc group headed by Zara CiscoeBrough, but no evidence that there was political influence or authority within any organization antecedent to petitioner #69B. During the 1980's, there is evidence that an organization with officers existed, but insufficient evidence that this formal organization exercised political influence or authority over its members who were, additionally, at that period, only a portion of the current petitioner. Though some evidence does exist that the petitioner may meet criterion 83.7(c) for the 1990's, without additional material and documentation, the evidence in the record is not sufficient to conclude that the petitioner meets 83.7(c) for the 1990's. Therefore, the petitioner does not meet criterion 83.7(c).

Criterion 83.7(d). The petitioner meets this criterion.

Criterion 83.7(e). Of the members of #69B, 185 of 212 (87%) descend from the historical Dudley/Webster Band of Nipmuc Indians, and meet the petitioner's own membership requirements. Eighty-seven per cent of members showing descent from the historical tribe is within precedents for meeting criterion 83.7(e). Therefore, the petitioner meets criterion 83.7(e).

Criterion 83.7(f). The petitioner meets this criterion.

Criterion 83.7(g). The petitioner meets this criterion.

Petition Review Process. This finding was completed under the terms of the Assistant Secretary's directive of February 7, 2000 (AS-IA 2000). The directive applied to all future proposed findings, including those in progress, except the Little Shell Chippewa, which was close to completion. In particular, this finding focuses on evaluating the petitioner's specific conclusions and description of the group concerning maintenance of a tribal community up until the present. Because evaluation of this petition was begun under the previous internal procedures, this finding includes some analyses which go beyond evaluation of the specific positions of the petitioner.

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

This is a proposed finding based on available evidence, and, as such, does not preclude the submission of other evidence to the contrary during the 180-day comment period which follows

publication of this finding. Such new evidence may result in a change in the conclusions reached in the proposed finding. The final determination, which will be published separately after the receipt of the comments, will be based on both the new evidence submitted in response to the proposed finding and the original evidence used in formulating the proposed finding.

In the summary of evidence which follows, each criterion has been reproduced in boldface type as it appears in the regulations. Summary statements of the evidence relied upon follow the respective criteria.

83.7(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met.

Petitioner #69B has not presented specific arguments as to how it meets criterion 83.7(a). The petition submissions also contained very little information pertaining to the descendants of the Chaubunagunagmaug, or Dudley/Webster, Indians during the first three quarters of the 20th century. The petitioner submitted a substantial number of newspaper feature articles which made passing references to the historical Nipmuc tribe of the 17th and 18th centuries, but which did not identify the Dudley/Webster descendants as a group and provided no data concerning the activities of these descendants in the 20th century.[130]

The 1984-1987 petition for Federal acknowledgment for petitioner #69 dealt with the fluctuating level of documentation by presenting the argument that the petition was on behalf of all Nipmuc, and that therefore, to show tribal activity, it was adequate to show Hassanamisco activity for time periods when there was a dearth of information concerning the Dudley/Webster Indians, and *vice versa* (Nipmuc #69 Pet. 1984, 191). Since petition #69B pertains to the Chaubunagungamaug Nipmuck Band, or specifically a limited portion of the descendants of the Dudley/Webster Indians, only, this technique is not applicable to the current petitioner. The BIA researcher therefore surveyed the record to identify those items which might be argued to pertain to criterion 83.7(a) for the Dudley/Webster Indians and their descendants, for the Chaubunagungamaug Nipmuck as organized in 1981, and for petitioner #69B. The BIA researcher's

[130]It should be noted that the numerous petition submissions pertaining to activities of the Nipmuck Tribe, I.O.R.M.; Chaubunagunggamaug Tribe, I.O.R.M., etc. did not pertain to the activities of the Dudley/Webster Indians or their descendants, but rather to the activities of a fraternal order, or lodge, called the Improved Order of Red Men.

methodology was to examine the totality of the documentation in the record that might be construed as pertaining to criterion 83.7(a), and determine which items did provide external identification and which did not. If any forms of evidence, singly or in combination, do constitute such identification, they enable the petitioner to meet criterion 83.7(a) as of that date. All of the possible evidence identified in all the petition submissions, whether or not it contributed toward petitioner #69B's meeting criterion 83.7(a), has been listed in the accompanying chart for criterion 83.7(a). See the accompanying charts for more details.

After the 1869 enfranchisement act, Massachusetts retained limited continuing state responsibility for some of the former reservation populations: for example, in Worcester county, some members of the Hassanamisco Nipmuc continued as individuals to receive annuities into the early 20th century. The BIA researchers located no evidence that such annuities were provided to the Dudley/Webster Indians or their descendants between 1869 and the present.

The Senate Hearing, New York and Rhode Island Indians, held in 1900 (Hearing 1900, Narragansett Pet. File, BAR), included a "List of Massachusetts residents claiming to be Narragansett heirs, dated 5 August 1897. Of the Dudley/Webster Indians, these included two persons from the family of Angenette (White) Dorus (Hearing 1900, 110). As the claim did not come through the Nipmuc side of the family, the documentation provided no evidence concerning identification of a Dudley/Webster Nipmuc entity.

Frederick W. Hodge's 1907 *Handbook of American Indians North of Mexico* (Hodge 1907) contained only a historical notice concerning the Nipmuc, with no reference to any events subsequent to King Philip's War (Hodge 1907, 2:74-75). James Mooney's *Aboriginal Population America North of Mexico* (Mooney 1928, 4) listed the Nipmuc as extinct by 1907 (Speck 1943, 51). Thus, neither publication identified a contemporary entity or entities.

The 1900 and 1910 Federal censuses were unique in that they contained special schedules on which enumerators could record Indian population. These were used to a limited extent for the descendants of the Dudley Indians, but they did not indicate the existence of a group (for more detail, see the discussion under criterion 83.7(b)). They therefore provided no identification of an entity. The 1920 census had no special schedules and provided no identification of an entity of Dudley/Webster Indians.

On September 6, 1914, the *Boston Sunday Herald* published an article on Angela M. (Sprague) Leach (Last Survivor of the Nipmucs, *Boston Sunday Herald* 9/6/1914). Her immediate recollections were vague, because of the early deaths of her parents. Th article provided no evidence of a continuing Indian entity with which she was associated. On June 26, 1918, Israel Peter Henries, son of Mr. and Mrs. Walter Henries, was killed in action in France during World War I (Woodstock Boys Who Died in World War 1918). The notice made no mention of his being a Nipmuc. These materials provided no identification of an entity.

During the 1920's, Thomas Bicknell founded the Indian Council of New England, which was particularly active from 1923 to 1926.[131] On December 30, 1923, John Braxton, describing himself as "Chief of Nipmuc," provided to Bicknell "as complete a list, as possible, of names of the Nipmug [*sic*] tribe," which was in fact a list of 37 members of the Belden family, whom he described as "lineal descendents of Black James" (Nipmuc #69 Pet. Response 1987, Attachment 8; Nipmuc #69 Pet. Response 1994, Ex.). This list did not include any ancestors of members of petitioner #69B, and the 1984 petition commented that, "his exact connection with the Dudley-Webster band is a matter of some conjecture. He appears on none of the tribal lists of the time" (Nipmuc #69 Pet. 1984, 135). No documentation from the 1920's identified direct ancestors of the current petitioner as belonging to any Dudley/Webster entity or even as participating in Bicknell's pan-Indian organization.

For the period of the 1930's, the only data submitted by the petitioner pertaining to activities of the descendents of the Dudley/Webster Indians were two commemorative events at which individuals appeared, a single obituary, and an interview by a local folklorist. A June 27, 1932, newspaper article concerning the bicentennial of the town of Dudley, "Colorful Parade is Opening Feature of Dudley's Celebration," indicated that the parade featured Payne Henries, "last of the Nipmuck Indians, who once ruled this section, and on whose land Dudley was built" (*Webster Evening Times* 6/27/1932; Nipmuc #69B Suppl. 3/28/97). On October 16, 1935, Payne and Walt Henries, both over 80, took part in Quinebaug's celebration of the Connecticut tercentenary, "Both will be attired in their Indian raiment" (Historic Quinebaug to Mark Connecticut's Tercentenary: Two Descendants of Original Nipmuck Indian Settlers to Participate Sunday, *Worcester Evening Gazette* October 16, 1935; Nipmuc #69B Suppl. 3/28/97). A family photograph taken at this event, was said in an article published over 50 years later to show Payne Henries' father, who was long dead (Napierata 1984). Payne Henries was well-known locally as a colorful character, and his death in 1936 produced several lengthy obituaries. While the headline on September 28, 1936, proclaimed, "Last of Nipmucks Claimed by Death: Payne Henries, 71, . . . " (Last of Nipmucks Claimed by Death, *Webster Times* 9/28/1936), the body of the article featured an interview with a niece and mentioned numerous surviving relatives, but no contemporary Indian entity (Last of Nipmucks 1936). On January 10, 1937, Helen G. Holley from Sturbridge, pursuing investigations into Indian folklore, recorded that she had talked to "a full blood Indian," Walter Henry [Henries], age 75, in Quinebaug,

[131]This was sometimes also called the Algonquin Council of New England, the Council of Native Indians of the New England Tribes of the Algonquin Nation, Council of the Indian Tribes of New England, or the New England Indian Council. For general background information on this topic, see Ann McMullen's "What's Wrong With This Picture?" (McMullen 1994). "In the 1920s, a number of non-academics were involved in researching Native New England history: Mathias Speiss (Connecticut), Thomas Bicknell (Rhode Island), Eva Butler (Connecticut), Fannie Eckstorm (Maine), and others . . . Thomas Bicknell, an amateur historian, began to organize a series of fifty to one hundred monuments to the Narragansetts in 1923 . . . Mathias Speiss forwarded Bicknell a letter he had recieved from a young Mohegan woman, Gladys Tantaquidgeon, suggesting a living memorial to help New England's Native people would be more appropriate . . . Bicknell immediately organized 'an Indian committee' to create a New England Indian Council, and sought advice from Frank Speck." Bicknell died in 1925 (McMullen 1994).

Connecticut. She indicated that she found the results disappointing, for she stated that he knew little of Nipmuc history or customs. The interview contained no information on other contemporary Nipmuc (Nipmuc #69B Suppl. 3/28/97). None of these articles on the individual members of the Sprague/Henries family who were collateral ancestors of the current petitioner identified the contemporary existence of a Dudley/Webster Indian entity.

No data was submitted by the petitioner or located by BIA researchers that identified a Dudley/Webster Indian entity in the 1940's. Frank Speck's visit to the Nipmuc in 1943, and subsequent publication (Speck 1943), focused exclusively on Hassanamisco. He did not visit or interview any of the Dudley/Webster descendants, and quoted Sarah (Cisco) Sullivan as making only the vaguest reference to them, commenting that she did not appear to know them or much about them (Speck 1943, 54). Similarly, in 1949, Gilbert's survey (Gilbert 1949) did not mention the Dudley/Webster Nipmuc, although it referred to the Belden family when discussing Hassanamisco. In 1952, Swanton's notice was entirely on the colonial history of the Nipmuc and contained no data on the contemporary period (Swanton 1952, 22-23). A 1952 article published in the *Worcester Telegram* concerning the name of Lake Chaubunagungamaug, in spite of the headline "The Nipmucks Want the Record Clear," consulted no contemporary Nipmuc, but only ten thousand who "appeared in a seance the other evening" (Phelan 1952).

Data obtained at the offices of petitioner #69A showed one inclusion of Elizabeth (Henries) Morse, identified as Nipmuc, on a Hassanamisco powwow program in 1950 (Pow-Wow, Grafton, Mass., July 4, 1950). This program showed the occurrence of an intertribal activity on the grounds of the Hassanamisco Reservation and made no mention of any Dudley/Webster Indian entity. After this, the record contains no further documentation concerning any of the Sprague/Henries descendants antecedent to the current petitioner until the second half of the 1970's. There is no indication in the record that the State of Massachusetts had established a relationship with the descendants of the Dudley/Webster Indians in the first half of the 1970's: all records submitted pertained to Grafton. Zara CiscoeBrough was appointed to the Massachusetts Commission on Indian Affairs in 1974 (Nipmuc #69 Pet. 1984, Ex. 7; Dukakis 1976, 3; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1970). On November 23, 1976, a newspaper in the city of Worcester published an article concerning the efforts of a Dudley-Webster descendant, Mrs. Edith Hopewell, in the field of social welfare for Indians. The article indicated that there were more than 90 American Indians living in southern Worcester County, most Nipmuc and Narragansett (Oxford Woman Leads Drive 1976; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1970), but identified no Dudley/Webster Indian entity, nor did a 1977 article concerning preservation of an old Indian cemetery near Lake Chaubunagungamaug (Murray, Webster Acts to Preserve Old Indian Burial Ground," *Telegram* [stamp-dated 8/30/1977]). There is no additional material in the record pertaining to external identifications of a Dudley/Webster, or Chaubunagungamaug, Indian entity for the period from 1900 through the later 1970's prior to the beginnings of the Federal acknowledgment process.[132]

[132]The formalities of this, between Zara CiscoeBrough of the Hassanamisco Reservation and the BIA, are discussed above in the section on the administrative history of the petition.

A July 23, 1981, newspaper article stated that the Chaubunagungamaug Band Indians Indians had met as a council with the following council members: Loving One, Harvest Moon, Morning Star, Great Owl, Little Star, Silver Fox and Wise Owl. They had elected Wise Owl "chief." The article also referred to an Indian burial ground behind the Gauthier Tire Co. on Thompson Road (*Webster Times*, undated; Nipmuc #69 Pet. Suppl. 1994, Ex.). On August 3, 1981, the *South County Advertiser*, under "Webster News," noted that "Nipmuc Indians in this area have received state approval to establish their own council." The article stated that all the persons involved in the initiative were descendents of Lemuel Henries, that they had decided on the name of Nipmuck Indian Council, and that they wanted to contact all of the Indians in the Webster, Dudley and Oxford area (Martin 1981b; Nipmuc #69 Pet. Suppl. 1994, Ex.).[133] At almost the same time, the group received newspaper coverage as the result of a donation of two and one-half acres of land (Webster Man Donates Land 1981).[134] On September 23, 1981, a newspaper article, written by a reporter who attended a pow-wow sponsored by the group, surveyed the situation as: "There's the Morse family of Dudley, who recently awakened to their Indian heritage, formed a new tribal council for the Dudley-Webster band and held that band's first powwow in 107 years" (Freyer 1981, 15). The article continued: ". . . for many Nipmucks ethnic awareness has come only recently and ethnic knowledge only through research. Such was the case of the Morse family, whose study of family roots led to a desire to revive the Dudley/Webster clan of the Nipmucks, which now claims 103 members. They established a new tribal council and initiated a new chief. . . ." (Freyer 1981, 18).

From 1981 to the present, newspaper coverage has continued to provide external identification of the Chaubunagungamaug Band, under varying names, as a Nipmuck Indian entity (Chief Wise Owl named Clan Chief [unidentified newspaper article, hand-dated 8/1?/1982]; Nipmuck Clan Asks Reagan to Fire Interior Secretary Watt [unidentified newspaper article 1/29/1983]; David P. Kowal, Nipmucks Readying Study of 'Roots' Key to Claims, *Worcester Telegram* 8/19/1983. There has also been newspaper coverage of the group's educational activities (*Westfield Update* 14(3), May/June 1990, 4-5),[135] charitable work (Princess Halfmoon 1982; 24 Families Benefit 1983), and participation in commemorative events such as the 250th anniversary of the Dudley church (Dudley Parishioners 1982) and the town of Dudley (Nipmuck Chief Marshal 1982; Patenaude 1982; Pegan or Dudley Indians Played a Large Role in History,

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[133]Another copy of this article was hand dated 7/23/1982. Similar undated, unidentified article, "Indian council approved" (Martin 1982; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1980); other evidence indicates that these have to refer to events that took place in 1981.

[134]"Webster Man Donates Land to Nipmucks" ([unidentified newspaper article, hand-dated 8/24/1981], Nipmuc #69B Supplement 3/28/97). The 1984 petition gave a variant date, stating that in 1982, a local benefactor donated a small piece of land, located two miles south of Webster, in Thompson, Connecticut, to the band (Nipmuc #69 Pet. Suppl. 1987, [5]).

[135]The petitioner submitted numerous newspaper articles concerning appearances at schools, scout troops, etc. Most of these appeared to have been copied from a scrapbook, were undated, and did not identify the source. They have not been listed separately here.

Webster Times 10/27/1982). During the early 1980's, the single event that generated most newspaper coverage was the reburial by the Chaubunagungamaug Band, in 1983, of some ancient skeletal remains unearthed in Connecticut on the property that had been donated to it (Century-Old Remains are buried in Nipmuck Ceremony [unidentified newspaper article] 2/7/1983). This event also generated identification of the organization by a state agency in Connecticut, the Connecticut Indian Affairs Council (CIAC).[136]

Other newspaper articles provided both retrospective survey of Nipmuc history and some description of the modern organization (Edward Patenaude, Henries Wasn't Last of the Nipmucks, *Sunday Telegram* 10/5/1986; Don Cerow, Nipmucks in New England: Yesterday and Today, *Resource; A Guide to Creative & Wholistic Products & Services* Fall 1989, 3, 8-9; James Dempsey, Indians "Love" of the Land Still Flourishes, *Worcester Telegram and Gazette* 4/27/1992), while obituaries of members also provided a few descriptions of the organization (article on the death of Elizabeth (Henries) Morse, *Worcester Telegram and Gazette* 3/19/1991; Nipmuc pet. #69B supplement 2/24/97). Since the mid-1990's, the coverage has focused on issues of Federal acknowledgment (Jennifer Greaney, Nipmucs Push for National Recognition, *Telegram and Gazette* 12/28/1993; Mitchell Zackoff, Nipmucs move on Road toward US Recognition, *Boston Globe* 3/13/1995; Jennifer Greany, Nipmucs Make Gains in Try for Federal Recognition, *Worcester Telegram and Gazette* 3/16/1995).

Summation. The record contains no external identifications of the Dudley/Webster Indians, or Chaubunagungamaug Band, as an existing entity between the 1891 fund distribution and the formal organization of the current petitioner in 1981. Between 1900 and the late 1970's, there were a few identifications of individuals as Dudley/Webster Indian descendants. Most of these were for family lines now enrolled with petitioner #69A. Since 1981, there have been repeated newspaper articles identifying, under various names, the current petitioner, the Chaubunagungamaug Band of Dudley/Webster Indians. Most describe it as an organization within the larger group of the Nipmuc Tribe or Nipmuc Nation rather than describing it as an Indian entity or group. Most of the descriptions of the Chaubunagungamaug Band as an organization indicated

[136]Request from Nipmuc Tribe for assistance in returning ancient skeletal remains to their Tribe; letter to be written to "Chief Wise Owl" (CIAC Minutes 1/4/1983).

Department of Environmental Protection Area Manager, State of Connecticut, Office of the Chief Medical Examiner, State of Connecticut: reinterment on Nipmuc Tribal land in Thompson, Connecticut as described in the Town of Thompson Land Records, Volume 151, Pages 170-171. "The Indian Affairs Council will appoint one or more members to visit your office to claim the Remains on February 1, 1983. Accompanying them will be members of the Nipmuc Tribal Council of Chaubunagungamaug, and myself . . . ." (Harris to Galvin 1/20/1983).

Meeting with Nipmuc Indian Council. Representatives of the Chaubunnagungamaug Tribe ("Chief Wise Owl," "Chief Spotted Eagle," and Little Crow) requested that an official representative of CIAC accompany them to the State Medical Examiner to receive the remains of a Nipmuc Indian for reinterment in Massachusetts (CIAC Minutes 2/1/1983).

200 people attended reinterment ceremony; Nipmuc Tribe expressed deep appreciation. It was noted that the Nipmuc Tribe has three acres in Connecticut but the land is currently deeded to an individual of the tribe and not to the tribe itself (CIAC Minutes 3/1/1983).

that from 1981 through 1996 it consisted of a portion of one family line of Dudley/Webster Indians -- the direct descendants of Elizabeth (Henries) Morse.

Therefore, the petitioner does not meet criterion 83.7(a).

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

Historical Community: Methodology. The regulations provide that, "*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). Prior decisions indicate that for the time span from the colonial period to the 19th century, evaluation of community has not been tied to the specific forms of evidence listed in 83.7(b), but rather was evaluated more generally, under the provisions of the definition of community in 83.1. This approach should be seen in the light of the preamble to the regulations, which states that some commenters to the 1994 regulations:

> saw [the 1994 25 CFR Part 83] revision and the revised definition of community as requiring a demonstration of specific details of interactions in the historical past, and thus as creating an impossible burden . . . A detailed description of individual social relationships has not been required in past acknowledgment decisions where historical community has been demonstrated successfully and is not required here . . . further, the language added to § 83.6 clarifies that the nature and limitations of the historical record will be taken into account (59 FR 38, 2/25/1994, 9287).

The relevant language follows:

> Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time . . . " (83.6(e)).

For the period from first contact through the end of the fund disbursements in 1891, the evidence pertaining to the Chaubunagungamaug, or Dudley/Webster, Nipmuc Indians has been summarized above in the historical orientation. This approach was chosen because, although

evidence primarily applicable to 83.7(b) and 83.7(c) is discussed separately below in the evaluation under the criteria, the essential requirement of the Federal acknowledgment regulations under 83.7 is that of tribal continuity. Tribal continuity is evaluated by examination of evidence of existence of community and political processes over time and descent from the historic tribe. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that the petitioner meets a specific criterion at a certain date. This summary discussion of some of the evidence for community between first sustained contact and 1891 draws on the historical overview, presenting selected "high points" in more or less chronological order to show how the evidence is being evaluated. It is to be read together with the overview, which describes the overall evidence for continuity of tribal existence. It is also to be read together with the summary discussion of criterion 83.7(c), which describes some of the evidence for political influence, because much of the specific evidence cited provides evidence for both community and political influence. Under the regulations, evidence about historical political influence can be used as evidence to establish historical community (83.7(b)(1)(ix)) and vice versa (83.7(c)(1)(iv)).

Petitioner #69B has not presented specific arguments as to how it meets criterion 83.7(b) historically. The 1984 petition for Federal acknowledgment and 1987 OD response for the joint Nipmuc petitioner, #69, dealt with the fluctuating level of documentation by presenting the argument that the petition was on behalf of all Nipmuc, and that therefore, to show tribal activity, it was adequate to show Hassanamisco activity for time periods when there was a dearth of information concerning the Dudley/Webster Indians, and vice versa (Nipmuc #69 Pet. 1984, 191; Nipmuc #69 Pet. Resp. 1987). Since petition #69B pertains to the Chaubunagungamaug Band, or specifically the descendants of the Dudley-Webster Indians, only, this technique is not applicable to the current petitioner. The BIA researcher therefore surveyed the record to identify those items which might be argued to pertain to criterion 83.7(b).

For the earlier period, the evidence concerning community has been evaluated by broad developmental stages. The isolated documents must also be interpreted in light of the general continuity of the band's population as shown by a wide variety of other documents (in addition to the "Historical Overview" section above, see accompanying charts and the draft technical report for petitioner #69B for more details.

From First Sustained Contact to 1675. Prior Federal acknowledgment decisions did not address in detail the evidence available from the 17th century or classify it into the categories detailed in 83.7(b)(1)(i-ix). The nature of the historical record does not make such an enterprise possible. The material available for this period consists primarily of historical narratives, mainly by modern anthropologists, pertaining to Colonial contact, and giving limited information, only from an external viewpoint, concerning the aboriginal community (Salwen 1978, Russell 1980, Mandell 1996, Bragdon 1996; Johnson 1995; Humes 1952, Reese c1980; Connole 1976; Dacey 1995; Savage 1996 *Massachusetts Archives, Colonial Records of Massachusetts*; Gookin 1836,

Gookin 1792; Hoadley 1868, Hoadley 1870, Hoadly 1873; O'Callaghan 1854). The most extended series of relevant records is that generated by Massachusetts, consisting of the microfilmed records in the Massachusetts Archives and the published series of *Massachusetts Colonial Records*. Some material is also to be found in the published Connecticut colonial records and the New York colonial documents. Scholars have provided varying descriptions of the organization of the prehistoric and early historic Nipmuc. One modern scholar has stated that, ". . . the Nipmucks . . . added up to not much more than the changing sum of whichever interior villages chose to work together at a given time" (Bourne 1990, 126; see also Salisbury 1990, 92). Nonetheless, records of colony actions and actions of other tribes from first contact through 1675 clearly identified a Nipmuc cultural body, with identifiable bands or villages which had identifiable leaders, and which occupied a defined territory.

In the 1670's, missionaries, primarily John Eliot, began the organization of some of the Nipmuc of what are now central Worcester County, Massachusetts, and northeastern Windham County, Connecticut, into "praying towns" (Salisbury 1990, 92). One of these was at the foot of Lake Chaubunagungamaug, or Webster Lake. Massachusetts' Superintendent of Indian Affairs, Daniel Gookin described it in 1674 as occupied by Black James, and consisting of about nine families, constituting 45 individuals (see also Salisbury 1990; Johnson 1995; Place of Small Stones (Nipmuc Pet. #69A); Humes 1952, Reese c1980; Mandell 1996, Leavens Papers n.d.; Gookin 1836 [1972], Gookin 1792 [1970], Earle Report 1861, Larned 1874, 1). The most extensive information concerning the situation within these "praying town" settlements comes from the report of a journey undertaken by Eliot and Daniel Gookin in the autumn of 1674 (Gookin 1792 cited in *Earle Report* 1861, 102; Larned 1874, 1:7-8). Black James was not only the sagamore at Chaubunagungamaug, but was also appointed by Eliot as constable of all the praying towns of the Nipmuc region (Larned 1874, 7), which as of 1674 had a population of just under 400 persons (Larned 1874, 1:6-8). The settlement also had a teacher and the leadership enforced the norms accepted by the towns (Gookin 1970, 80). Eliot specified that Chaubunagungamaug, established in 1672 at the head of the lake, was a "new plantation," *i.e.* not the site of a prior Indian village (*The Great Trail of the Indians* n.d., 5; Leavens Papers). However a local historian stated that "[t]here was another village at the foot of the lake, near Bates Grove, these were the non-praying Indians, Nipmucs this village was destroyed by the English in King Philips war" (Leavens Papers n.d., unpaged).

Precedent does not require detailed information concerning the internal community of the historic tribes which were predecessors of petitioners in the pre-contact and early contact periods. Under precedents for evaluating tribes in early years of contact with Europeans, before substantial cultural and political changes had occurred (Narragansett PF 1982, 1; Mohegan PF 1989, 2), this is sufficient evidence to demonstrate that 83.7(b) is met for the undifferentiated historical Nipmuc tribe as a whole, predecessor group to the later historic Chaubunagungamaug or Dudley/Webster Band, for the period prior to 1675. The evidence in the record meets criterion 83.7(b) for the undifferentiated historic Nipmuc tribe as a whole, predecessor group to the later historical Chaubunagungamaug Band, for the period prior to 1675, and also shows the existence of the Chaubunagungamaug Band by the 1675 date.

1675-1785. Records generated by military actions during King Philip's War, 1675-1676, named the Nipmuc villages at both Chaubunagungamaug and Wabaquasset, as well as noting that Black James continued as the leader (Leach 1958, 205-207, 211). Toward the end of the war, there was also data pertaining to the placement of children from the Nipmuc bands at the end of the war (A Place of Small Stones n.d.; *Transactions of the Colonial Society of Massachusetts* 1916-1917, 19:25-28). While not sufficient in itself to meet criterion 83.7(b), it has been evaluated as supporting evidence in connection with other evidence showing the existence of a named, collective, Indian entity for a period of more than 50 years. Evidence also indicates that after the disruptions caused by the war, smaller settlements of Nipmucs resumed residence in the pre-war villages in Connecticut (Larned 1874, 1:11, 1:13). From the early 1680's, Black James "and Company" of Chaubunagungamaug engaged in a series of land transactions both with representatives of the Massachusetts Bay Colony and with individual purchasers (*Mass. Col. Rec* 5:315, 5:328-329; Mandell 1996, 44; *Mass. Archives* 31:46, 48; *Great Trail of the Indians* n.d., 5). The official records indicated that the "southern part" of the broader Nipmuc territory, that claimed by "Black James and company" included the Nipmuc territory lying in what is now Windham County, Connecticut (*Mass. Col. Rec.* 5; *Mass. Archives* 30; Mandel 1996; Daniels 1880; Freeland 1894). The documents of the 1680's show the existence of a group, with an acknowledged leader, with the authority to cede and hold land, in a position to negotiate with appointed representatives of the colonial authorities of Massachusetts. The retention by "Black James and Company" of land which fell within the aboriginal territory shows the existence of a continuing group at this date at a level which falls within the general precedents expected for the colonial period. The subsequent 1707 land sale by Black James and Company reserved to themselves, their heirs and descendants forever, the right to fish, hunt, and "on great ponds or rivers necessary for their support" (Dresser 1900, 117; see also Mandell 1996, 39, 212n58; Nipmuc #69 Pet. Narr. 1984, 50; *Suffolk Reg., Deeds, Libro 26, Folio 215*; "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachusetts," c1890; *History of Dudley* n.d.). The terms of a subsequent 1724 deed also indicated the existence of a residential settlement (Nipmuc #69 Pet. Narr. 1984, 50-51; "In the Matter of the Dudley Indians" Brief c.1890; Leavens Papers n.d.' Sale of Indian Land at Webster 1887; Dresser 1900). For more detailed description of the deeds see the historical overview, above, and the charts accompanying this proposed finding.

One of the most extensive sources of information pertaining to this period results from the desire of the Town of Dudley, expressed at a town meeting held January 30, 1733/1734, to build a meeting house on the Indian Joshua Pegan's old field (Dresser 1900, 117; Conant 1893, 99). The deed for land on top of present Dudley Hill, Dudley, Massachusetts, was dated March 20, 1733/1734 and recorded August 15, 1738 (Worcester County Registry of Deeds 1738, 10:230). It was then known as "Pegin Hill." The four acres were to be used for the purpose of a church, meeting house, and training ground (Leboeuf and Wakefield 1929, 6; Worcester county Registry of Deed 1738, 10:230), the land constituting an irregular triangle at the northwest corner of the Indians' square mile of land (copy of Chandler's Survey *in* Leboeuf and Wakefield 1929). A partial copy of the deed shows the signers, largely with the surnames Pegan and Quitticus (Worcester, ss; A true photostatic copy of record, of Worcester District Registry of Deeds, Book

10, 236). The Dudley Indians were reserved special seating in the church at Dudley as a provision of this deed. They did not establish a separate church for the band.

A bill passed by Massachusetts in 1746 established guardians for the colony's Indian tribes. Under the 1746 bill, Grafton (Hassanamisco) and Dudley (Chaubunagunamaug) were paired. In subsequent years, however, the two groups came to have different guardians, although there is no record of a formal separation by legislative act. Massachusetts passed further measures concerning the sale of Indian lands in the spring of 1748. The 1746 measure was elaborated on June 12 and 13, 1758, by a bill providing that there be three guardians near every Indian plantation to allot lands to the Indians and guard against trespass; also, to regulate incomes and expenditures in behalf of the tribes; and that no sale or lease of Indian property was to be made except by consent of the guardians (*Mass. Archives* 33:64-66).

There is evidence in the 18th and 19th century records that the population of the Dudley reservation did not constitute a totally endogamous group, but intermarried with, in particular, the Nipmuc settlement at Natick. Actions relating to the settlement of Samuel Bowman never indicated that he was jurisdictionally a "Dudley Indian," but only that he was a Natick property holder whose extended family resided in various towns in Worcester County. He did not reside at Dudley, but at or near Worcester itself. However, the husband of one of his daughters was Joseph Pegan of Dudley. Elizabeth (Brooks) Lawrence Senah was a Natick Indian residing at Dudley, but never appeared in the records of the Dudley guardians (Mandell 1996, 170-171, 235n127). John Ephraim of Natick had married a Dudley woman (O'Brien 1990, 299-300; Mandell 1996, 166-167; O'Brien 1995, 214). The 25 CFR Part 83 regulations specifically allow for the movement of individuals and families between tribes, while patterned outmarriage with other tribes is interpreted as evidence in favor of community. The data available for the 18th century prior to the American Revolution indicated only minimal intermarriage between the Indians of the Dudley reservation and non-Indians, although this practice became more common in the 19th century. Marriage to non-Indians does not indicate either that there has been dissolution of tribal relations or that there is no tribal community.[137]

In 1758, the Dudley Indians submitted a petition " complaining of the unjust actions of their guardians and requesting the discharge of the said guardians and appointment of new men" (*Mass. Archives* 33:61; see also *Acts and Resolves* 221). The specific complaints were that their guardians had deprived them of many rights and overcharged them in a list of debts. The 1758 signers denied that they signed a prior 1757 petition (which is not in the record) and mentioned the guardian's "taking away grass & fruit of Jonathan Pagan's plantation anno 1756 at that time Joseph Pagan had Jonathan's power of attorney during his absence in his Majestie's service" (*Mass. Archives* 31:61). This power of attorney from one relative to another implies that the Dudley Indians had been accustomed to handling their legal affairs and real estate without

[137] "Narragansett marriage to Non-Indians, black and white, became an issue in the 19th century . . . the issue of race was raised in the context of state recommendations to dissolve the tribe because of intermarriage with blacks. As a consequence, the group had to strongly defend its identity as Indian, ..." (Narragansett PF 1982, 3).

guardianship. The petition also indicates that there was sufficient cohesiveness in the group that it could come to a consensus and petition for redress.

In May of 1767, "Ezra Stiles found 'now Ten families or less. Diminished three quarters in Memory. Mr. Gleason of Dudley says there are but Two Men, & inclusive of these but nine Souls Indians now living.'" (Mandell 1996, 168; citing Dexter, *Itineraries of Ezra Stiles* 228; Mandell 1996, 231 n. 22). During the mid-18th century, the guardians' records also showed only a small population at Dudley.[138] A recent scholar stated that, "[t]he Chabanakongkomuns, in Dudley, shared the demographic decline and some of the economic problems of their cousins in Natick and Hassanamisco. According to the enclave's guardians in 1763, the Indians 'are now mostly Females,' and more of their land needed to be sold in order to meet growing medical bills and other 'necessaries'" (Mandell 1996, 168; citing *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763; Mandell 1996, 231n21).[139] The regulations do not specify any minimum size for the population of a historical community, nor require that the households in it have male heads.

Of the men who were identified on the accounts of the Dudley guardians between 1768 and 1774, at least three served in the army during the American Revolution. One of these, Joseph Pegan, survived until 1819 and collected a pension under the act of 1818, still a resident of Dudley. The other two, Samuel Pegan and Eleazer Pegan, apparently never returned to Dudley after the Revolution (*Massachusetts Soldiers and Sailors* 1901; Systematic History Fund 1908; NARA M-804).

Prior Federal acknowledgment decisions did not address in detail the evidence available from the early 18th century or classify it into the categories detailed in 83.7(b)(1)(i-ix). The nature of the historical record does not make such an enterprise possible. For a detailed survey of the material available in this instance, see the draft technical report for #69B (BAR 7/15/1998). On the basis of precedent, the evidence in the record is sufficient to meet criterion 83.7(b) for a tribe during the colonial period.

1785-1891. The alphabetized summaries of church records and civil vital records from Dudley, Webster, and Sturbridge for the late 18th and first half of the 19th centuries list numerous marriages and baptisms of individuals identified as Indian (Systematic History Fund 1908; *Vital Records of Sturbridge* 1906; Holbrook 1980). The church and vital records do not describe an Indian community, whether at the Chaubunagungamaug settlement or extending more widely,

[138]Considerable data about this population is available from the guardians' records (*Mass. Archives* 33, 463; 33, 518-520; 33, 551-552; *Journals of the House of Representatives of Massachusetts 1771-1772* 1979, 147; *Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 179, 193; *Acts and Laws of the Commonwealth of Massachusetts* 1792-1793, 622, Resolves 1793--January Session, chapter 37A* [not printed in previous editions]; *Acts and Laws of the Commonwealth of Massachusetts* 1792-1793, 475; O'Brien 1990, O'Brien 1995, Mandell 1996).

[139]For more information on the 1763 report, see the discussion of the sale of land by the Dudley heirs to Edward Davis in the historical overview section, above.

but rather provide data only on individuals. Taken together with other evidence such as the guardians' reports described next, they strengthen the other evidence indicating that a community continued to exist.

From the date of the 1797 sale, and transfer of the location of the reservation (see the historical overview, above), the Dudley guardians' accounts (Dudley Guardians' Accounts; Nipmuc Pet. #69A Suppl.; Worcester County, Massachusetts, Probate Records; Nipmuc #69 Pet. Narr. 1984, 53, 78; *Acts and Resolves Passed by the General Court of Massachusetts* 148, 135; *Resolves of the General Court* 1838, 674; Briggs Report 1849, 44; *Acts and Resolves* 1849, Chap. 21) were examined by the selectmen of the town of Dudley until the establishment of Webster in 1832. The accounts after 1832 were reviewed by the Selectmen of Webster. Beginning in 1803, the accounts began to list the names of more individual beneficiaries (see pages 106-110 of the draft technical report for petition #69B (BAR) for year-by-year summaries). The overseers' reports were highly consistent in their listing of individuals associated with the reservation, allowing for variants in spelling. The names of the beneficiaries cannot be equated with a listing of the people who were residing on the 26 acres of the reservation for this time period, since some entries in the records clearly indicate that benefits were extended to and expenditures made on behalf of tribal members who lived elsewhere. They provide data both about residency, and about actual interaction (boarding, caring for the sick, transportation and moving expenses). Some families that had been off-reservation in the 18th century, such as the children of Esther (Pegan) Jaha and her husband (Worcester Probate Registry: Ser. A, Case #32910 1786), and Esther Humphrey, were reservation residents in the first half of the 19th century. Esther (Pegan?) Humphrey appeared on Dudley guardianship records for the first time in 1819 (see draft technical report, #69B, BAR 7/15/1998, 108n182).

There are few records aside from the guardians' reports which provide data concerning the Chaubunagungamaug community during the first half of the 19th century. Speck (Speck 1943, 51) and the petition mentioned a passage in Jeremiah Spofford's *Gazetteer of Massachusetts* (Newburyport, MA: 1928), which referred to "half a dozen" Indians at Dudley (Nipmuc Pet. #69 Narr. 1984, 84-85; Speck 1943).The petitioner did not submit the actual passage from the *Gazetteer*. There is no way to tell from the brief mention in the petition narrative whether it named the entity or described the settlement -- the material quoted, if accurate, indicates that it did not.

In 1835, the selectmen of Webster provided a listing of the Dudley Tribe of Indians at that date. It apparently comprised the first known attempt at a census (Dudley Guardians' Accounts 2/16/1835; Nipmuc Pet. #69A Suppl.). The list in itself provided no information about residency or actual interaction, but clearly indicated the existence of a named, collective, Indian entity applicable to 83.7(b)(1)(viii). After the preparation of this 1835 census, no new family lines appeared on the guardians' disbursement records, and no new individuals who cannot be documented as members of the immediate family of prior beneficiaries, until the publication of the *Briggs Report* in 1849 (see below).

One piece of hearsay evidence named two leaders on the Dudley/Webster reservation in the first half of the 19th century (Bergner c.1990; Nipmuc Pet. #69B Suppl. 3/31/1997, 1890 folder). Both of the individuals named in this account could be verified from other records (see Nipmuc GTKY file, BAR), and the 1840 Federal census of the Town of Webster apparently listed the entire population of the reservation, 11 males and 12 females, under the name of one of them as head of household (NARS M-704, Roll 201, Frame 0069).

The 1849 *Briggs Report* found a total of 48 individuals, about half of whom "live on the territory," which was described as about 30 acres in Webster. The commissioners were aware that the original land in the center of the town of Dudley had been sold "some years since" and "the present territory purchased for them" (Briggs Report 1849, 42-43). These comprised about 11 families: 22 males, 21 females, 2 unknown, 40 natives, 8 foreigners [non-Indian spouses]. The age distribution comprised: 6 under 5; 7 5-10; 8 10-21; 21 21-50; 5 50-70; 1 over 70, aged 74. The Briggs Report found the group to be in miserable condition and heavily dependent upon State support (*Briggs Report* 1849, 43), but clearly defined a residential community.

The mid-19th century census records, both State and Federal, provided limited data concerning historical community. The 1850 Federal census did not list the inhabitants of the 26-acre reservation in the Town of Webster, Worcester County, Massachusetts, but it did enumerate the Dudley Indians who were residing off the reservation. The off-reservation families were living within traditional area, but the census provides no data concerning community or interaction. None of the off-reservation residents were identified as Indian. By contrast, the 1855 state census of Massachusetts listed "Dudley Indians, State Paupers" as a special category in the Town of Webster. The family names included were Jaha (including Dailey, Cady and Bowman), Sprague, White, Hull, and Piggin [Pagan] (Massachusetts State Archives, 1855 Census, Worcester County, #31, Southborough to Westborough). Others of the persons listed as Dudley Indians on the 1849 Briggs Report were listed elswhere in the county — the Belden family, for example, in the city of Worcester (Massachusetts State Census 1855, #31, City of Worcester, second numbering sequence). The classification of the Dudley Indians as a special category on the 1855 state census contributes to the continuing identification of the group under 83.7(b)(1)(viii). The 1860 Federal census provided listings of persons who had been identified as Dudley Indians in the *Briggs Report*, and would be identified as Dudley Indians in the *Earle Report* (see below). There was no consistency in the identification of their ethnicity, some being categorized as Indians and others not. The off-reservation families were living within traditional area, but the census did not group them and provided no data concerning community or interaction.

On May 29, 1857, the Massachusetts legislature passed a resolution to require all Indians claiming support of the Commonwealth, to reside upon the land set apart for their use, and under the guardian's immediate supervision. On November 28, 1857, the State paid out an appropriation "for the building houses for the Dudley Indians per Resolves of 1857" (*Resolves of 1857*, Ch. 80; Nipmuc Pet. #69 Narr. 1984, 88). In April 1857, the guardian reported that about 20 members of the tribe were living on the reservation and claiming support from the guardian; others lived in the neighborhood and were seeking assistance (Nipmuc #69 Pet. Narr. 1984, 88).

This was in connection with a project whereby the portion of the Dudley Indians who were receiving public assistance (the "State Paupers") were moved from the 26-acre reservation to one acre "on the public highway, about half a mile from the principal village in Webster," and "more directly under the public eye, where a healthy public sentiment could have its sanitary influence, and where the civil authority could have a more direct supervision over them" (*Earle Report* 1861, 103). The new lot was described by Earle as only 1/4 mile from the 26 acres and "convenient of access to it" (*Earle Report* 1861, 103). On April 6, 1859, the legislature approved an expenditure of $400 for clearing and fencing of the land occupied by the Dudley Indians and for erecting woodsheds upon the same (Nipmuc Pet. Narr. 1984, 94-95; copy Nipmuc Pet. Suppl. 1994, Ex.). The 1859 report indicated that there were 80 persons belonging to the tribe of whom only 13 resided on the land in Webster. The remainder were living in different sections of Massachusetts, Connecticut and Rhode Island (Public Document No. 42; Nipmuc Pet. #67A Suppl. 4/21/97). The 1860 report gave the "whole number of the tribe, living in different places" as "93 as far as can be ascertained" (Public Document No. 41). The 1857 legislation and subsequent actions do not in themselves meet 83.7(b), as they provide no specific information concerning community. They do, however, contribute to meeting 83.7(b) under 83.7(b)(1)(viii). The settlement on the reservation is evidence that at least a portion of the membership maintained significant contact.

In 1861, the *Earle Report* identified the total number as 94 individuals, including "those, as well, who have gone out into the community, and by obtaining a legal settlement and exercising the rights of citizens, have abandoned the *legal* condition of Indians . . . ." (*Earle Report* 1861, 103). He wrote: "As will be inferred from what has already been stated, this tribe has no municipal, religious, or educational organization. The better portion of them, scattered in various towns, belong to ... municipal orgnizations, and have the benefits of religious and educational institutions, such as are common to those in their condition of life. Those who reside on the reservation, though subject to the legal disabilities of Indians, enjoy the benefits of the public schools of the town, and have the usual opportunities for religious worship and instruction, so far as they choose to avail themselves thereof" (*Earle Report* 1861, 105). Earle's recommended ending the trust relationship: "the number now residing there [on the reservation] is thirteen, a reduction of nearly one-half in eleven years. Of those remaining, seven vary from 40 years of age to 75, two of them being unmarried females between 40 and 50 years of age. There is but one young married couple, and but four children, two of whom are boys of 17 and 12 years of age. The former of these earns his own living and the latter will soon be able to earn his. Under these circumstances, no good reason can be perceived, why all who are now minors should not, as fast as they come of age, be placed on the same legal footing, as all other residents of the State, who are born upon its soil" (*Earle Report* 1861, 106-107). Earle devoted a significant portion of his analysis to describing the living conditions of the tribe (*Earle Report* 1861, 103) and critiquing the evaluation made by the *Briggs Report* in 1849 (*Earle Report* 1861, 106). Earle thus identified and described the community. That he recommended dispersing it and

ending its special legal status does not negate the identification, particularly since his recommendations were based, in part, upon racial perceptions (*Earle Report* 1861, 104-105).[140]

The guardian's reports continued to be filed regularly throughout the Civil War years, and are supplemented by a record book maintained by the Town of Webster for the "Remnant of the Indians of Webster" (Nipmuc #69 Pet. Narr. 1984, 95; Morton 1907; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1920; Public Document No. 36, 1861, Nipmuc #69B Supplement 3/28/1997; Public Document No. 36, 1862; Public Document No. 35, 1863; Public Document No. 32, 1864; Public Document No. 32, 1865; Nipmuc Pet. #69A 4/21/1997; Remnant of the Indians of Webster, American Antiquarian Society, Worcester, Massachusets, Nipmuc #69A Pet. Suppl. 4/21/1997). On the 1865 state census of Massachusetts, the "Dudley Indians" were not listed as a designated category in the Town of Webster as they had been in 1855 (1865 Massachusetts State Census Reel #36, Town of Webster, #77/111, /112, #77/113, /114). However, they were grouped together, apparently as either residents, or, possibly, potential residents of the group home that had been built for them on the one-acre plot. Several of the families counted outside of the grouping in Webster were identified as Indian; others as non-Indian (Massachusetts State Archives, 1865 State Census Massachusetts, Reel 33, Reel 34, Reel 35, Reel 36). The 1865 State census data not meet 83.7(b) in itself, but contributes to meeting 83.7(b) in connection with other evidence, such as the preceding and succeeding guardians' reports (Public Document No, 31, 1867; Public Document No. 31, 1868; Public Document No. 31, 1869; Nipmuc Pet. #69A Suppl. 4/21/1997), which were highly consistent in their listing of individuals associated with the reservation, allowing for variants in spelling.

In August 1870 [*sic*, 1869?), the multi-family tenement house in Webster was sold, pursuant to Section Five of the 1869 Act (see historical overview, above). The funds were paid into the state treasury and the remaining Indians, formerly inhabiting the premises, were moved to the town of Dudley and accommodated and supported at the state's expense until January 1, 1870 [*sic*] (Nipmuc #69 Pet. Narr. 1984, 97). The transfer of the group from the multi-family tenement was reflected in the 1870 census enumeration, although the 1870 atlas of Worcester County, Massachusetts, Town of Dudley, still showed "Nipmuc Indians" on the upper reaches of Freemans brook, separated from Chaubunagungamaug Pond by a hill (*Atlas of Worcester County* 1971 [1870], 92). By the summer of 1870, only a small number of the Dudley Indians were living near the former reservation in Webster. The majority were living elsewhere in Worcester County, Massachusetts, or in Windham County, Connecticut (NARA M-593). In 1880 (NARA T-9), the Federal census showed even less of a grouping (for details, see the historical overview section, above).

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[140]"Both Dwight and Morse described a community which was clearly identifiable by outside observers. The gradual adoption of some aspects of non-Indian culture does not indicate either the dissolution of tribal relations or the cessation of the existence of community according to the precedents (Narragansett PF 1982, 10; Gay Head FD 1987, 3)" (Paucatuck Eastern Pequot PF 2000, 74).

The data provided by the 1870 and 1880 censuses is not sufficient to meet community under the standard of 83.7(b)(2)(i), that more than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community. These censuses provide valuable information concerning the situation of the historical group antecedent to petitioner #69B in the second half of the 19th century, but do not in themselves provide a showing of community. They may be used to provide corroborating circumstantial evidence for community among at least a portion of the Dudley/Webster Indians. Some corroborating evidence also exists in the form of reminescences by local non-Indian residents (Leavens papers; Nipmuc #69B Suppl. 3/28/1997) and mentions by local historians and newspapers (Freeland 1894, 31-33; Indians Lands 1888; obituary of Mary Jaha, Worcester Society of Antiquity 1890, 9:139-140).

The largest body of documentation concerning the Dudley Indians between the Civil War and the 20th century was generated by the various court suits aimed at obtaining a per capita disbursement of any remaining property or trust funds held on their behalf by the Commonwealth of Massachusetts (Sale of Indian Land at Webster 1887; Brief c.1890; Lynch 1891). For petitioner #69B, it is of particular interest that the Sprague descendents challenged some other families who applied to participate in the distribution. Their attorney wrote: "They inform me that parties of the names of Freeman, Beaumont, Belden and others ought not to be included as distributees and that they can show this if they have an opportunity. They claim that some at least of the above names are of wholly African and not Indian blood. . . ." (Edgar M. Warner, Putnam, Connecticut, Counsel for Ida and Emma Shelley and others, to to Hon. W.T. Forbes, Judge, Probate Court, Worcester, Massachusetts, December 15, 1888; Worcester Probate Register, Case 6045). The challenged families were not removed from the final distribution list, but the letter indicates that there was a certain sense of community at the time among the Sprague descendants, the ancestors of the majority of the members of petitioner #69B, in addition to the continuing external awareness of a Dudley/Webster Indian entity.

The residents of Webster and Dudley in 1890 represented the Sprague, Pegan, and Jaha family lines. Additional members of these three family lines also resided nearby in Sturbridge, Massachusetts; Thompson, Connecticut; and Woodstock, Connecticut, as well as single individuals in more distant locations (Marlborough, Massachusetts; Providence, Rhode Island; Albany, New York). Most of the Belden descendants were in Boston, while the Humphrey descendants were more scattered. The residency data provided by the 1890 list (List of Dudley Indians prepared by Charles T. Stevens and Thomas Harington, State Indian Commissioners, October 27, 1890; Worcester Probate Registry, Vol. 474, p. 242; New Series; Nipmuc #69 Pet. Suppl. 1987, Attachment 10). is not sufficient to meet community under the standard of 83.7(b)(2)(i). However, it may be used to provide corroborating circumstantial evidence for community. The evidence in the record provided sufficient evidence of community for the historical Dudley/Webster Indians to 1891.

1891-1970. On the 1900 Federal census, three children of Lydia A. Sprague, one by each of her marriages, were enumerated in Dudley, Massachusetts.[141] George M. Wilson (formerly Pegan) and his family were in Webster (NARA T-623, Roll 695, 62A, ED1698, Sheet 15 #228/361),[142] while in the same town the enumerator placed the Henries descendants of Lydia A. Sprague on the special Indian Population schedules.[143]

The 1900 census of the town of Killingly, Windham County, Connecticut, showed that at least two of the Dudley family lines were still in contact with one another. Lydia (Blackstone) Malbone, a Jaha descendant, was head of a household of cotton mill spinners that included one of the sons of Lemuel and Lydia A. (Sprague) Henries (NARA T-623, Roll 151, ED516, Sheet 16, #290/355 overwritten #287/369).[144] Two of Winfred Henries' children were living with their non-Indian mother and grandmother in Woodstock (NARA T-623, Roll 152, 230B, ED533, Sheet 3B, #65/70). Also in Woodstock, Betsey (Dorus) Arkless Noyes was living with her daughter (who would shortly become the second Mrs. Winfred Henries) and her granddaughter (NARA N-623, Roll 152, 231A, ED533, Sheet 4A, #80/85), and Edgar Brown, grandson of Lydia A. (Sprague) Nichols Shelley Henries and his wife were living with her parents (NARA T-623, Roll 152, 247A, ED534, Sheet 7, #149/155 and #149/156).

1910 Federal Census. BIA researchers were able to make only limited use of the 1910 Federal census because the absence of Soundex indexes for Massachusetts and Rhode Island, combined with the large population of the urban areas, made a detailed search an inefficient use of limited research time. The BIA genealogist read manually the core-area towns of Worcester County, Massachusetts, and Windham County, Connecticut, but made no effort to locate descendants living away from those areas.

Several families were still within the region around Webster, Massachusetts. The family of George M. Wilson (formerly) Pegan, was still in Webster itself. He was identified as Indian, his wife as mulatto, and their children as "Ind" written over something else (NARA T-624, Roll 630,

[141]Walter Henries with his wife and children (NARA T-623, Roll691, ED1604, Sheet 11A #106/200) and next door, his sister Matilda (Nichols) Henries with her daughter (NARA T-623, Roll692, ED1604, Sheet 11A, #107/201), and Ida A. Shelley, who had by this time separated from Peleg Brown and was no longer using his name (NARA T-623, Roll 691, ED1104, Sheet 11B #110/212).

[142]The petition stated that this family had moved from Webster to Worcester before 1900 (Nipmuc Pet. #69 1984, 122).

[143]Emma (Shelley) Rossall was listed as Nipmuck, her father unknown, her mother Nipmuck, ½ white, taxed, with a fixed residence; her daughter Myra Ireson was also ½ white; her granddaughter 3/4 white. In her household were two of her brothers, Winfred Henries and Fred Henries, both Nipmuc, with their father listed as Narragansett, their mother as Nipmuc, and both 1/8 white (NARA T-623, Roll 695, 65A, ED1698, Sheet 1 #13/14).

[144]Her mother and three sisters were in North Smithfield Town, Providence County, Rhode Island (NARA T-623, Roll 1511, ED140, Sheet 9r-10 #153/183).

ED1834, Sheet22A #289/259). No descendants of the relevant families were found in the town of Dudley.

In Connecticut, Walter S. Henries and his family were in Woodstock, Connecticut, sharing a household with a married daughter and her husband (NARA T-624, Roll 144, ED598, Sheet 2A #29/29, #29/30). Edgar P. Brown and his wife included a married daughter and a grandson in their household (NARA T-624, Roll 144, ED598, Sheet 2B #35/36).

Vital records indicate that by 1910, Winfred Henries and his wife Angenette (nee Arkless) were living in Providence, Rhode Island. No census record was located for them in that year.[145]

In the 1930's, after interviewing her husband, Helen G. Holley commented, "Little can be found of Mrs. Leach's background before she came to Sturbridge. That she belonged to the Christianized Indians who early adopted white ways is known for certain. Though the old grandmother told her many old legends of her people, white folks in general were not interested, and Angie was not talkative" (Holley c.1937; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1910).[146]

> [Walter Henries] seemed like a promising person, but actually knew very little of his origin, . . .He said he was a Nipmuck Indian but of what local tribe he could not say. He was born in "Brimfield Four Corners", which is East Brimfield. His mother traveled around peddling baskets and mats, which she made. . . His mother's maiden name was Sprague. This was a family name belonging to Pegan Indians formerly on the reservation in East Webster, but he said his mother was not a Pegan; she was a Nipmuck . . . He could remember no dances, or stories, or beliefs of his people (Nipmuc Pet. #69B Suppl. 2/28/1997).

1920 Federal Census. More of the families were located in 1920 than in 1910. In no particular order, Edith L. Henries [*sic*, actually Edith L. Goins, daughter of Angenette (Arkless) Goins Henries by her first marriage] was working as a servant in Boxborough, Norfolk County, Massachusetts (NARA H-562, 1920 Soundex, MA). Lydia M. Malbone was living in the town of Dudley with her daughter Matilda Henrys, both identified as mulatto (NARA T-625, Roll 745, ED32, Sheet 10B #99/186), as were Prescott S. Coates and his wife Effie [daughter of Matilda

[145]This couple had children born in 1902, 1903, and 1904 in Woodstock, Connecticut; in 1905 in Webster, Massachusetts; in 1906, 1908, and 1909 in Providence, Rhode Island (see Nipmuc GTKY file, BAR).

[146] There also exists a set of undated typewritten data on Angie "Sprague" Leach of East Brimfield, Massachusetts, comprising a set of museum notes [no indication from what museum] for a pair of moccasins and set of chairs and a short biography apparently written by Octavia M. Sweetser, with a photograph of Angie (Nipmuc Pet. Response 1994, Ex.). The notes say she was still living in 1922. During her interviews in Sturbridge during the later 1930's, Helen G. Holley also produced a short typescript biography of Angela (Sprague) Leach (Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1910).

(Malbone) Henries], who was identified as Indian by the enumerator (NARA T-625, Roll 745, ED32, Sheet 3B #35/59).

Edgar P. Brown, wife and children, a married daughter, and two grandchildren were sharing a household in Woodstock, Connecticut (NARA T-625, Roll 198, ED369, Sheet 9A #199/206).

Two of the children of the late Winfred Henries and Angenette Arkless were located on the 1920 census of Rhode Island. Edward [Edwin], age 14, was an inmate of the State Home and School (NARA T-625, ED310, Sheet 2, Line 86), while his sister Elsie, age 9, was a patient at the State Sanatorium (tuberculosis hospital) (NARA T-625, ED70, Sheet 77, Line 77). Angenette was not located under the names of Arkless, Goins, or Henries in Massachusetts, Connecticut, or Rhode Island Soundex. Elizabeth (Henries) Morse, ancestress of the majority of the members of the #69B petitioner, was not located on the 1920 census. The petitioner's records indicate that she had married in 1918 at Wayland, Massachusetts.

The petitioner indicated that in 1916 and 1917, the Dudley Indians supposedly held powwows on Lake Chaubunagunamaug. The petitioner indicated that these were mentioned in a 1983 newspaper article (Kowal 1983, "Nipmucks Readying"; no original documentation submitted). A section in a pamphlet published about 1932 by the Webster Woman's Club indicated that these "powwows" were sponsored by the Chambers of Commerce along the valley of the old Mohegan River, as joint entertainment by Putnam, Connecticut, and Webster, Massachusetts, on July 13 1916, repeated June 11, 1917 (*Now and Then* c. 1932, 61-63).

The petition also stated that in August 1920, two Nipmuc bands participated in a regional gathering of Worcester County and New Hampshire Indians at Lake Dennison (Nipmuc Pet. Narr. 1984, 131). However, no documentation was submitted to substantiate this.

Overall, little evidence was located to indicated that the descendants of the Dudley Indians were associating each other or with other Nipmucs during this period. With the exception of George M. Wilson, who had moved to Worcester, and his immediate family, no Dudley/Webster descendants were included in Sarah Cisco Sullivan's Mohawk Club or the continuation of the Worcester chapter of the Algonquin Indian Council of New England in which several Hassanamisco descendants were active (see discussion in technical report for petition #69A). The three Jaha descendants who had corresponded with Sarah (Cisco) Sullivan during the 1920's did continue the correspondence (Nipmuc Pet. #69A Suppl., Cisco Papers). The petitioner submitted a newspaper article from the Putnam, Connecticut, newspaper indicating that in 1940, the American Federation of Indians was going to hold a powwow on the farm of Arthur Basto in South Woodstock (Indian Pow-Wow to Begin Aug. 31, *Putnam Patriot*, August 8, 1940). However, there was no indication of Dudley Indian participation in this event.

On December 30, 1923, John Braxton,[147] describing himself as "Chief of Nipmuc," provided to Bicknell "as complete a list, as possible, of names of the Nipmug [*sic*] tribe," which was in fact a list of 37 members of the Belden family, whom he described as "lineal descendents of Black James" (Nipmuc #69 Pet. Response 1987, Attachment 8; Nipmuc #69 Pet. Response 1994, Ex.). John Braxton was listed as a Nipmuc "tribal sachem" on the letterhead of Thomas Bicknell's Algonquian Indian Council of New England (McMullen 1994, n13). During 1924 and 1925, Bicknell's major involvement was with Hassanamisco (Nipmuc #69 Pet. Narr. 1984, 137), but one photograph submitted indicated the participation of at least three Dudley Indian descendants from the Jaha family line. These same women, throughout the 1920's and 1930's, corresponded with Sarah (Cisco) Sullivan at Grafton (Nipmuc Pet. #69A Suppl., Cisco Papers). Neither the Belden/Braxton nor Jaha families have members within the current petitioner.

The only Dudley-Webster descendant involved in the 1950 chartering of a Nipmuc Tribe in Worcester by the State of Massachusetts (Nipmuc Tribe Revived 1950; Nipmuc Indian Chapter 1950) was George M. Wilson Jr. of the Pegan family line which, as mentioned above, was by this time identified with the Hassanamisco group and whose descendants are members of petitioner #69A (Nipmuc Tribe Revived, *Worcester Telegram*, 6/21/1950; Nipmuc #69B Supplement 3/28/1997). The petition stated that before Wilson moved from Webster to Worcester, "he had served as Medicine Man for the Dudley-Webster band, and after the move, in the same capacity for the Hassanamisco band" (Nipmuc #69 Pet. 1984, 122-123). No documentation was provided for this assertion. In 1952, Wilson received a letter from Charles M. Leavens, town clerk of Webster, pertaining to his Pegan genealogical line (Leavens to Wilson 7/17/1952; Nipmuc #69B Supplement 3/28/1997, Attachment M; Leavens Papers n.d.). In 1946, George M. Wilson Jr. returned to Worcester after serving in World War II (Nipmuc Pet. 1984, 149). Wilson, born about 1920, recalled having attended powwows at Grafton as a child, and in 1982 was serving as a member of the Hassanamisco Council.

The petition stated that "George Wilson and Elizabeth Henries Morse, descendants of members of the Dudley-Webster band, and now living in Worcester, recall childhood memories of their families coming to Grafton for the annual autumn annual meeting" (Nipmuc #69 Pet. 1984, 122). No documentation was located to substantiate these visits. There is insufficient evidence of community among the descendants of the historical Dudley/Webster Indians as a whole from 1891 to 1970, and no evidence of community among the direct ancestors of the members of petitioner #69B.

1970 to the Present: Methodology. The paucity of arguments made by the petitioner (see below), together with other factors, required the BIA to make decisions about how to proceed with an evaluation of the petitioner during the period since 1970. On the one hand, the directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner,

[147]Braxton then resided in Allston, Massachusetts; later at Roxbury, both of which were near Boston.

or by third parties, demonstrates that the petitioner meets each of the criteria" (AS-IA 2/7/2000; 65 *Federal Register* 7052, 2/11/2000). On the other hand, the BIA had begun work on the #69B proposed finding before the directive was published and thus in January 2000, found itself with data and analysis that existed outside the limitations stated in the directive. A BIA peer review meeting of April 19, 2000, addressed questions about how the team was to proceed in light of these factors. A commitment was made to address in the proposed finding all materials in the record that pertain to each criterion in a limited fashion, regardless of whether argumentation and/or analysis accompanied these materials. In accordance with the directive, it was decided that extensive new analysis would not be conducted, and alternative positions would not be developed.

BIA researchers decided in April 2000, to include in their examination of this period material from the audiotaped interviews with the seven #69B members. In August of 2000, BIA researchers decided also to include the BIA anthropologist's analysis of the residential patterns of the petitioning group.[148] In light of the fact that the directive was published after work on the proposed finding was begun, and in light of the fact that so little evidence was presented by the petitioner for this period, it was thought that the inclusion of the field interview data and the analysis of #69B residential patterns not only would shed valuable light on the status of the petitioner during the period since 1970 but also would prove helpful to the petitioner in preparing material to be used for the final determination. Consistent with the directive, the field interview data collected by the BIA anthropologist was utilized only for purposes of evaluation of the petitioner's data and position and not to develop alternative positions which might demonstrate that the petitioner met the requirements of the regulations. For a discussion of how these have been used, see the following section concerning sources reviewed.

The Petitioner's Arguments. Petitioner #69B has not presented specific arguments as to how it meets criterion 83.7(b) from 1970 to the present. The petition narrative (Nipmuc #69 Pet. Narr. 1984) was written before petitioner #69B split from #69, and the petitioner chose to retain this narrative after its formal separation from #69. After its separation, petitioner #69B stated that it did not wish to amend or add to the #69 narrative. As a result, at best the petition narrative only awkwardly fits petitioner #69B. In 1984, the petition described the activities of the Chaubunagungamaug band as follows:

> At present, the Chaubunagungamaug Tribal Council meets every second week, primarily for the purpose of organizing and presenting cultural events. Since its inception, a major focus of Council activity has been the research and presentation of tribal culture. Carrying on the tradition well established at the Hassanamisco Reservation, the Dudley-Webster band makes presentatitons [*sic*]

[148]By May 1999, an analysis of the residential patterns of the petitioning group had been completed, an analysis that was conducted for purposes of describing the #69B community. No analysis of any kind relating to the residential patterns of #69B group members was presented by the petitioner; the data for the above-mentioned analysis was therefore extracted from the #69B membership list submitted in February 1997.

> of tribal stories, songs, dances, and artefacts [*sic*] to historical societies, schools, and other Indian groups. The band is also interested in contacting members of the original twenty-two or so Nipmuc bands that existed prior to King Philip's War. Through genealogical reserach [*sic*] and contacts through known families, efforts to identify and bring into association these "lost" tribal members are well underway (Nipmuc #69 Pet. Narr. 1984, 195-196).

Almost all of the argumentation that the #69 petition (Nipmuc #69 Pet. Narr. 1984; Nipmuc #69 Pet. Resp. 1987) made about the period since 1970 involved the 1980's. The petition researcher asserted that "[s]ince 1978, there has been a dramatic increase of tribal activity generally, and most notably at Dudley-Webster, among the Chabunagungamaug clan." He continued: "Within the past five years, this band (Chabunagungamaug) has been particularly at pains to stress its unique clan identity . . . In 1978, the band formed its own band council, and in 1982, that council formally incorporated under the laws of the Commonwealth of Massachusetts" (Nipmuc #69 Pet. Narr. 1984, 191-192).

Sources Reviewed for Criterion 83.7(b) since 1970. The petition exhibits contained a limited amount of data, including newspaper articles, correspondence, and meeting minutes. The joint petitioner (#69) submitted a document that it had created for its petition, a table of documented events and gatherings at the Hassanamesit [Hassanamisco] Reservation[149] with selected documentation of Nipmuc people's involvement. Table Six of this document covered the years from 1936 to 1997. In addition to other information that is not relevant to this discussion, the chart lists in chronological order thirty gatherings that took place from 1977 to 1997. Because at least Mr. Edwin Morse and some members of his extended family as it was defined above participated in affairs of the #69 joint petitioner from 1977 until the mid-1990's, the thirty gatherings in the chart that span this 18 or 20 year period are relevant to #69B. At least formally, these thirty gatherings were organized by both the Hassanamisco and Chaubunagungamaug Bands, which were cooperating at the time.

In addition to the petition exhibits, the evaluation has utilized the audiotapes of field interviews were made in July 1998. They consist of BAR interviews with seven members of the #69B petitioning group. The general focus of the interviews was to look for evidence regarding the social and political activities of the petitioner's members during this century, especially during the past fifty years (1950 to 1998). The "Chief," "Vice Chief," three current council members and one former council member of #69B were interviewed (Edwin Morse, Sr.; Edwin Morse, Jr.; Lucyann Swenson; Glen Wayland Heath; Bert Edwin/Edson Heath; Kenneth White; and Donald Wayne Hinckley, Jr.). Edwin Morse, Sr. and Edwin Morse, Jr. were interviewed at the same sitting; Glen Wayland Heath and Bert Edwin/Edson Heath were also interviewed together. The

[149]For more information on the land on which all these gatherings were held, which since 1869 has not been a reservation held in trust by the State of Massachusetts, see the proposed finding for petitioner #69A. It is owned by a family in #69A descended from the Hassanamisco Nipmuc, not by #69B.

total number of interviews of the seven #69B members was therefore five.[150] Completion of the finding within the expected time frames meant that detailed transcripts were not made of the tapes of field interviews.

Partly because detailed transcripts were not made of the tapes of field interviews, the interviews contain additional information which may, based on a detailed analysis of complete transcripts, and supplementation by additional interviews and documentation, help demonstrate past and present community and political process not found to have been shown by the petitioner. Alternatively, there may be data in the field interviews which conflicts with the petitioner's data.

The following summary of the period since 1970 includes description and evaluation of written and videotaped documentation which was in the record, but which was not specifically included in the petitioner's narrative and argumentation. This documentation includes but is not limited to newsletters, newspaper clippings, and videotapes that were submitted with little accompanying written explanation, documentation or argumentation from the petitioner. The videotapes, for example, were simply entitled "Nipmuck Indians;" "Wedding Chief Red Fox: Sept 19, 1988;" and "Homecoming 9/13-14/97. Nipmuc Nation - Grafton, MA." Some of the individuals who appear in the first videotape, "Nipmuck Indians," were identified by captions. The other two videotapes, "Wedding Chief Red Fox: Sept 19, 1998," and "Homecoming 9/13-14/97. Nipmuc Nation - Grafton, MA," contained no such captions. This meant that, for each of the three tapes but less so for the first tape, it was almost impossible to identify which individuals were the leaders of the group or even which were members of the group. The attempt at such an identification was further complicated by the fact that, according to statements made by #69B leaders in interviews, the events that appear on the videotape submissions were events that were not limited to #69B group members but rather were events that were public and intertribal (See Interview with Lucyann Swenson 7/22/98).

BIA Definition of Crucial Questions. There is very little evidence that the petitioner meets 83.7(b) for the period since 1970. Though the evidence is far from complete, it nonetheless strongly suggests that the primary problem is that the petitioner is a group that was formed in recent times, specifically during the last two decades of the 20th century. The primary evidence for this preliminary conclusion are statements from members of the petitioning group itself, especially the group's leader, Mr. Edwin Morse, Sr. These statements of #69B group members are included in the following summary.

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[150]The anthropologist who conducted the interviews for the #69B petition has since left BIA. The fact that two of the interviews were interviews with two group members rather than only one (Interview with Mr. Edwin Morse, Sr., 7/22/98, which included Mr. Edwin Morse, Jr.; and Interview with Mr. Glen Wayland Heath and Mr. Burt Edwin/Edson Heath, 7/23/98) made it difficult for the BIA cultural anthropologist who completed the evaluation to be certain that she was attributing statements made during these interviews to the person who actually provided them, since she had not conducted the interviews. As a result, some of the statements made by Mr. Edwin Morse, Jr. during the interview on July 22, 1998, may have been attributed to Mr. Edwin Morse, Sr., while some of the statements made by Mr. Glen Wayland Heath during the interview on July 23, 1998, may have been attributed to Mr. Burt Edwin/Edson Heath, and *vice versa*.

If evidence exists that demonstrates the existence of community for the period since 1970, the petitioner has the opportunity to locate and submit it, providing appropriate argumentation, during the response period that follows the issuance of the proposed finding. Accordingly, in the following evaluation of whether the petitioner meets criterion 83.7(b) for this period, "road maps" are provided for the petitioner to use in retrieving such information and documentation, if such information and documentation exists.

Another significant problem with the #69B petition, a problem that should be kept in mind in the course of the following discussion, especially since it is not a focus of the discussion, involves the composition of the petitioning group. Until very recently, #69B was comprised almost entirely of a single extended family made up of the direct descendants of Elizabeth (Henries) Morse, namely Mr. Edwin Morse, Sr.; some of his sisters; and their children and grandchildren.[151] After Mr. Morse became aware that according to precedent in Federal acknowledgment cases, a single family line had not been considered to constitute a tribe within the meaning of the 25 CFR Part 83 regulations, he brought other Dudley/Webster descendants into #69B. In 1998, for example, he described the #69B governing body as reflecting the presence in the group of three Nipmuck families other than his own (see Interview with Mr. Edwin Morse, Sr., 7/22/98). Initially it was thought that the fact that most of the membership (86%) was related by primary kinship ties would complicate an evaluation of the petitioner under 83.7(b), because the precedents established in evaluating prior petitions for Federal acknowledgment have assumed that people related by primary kinship ties are maintaining social relations with one another. In the case of the current petitioner, though, the evidence suggests that even those in the #69B group who are related by primary kinship ties were not consistently maintaining social relations with one another until the group was formed in the early 1980's or late 1970's.

Most of the members of #69B (86% of the total membership) descend from either Elizabeth Henries Morse, who died in 1991 (52%) or Eva Viola Brown, who died in 1993 (34%). Within each of these descent groups, the members have primary kinship ties. There is no evidence that these two descent groups had associations with each other across family lines until very recently. In fact, there is evidence that many of these individuals did not even know each other until at least the late 1970's. The evidence for this lack of social interaction and connection is described and discussed most thoroughly in the summary discussion of criterion 83.7(c), which reviews the evidence that the petitioner is a group that was formed in recent times.

Evaluation of the Petitioner Under Criterion 83.7(b) since 1970.

Summary of the Development of Petitioner #69B since 1970. The following discussion addresses the evidence for community during the period since 1970 by decade, starting with the 1970's. Before the evidence is presented, a brief summary of the history of the petitioning group

[151]Spouses were excluded.

since 1970 is provided. It is hoped that this brief summary will better orient the reader through the discussion that follows.

It appears that the petitioner, as it existed from 1978 through the mid-1990's, was an extended family (see definition of that family above) that, in general, was aware of its Nipmuc ancestry but was not living in tribal relations in the 1970's and had not done so at any point earlier in the century. In the 1970's, this family, like other families of Nipmuc descent, responded to the efforts of Ms. Zara CiscoeBrough, a Hassanamisco Nipmuc, to provide for, if not mobilize and organize, Nipmuc descendants. During this decade, Ms. CiscoeBrough expanded her activities from merely staging intertribal events such as powwows to 1) providing a one-time disbursement of money for food and clothing to Nipmuck descendants; 2) trying to enlarge the "reservation" by procuring land from the state that was not being used by the state (Grafton State Hospital land); 3) successfully procuring scholarships from the state for Nipmuc descendants; and 4) successfully gaining representation for Nipmucs on the state's Commission for Indian Affairs. Responding to these efforts, the Morse family, including Edwin Morse, Sr. and his daughter, Lucyann Swenson, became progressively more involved in Ms. CiscoeBrough's emerging group until they were participating as leaders of the group by serving on its council.

As an extension of this involvement, Mr. Morse formed his own Nipmuck[152] subgroup in the early 1980's or, by his account, in 1979. For years he and members of his family perceived their subgroup to be only a little more than a subgroup under the "parent" group of #69. More specifically, they defined themselves as a band – or, as they sometimes said, "clan" – that was part of a larger "confederacy" or "union" of Nipmucks. In May of 1996, Mr. Morse's subgroup formally separated from the "parent" group, making the subgroup a group unto itself. This was the beginning of the existence of #69B as an independent political entity. The evidence indicates that the other descent groups currently included in #69B were added to its membership after May 1996. Although the membership list submitted by petitioner #69 in 1995 showed a large "Chaubunagungamaug Band," there is no other evidence in the record to indicate that this large membership participated in Mr. Morse's organization (see further discussion under criterion 83.7(c)).

1970's. In an audiotaped BAR interview, Mr. Edwin Morse provided evidence that the group of which he is a leader (and has been so since what appears to have been the group's creation) does not meet 83.7(b) for at least the period before 1977. During the interview, Mr. Morse spoke about the events of the decade of the 1970's, the decade during which he joined a Nipmuck group for what he strongly suggested was the first time in his life. This group, which at that time was led by Ms. Zara CiscoeBrough, appears to have been the group that later became #69. In describing the event of his joining this group, which Mr. Morse said was in 1977 when he was 49 years old, Mr. Morse strongly suggested that, during the half-century from the early 1930's to 1977, there was no Nipmuck organization or association of which he and most future members

[152]Petitioner #59A, and historians generally, have preferred "Nipmuc" as the standardized spelling. Petitioner #69B prefers the usage of "Nipmuck."

of #69B were a part, and there were no Nipmuck activities or expressions of a collective Nipmuck identity of which he and most future members of #69B were a part. Mr. Morse seemed to suggest, in short, that during these decades there was no distinct Nipmuck community, or at least one that included him and most future members of his group. After briefly describing a childhood in which he implied that, to the best of his knowledge, did not involve Nipmucks beyond the members of his extended family as it was defined above, Mr. Morse explained,

> Back then [in the 1920's and 1930's when he was a child], we knew we was Chaubunagungamaug. We knew we came from South Woodstock, Connecticut. We knew that was in Dudley. So, uh, *but we had nobody to do anything.* And then when we got older we found out everything we had to know. About 21 years ago. That's when we stared to push forward as Chaubunagungamaug. But we didn't know uh. And then, as far as joining anything we – Zara's sister – she was giving out, I think it was $175 for clothing, $125 for food to all Nipmucks. You go down there, and you sign your name on the dotted line, and you were automatically on the tribal roll. [emphasis added]

At that point, Mr. Morse was asked, "So she [Ms. CiscoeBrough] was just signing up anybody who came by?" Mr. Morse replied, "Anybody that came by. Said they was a Nipmuck."

In another place on the audiotape, Mr. Morse was asked about what, if any, interaction he had had with other Nipmucks during the more than thirty year period from the 1940's to the early 1970's. Mr. Morse replied that it was difficult to remember the Nipmucks with whom he might have interacted at gatherings and parties during this period for the following reason:

> . . . because back then, I wasn't interested in that [Nipmuck stuff], so I never paid much attention [to who was or was not a Nipmuck]. If I did back then, I coulda gave you a book and you woulda been able to read it and have anything you want. But I wasn't interested in that. Just like Mr. Henries – Crow Henries – when I first met Walter . . . He wasn't doing nothin' as far as Native American people are concerned. I don't know what he told you, but he did a lot of reading . . . just like I did. I did a lot of reading because I had to. So that's why I know what's going on. If it wasn't for books, [unintelligible] be no place.

Here, as elsewhere during the audiotaped interview, Mr. Morse strongly suggested that, during the period from the 1940's to the early 1970's, he and other future members of #69B with whom he was acquainted during these decades did not identify as Nipmucks (though many were aware that they were descended from Nipmucks), and did not constitute a group. By his own account, then, Mr. Morse was not part of a Nipmuck community during at least the period before 1977, if such a community existed at all during the early to mid-20th century.

If such a Nipmuck community existed at all during this period, it was the assemblage of Nipmucks that was being organized by Zara CiscoeBrough around Grafton, Massachusetts during at least the latter part of this period. In the portion of Mr. Morse's statement that is cited

above, Mr. Morse himself provided evidence that he was not part of this community, if such a community existed at all, before he joined the group in 1977. In the above statement, Mr. Morse mentions the individual whom he believes organized the effort to "sign up" individuals on a Nipmuck "tribal roll." He identifies this individual as "Zara's sister." Zara CiscoeBrough did not have a sister. Had Mr. Morse been maintaining social relations with Ms. CiscoeBrough and others who may have been associated with her, he no doubt would have been aware of this fact.

Other evidence supports the suggestion that Mr. Morse and members of his extended family as it was defined above were not even part of an organized Nipmuck group until 1977 and thus were not part of a Nipmuck community until at least that time, if even then. Petitioner #69 submitted the minutes of a meeting entitled, "Joint Meeting: Legal Heirs of Hassanamisco, and the Nipmucs," dated May 14, 1977. The meeting was organized by Zara CiscoeBrough. Neither Mr. Morse nor any member of his extended family appears on the attendance list of this meeting. It is likely that, by the Spring of 1977, Mr. Morse had not yet joined the Nipmuck group that later became #69.

Less than four months later in September of 1977, a petition said to contain the names of a number of Nipmucs "who are vitally interested in Nipmuc New Town Creation" (which was a failed effort by Nipmucks to obtain land from the state) was presented by Zara CiscoeBrough to an administrator in the Massachusetts state government. A copy of the petition, which was submitted by petitioner #69, contained the names of thirty-seven individuals. One of these individuals was Mr. Morse. This raises the strong possibility that Mr. Morse "signed on the dotted line," as he put it, on what he described as the Nipmuc "tribal roll" during the four month period between the Joint Meeting in mid-May, 1977, on the one hand, and the time the petition was presented in September of 1977, on the other. This document provides the earliest evidence in the record of the involvement of Mr. Morse, who later became "chief for life" of #69B, in Nipmuc matters. It also provides the earliest evidence of the social interaction of Mr. Morse with a Nipmuc from another family line. This said, it should be pointed out that, although this document suggests that Mr. Morse participated politically in a Nipmuc group and that he may have enjoyed informal social interaction with members of an organized Nipmuc group, it does not demonstrate that such social interaction existed broadly among members of the petitioning group.

The record includes an agenda of a "special meeting of the Nipmuc Tribe" and indicates that the meeting took place on June 3, 1978, at Belmont Community School in Worcester, Massachusetts. Additional information or documentation about this meeting may help the petitioner show that it meets 83.7(b) for the late 1970's. In particular, the petitioner may wish to address the relationship of the June 3, 1978, meeting to the a roster of attendees at a meeting that took place on June 8, 1978, and that was attended by 49 people, including Zara CiscoeBrough. While the roster does not identify the nature or type of the meeting, the separately submitted minutes indicate that it was a meeting of the Hassanamisco Nipmuc Tribal Council (Nipmuc Tribal Council, Hassanamisco Band, Minutes 6/8/1978). A number of members of the Morse family (now primarily affiliated with petitioner #69B) attended this meeting. This is the earliest evidence in the record concerning the Morse family's participation in the Nipmuc organization

led by Zara CiscoeBrough. It does show that, by 1978, there was at least some social interaction of at least some Morse family members with at least some Nipmucs of different family lines. As such, the document provides some very weak evidence that the petitioner may meet 83.7(b) for the late 1970's. To strengthen its case that it meets 83.7(b) for the late 1970's, the petitioner should provide additional information or documentation about the participation of the Morse family in this meeting.

Nearly all of the gatherings listed in the table of events appear to be annual fairs. There is no evidence that such events, which were open to the public and attended by many non-Nipmucs, were events during which the members of #69B socialized with one another. Only one gathering of the 1970's, labeld "Tribal meeting –closed to the public," may have been an essentially Nipmuc, if not exclusively #69B, event.

Another piece of evidence pertinent to whether the petitioner met 83.7(b) for the 1970's is a statement that Mr. Morse made in an audiotaped BAR interview on July 22, 1998. The statement involved the number of attendees at a meeting that took place in the year, 1979, which was two years after Mr. Morse, by his own admission, first joined a Nipmuc group. During the two year period after Mr. Morse joined the organization headed by Zara CiscoeBrough, he served on its governing body. Although the evidence is far from complete, it appears that he began forming a subgroup, the Chaubunagungamaug Nipmuck Council, in 1979. In the audiotaped interview, Mr. Morse claimed that, when the council meetings of the Chaubunagungamaug Nipmuck Council (the organization antecedent to petitioner #69B) first "started," as he put it, in 1979, they were attended by fifty to sixty members. This assertion by Mr. Morse suggests that many potential members of the Chaubunagungamaug Nipmuck Council considered issues acted upon or actions taken by group leaders and the new governing body to be of importance. If the petitioner were to provide lists of members who attended these meetings, it would strengthen its case that it meets 83.7(b) for the late 1970's. Among other things, the petitioner needs to show that social interaction existed broadly among the members of the group.

Another piece of evidence that was relevant to an evaluation of whether the petitioner meets 83.7(b) for the 1970's is a statement by Mr. Glen Heath, who, by 1991, was serving on the council of the Chaubunagungamaug Nipmuck. On July 23, 1998, Mr. Heath was interviewed at the same sitting with his brother, Burt Edwin/Edson Heath, who had also served on the #69B council. Mr. Heath's statements agreed with the dates at which, as Mr. Morse put it, he began "to push forward as Chabunagungamaug," Mr. Heath was approximately 40 years old when he met Mr. Morse. He said:

> Then, I got married.[153] I had some friends that knew Chief Wise Owl [Mr. Edwin Morse, Sr.]. That's how I met him. That was '79 or '80 . . .[154] [When I met him, I said,] "I would like to, uh, join the uh, join his tribe." [Then Mr. Morse said,] "the first thing is that [you need to] get whatever you [can] get saying that you are who you say you are." [footnotes added]

It was within at most a few years of the above conversation that Mr. Heath and many of his family (through Mr. Heath's submission of their paperwork) were enrolled in the Chaubunagungamaug Nipmuck Council, or Chaubunagungamaug Clan (the usage of the name varied throughout the period 1981-1996). In light of Mr. Heath's own statements, it is likely that he and his family members had little to no significant social relationships with other future #69B group members until 1979 at the earliest. As the Heath family is one of only three extended families that comprise the #69B group other than the extended family of Mr. Morse and is thus a significant part of the petitioning group, this statement of Mr. Heath's provides some negative evidence for the period before the late 1970's.

A statement given by another #69B leader in a separate BAR interview also provided negative evidence. The interview was with Mr. Kenneth Leroy White, who has also served on the #69B governing body and who is member of one of the other two extended families (other than the family of Mr. Morse) that now comprise #69B. In the BAR interview, Mr. White stated that he did not meet Mr. Morse until the 1980's, which was when Mr. White was in his late 30's and early 40's. In light of these statements by Mr. Heath and Mr. White, if there exists evidence that members of the Heath family and/or the White family were indeed interacting with future members of #69B other than Mr. Morse and members of his extended family during this period, the petitioner should submit this evidence.

There is very little evidence that the petitioner meets 83.7(b) for the period from 1970 to 1979. There exists some negative evidence, *i.e.*, evidence that community did not exist during this time period. The petitioner as then defined, an extended family, was not the same group as the membership of the current petitioner #69B. On the basis of the evidence now in the record, the petitioner does not meet 83.7(b) for the decade of the 1970's.

1980's. On September 23, 1981, a newspaper article, written by a reporter who attended a pow-wow (Freyer 1981), surveyed the Nipmuc situation:

> There's the Morse family of Dudley, who recently awakened to their Indian heritage, formed a new tribal council for the Dudley-Webster band and held that band's first powwow in 107 years. And there's Zara Ciscoe Brough, or Princess

[153]Mr. Heath married in 1964.

[154]Other evidence in the record indicates that Mr. Heath's name did not appear on any #69 membership lists prior to 1995.

> White Flower, chief of the Hassanamisco band of the Nipmuck nation, granddaughter of a chief (Freyer 1981, 15).

Freyer summarized the Federal acknowledgment process and interviewed the #69 petition researcher, Dr. Stephen J. Reno, whom she quoted as commenting, "Any anthropologist worth his salt will say the group (the Nipmuck tribe) has disappeared entirely" (Freyer 1981, 15). She also interviewed John Shapard of the BIA, who pointed out that the maintenance of aboriginal culture had no bearing on the process, which required that a group demonstrate continuous political existence since colonial times (Freyer 1981, 15). The article continued:

> . . . for many Nipmucks ethnic awareness has come only recently and ethnic knowledge only through research. Such was the case of the Morse family, whose study of family roots led to a desire to revive the Dudley/Webster clan of the Nipmucks, which now claims 103 members. They established a new tribal council and initiated a new chief, Edwin Morse Sr., Chief Wise Owl (Freyer 1981, 18).[155]

There is evidence in the record which shows that, since at least 1981, Dudley-Webster has been a center of activity for the leaders of #69B, for many of the members of this group, and even for New England Indians more broadly. From the evidence, it is clear that a major factor in bringing this about was the formation of a Nipmuck tribal council in the Dudley-Webster area in the late 1970's, or the early 1980's at the latest, by Mr. Edwin Morse. Mr. Morse's decision formally to incorporate this organization under the laws of the Commonwealth of Massachusetts in 1982 merely reflected his and his family's desire to create a durable group.

In the same part of the petition narrative, the petition researcher asserted simply that there had been a "broadening of the base of tribal participation" (Nipmuc #69 Pet. Narr. 1984, 191-192). There was sufficient evidence that there has indeed been an increase in the number of Nipmucks participating in #69B from the time the group was formed in the late 1970's or early 1980's to the year 1998. The group seems to have begun with a membership that included only the extended family of Mr. Morse. The most current membership list (1997), on the other hand, reflects the successful recruitment on the part of Mr. Morse of individuals from several other Nipmuck families, many of whom Mr. Morse did not even meet until at least the late 1970's.

There was additional argumentation about the 1980's in the narrative portion of the petition supplement that was submitted in 1987 (Nipmuc #69 Pet. Response 1987). In the petition

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[155]"While well-versed in the pro-Indian platitudes ('Don't forget that America was built on Indian graves'), these Nipmucks appear to be novices at Indian living. They have trouble remembering to address each other by their new Indian names (Loving One, Little Star, Great Owl). Little Star (Ruth Bessette), the tribal council secretary, didn't know what wampum was. And when asked by a photographer to demonstrate a traditional Indian dance, Chief Wise Owl confessed he didn't know any. But the council members earned their names by doing research on the tribe, and appear sincere in their desire to learn and preserve their forebears' ways" (Freyer 1981, 18; Nipmuc Pet. #69B Suppl. 2/28/1997).

researcher's very brief discussion of Nipmuc social and political activity during the period since 1970, he asserted that, in 1981, the group at Dudley-Webster held its "first activity," a powwow. The next year, in 1982, he continues, "a benefactor donated a small piece of land in Thompson, CT [*sic*] to the band." The group at Dudley-Webster, he continues, now has a "Nipmuc school." "As many as 20 gather at times on the weekends to hear lectures" (Reno Report 1987, 6). Through the site visit and other documents submitted by the petitioner, the petition researcher's statements of fact regarding the organization of a powow in 1981, the donation of land to the group in 1982, and the creation of a school by members of #69B were confirmed. Had the petitioner submitted any additional material about the Nipmuck school, such as lists of attendance, a list of classes, or a school budget, if any, it might have been possible to confirm the petition researcher's claim about the number of Nipmucks who attend classes on weekends.

The petition (Nipmuc #69 Pet. Resp. 1987) also asserted that there was an "annual August meeting at the reservation on Brigham Hill in Grafton." This meeting, he continues, "involves both bands." The first day, attendance is restricted to Nipmucks; the second day, the meeting is "open to the public." Aside from the table of "gatherings" and the newspaper coverage of events that were open to the public, petitioner #69 submitted very little evidence about the annual August meeting that takes place in Grafton (see the proposed finding for petitioner #69A for additional information) and even less evidence that both bands attended these meetings.

There were several other arguments presented by the petitioner. The petition researcher claimed that the annual August meeting in Grafton is "supplemented by more informal gatherings" (Nipmuc #69 Pet. Response 1987, 7). Later, under the heading of present-day Nipmucks and the group as a whole, the petition referred to meetings in general and argued that the group's meetings are "frequent and well-attended" (Nipmuc #69 Pet. Response 1987, 10). Petitioner #69 submitted almost no documentation of these more informal gatherings. Therefore, the claim of the petition researcher that such meetings are frequent and well-attended could not be assessed. The petitioner should submit evidence of these gatherings and meetings to show that it meets 83.7(b) for the period during which these events are alleged to have taken place.

The petition record also contains flyers and newspaper coverage of various events that have taken place since 1982 at the land in Thompson, Connecticut, owned by #69B. Ronald G. "Little Crow" Henries, as an individual member, submitted a number of newspaper articles that pertain to the issue of community during the 1980's (R. Henries 1995). Henries, who was then a member of #69 and is now on the council of #69A, is thus a third party to the #69B petition. The articles appeared in *The Worcester Telegram*, *The Patriot*, and *The Webster Times*, among other papers from towns that were located near the Dudley-Webster area of Massachusetts. The articles document activities and events organized by #69B or in which members of #69B participated, including powwows, food distributions, a film showing, and a parade. Though these newspaper articles do not demonstrate that the recorded activities encompassed most of the group, they do show that, during the 1980's, there existed activities that encompassed at least a portion of the group. The data was not sufficient to permit evaluation of the level of social interaction among the membership represented by these events, since most of them, like the Hassanamisco powwows, appear to have been open to the public. To demonstrate that it meets

83.7(b) for the 1980's, the petitioner might submit evidence that shows that a predominant portion of the group was involved in these activities during the 1980's.

One letter that the petitioner submitted was written to Zara CiscoeBrough from Edith (Morse) Hopewell. It was not dated but from its contents it seems to have been written in 1981. The scope of Edith (Morse) Hopewell's activities in the 1970's and 1980's perhaps raises more questions that it answers about the nature of the Sprague/Henries descendants in the period and the degree to which they were connected to other Nipmuck Indians, or even to one another. She on some occasions challenged the Nipmuck descent of persons who are documented by other records to have been her siblings, nieces, and nephews.[156] While this may have been the result of personal animosity, it also opens up the possibility that because of the early death of Winfred Henries and taking of at least some of his children into the custody of the State of Rhode Island, the family did not, in fact, have a clear idea of the identity of its members.

This document is important for several reasons. First, it provides some documentation of the event of the creation of the petitioning group in the early 1980's, documentation that accompanies other evidence of this event, including evidence from interviews conducted with #69B group members. Second, the letter from Ms. Hopewell suggests that there may have existed informal social interaction between group members and significant social relationships connecting individual members during the 1980's and possibly even during the late 1970's. The document also suggests, with the following excerpt, that such interaction may have been broadly distributed among the group: "*All these people* who are forming their own clan as they say needn't ever come to me again for help. I've helped them every year for 6 years now." [emphasis added]. The letter does not suggest that anyone other than members of Mr. Morse's extended family made up "all these people who are forming their own clan."

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[156]Edith E. (Morse) Hopewell to Zara CiscoeBrough:

Enclosed find papers I tried to call you about. They are very defamitory to you and all our kind. They are holding a meeting 7-23-81 at their father's house in Dudley for form their own committees and chief, et. which I know they haven't the power to do, and she should be told by you or someone in authority she is not a "Princess", her father or anyone close to was never a chief as in my case, my granduncle was a chief and my mother's brother (whom they don't know) was also a chief. Charles Henries in Dayville, Conn., RFD #1, he's 86 year's old and speaks Nipmuck Fluently, he's recently had a slight heart attack and I hope his son will catch on the language so it will not die.

All these people who are forming their own clan as they say needn't ever come to me again for help (would you?) I've helped them every year for six years now, but no more. She's using knowledge learned from you to betray you they are usurps as you know. My mother is also mad, they don't even know how to spell her name and have only admitted being Indian after they got $250.00 from the Indian funds. They want someone to pay all their and their parent's bills (so do we all) so you see where they're coming from. I've forgotten more than they will ever know and so have you" (Hopewell to CiscoeBrough c. 1981; Nipmuc #69A Pet. Suppl. 1997; Cisco Archives, Box 1).

The only other evidence that was submitted by the petitioner that was relevant to an evaluation of community during the 1980's were two videotapes. The first of the two videotaped submissions is entitled "Nipmuck Indians" and is dated 1984. The tape itself indicates that the tape is a show that appeared on Worcester cable television. Nipmuck history and, less so, Nipmuck contemporary life were presented to a general audience. There is footage of the land that was donated to the group in 1982, short interviews with members of the group, and group events and activities. The tape shows informal social interaction, and it may show shared sacred or secular ritual activity. As such, it might provide some evidence that the petitioner meets 83.7(b) for the mid-1980's. However, there are several problems in regard to the evidentiary value of the videotape. First, not all persons who appear on the tape are identified, and thus cannot be confirmed as members of the petitioning group. Second, the tape does not demonstrate that the social interaction that it documents existed broadly among the members of the group and that the activity that is also documented on the tape, particularly the activity that may constitute shared sacred or secular ritual activity, encompassed most of the group.

If, during the mid-1980's, social interaction existed broadly among group members and shared sacred or secular ritual activity encompassed most of the group, the petitioner should submit material and evidence to clearly demonstrate this. For the 1980's, the petitioner might begin this work by creating a written narrative to accompany the tape. The written narrative should identify all of the individuals who appear on the tape; analyze the rate of informal social interaction among members, whether or not such members appear on the tape; and/or provide documentation of group members who participate in the activities portrayed and/or mentioned on the tape, regardless of whether these individuals appear on the tape.

The other videotape was simply labelled, "Wedding Chief Red Fox: Sept 19, 1988." This tape provides footage of a Nipmuck gathering in 1988 that included a powwow and that culminated in the wedding of Edwin Morse, Jr., then a Chaunbunagungamaug Band council member and now an officer of #69B. From the tape, it is impossible to identify which individuals are the leaders of #69B, with the exception of Edwin Morse, Jr., or even which are members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson, 7/22/98), this submission provides no evidence as to whether petitioner #69B meets criterion 83.7(b). If the petitioner wishes to use this tape as evidence that it meets 83.7(b), it needs to provide a written narrative and analysis of the gathering that, at a minimum, identifies the individuals who appear on the tape.

Other evidence for the 1980's were statements from BIA interviews with seven current or former leaders of the petitioning group (see description above). Interviews with three of these leaders, Mr. Edwin Morse, Sr., Mr. Edwin Morse, Jr. and Mr. Kenneth Leroy White, provided some indication that the petitioner may meet 83.7(b) for the 1980's . The petitioner should, if possible, submit supporting material and documentation about the events described in these statements. Mr. Edwin Morse, Jr. mentioned one such activity which, apparently, dated to the 1980's and possibly even predated the 1980's. When asked about "the most important issues that the council has dealt with," Mr. Morse, Jr. replied:

> . . . discussing how many kids needed toys for Christmas or how many families needed Christmas dinners. That's what we've been doing for 20 years [which would have been from about 1978 (but see below) to 1998]. Before we did it, my aunt [Edith E. Hopewell] did it . . . for about 10 years [which would have been from about 1968 to 1978]."

At that point in the interview, Mr. Edwin Morse, Sr., who was interviewed at the same sitting as Mr. Edwin Morse, Jr., clarified that it was in 1980, not 1978, that he started making food and toy distributions at Christmas time. It is possible that these distributions can provide evidence of community for all or part of the period since the late 1960's, which is when it is alleged that Ms. Hopewell began the distributions. As it now stands, however, for the period prior to the 1980's, there is almost no evidence in the record that these distributions were even done in the context of being Nipmuck. If the petitioner wishes to use these distributions to help show that it meets 83.7(b) for all or part of the period from the late 1960's to the late 1990's, the petitioner should submit additional documentation of these activities. This documentation might include documentation of the number of group members who helped make the distributions and documentation of how funds were raised, particularly if these funds came from group members. If appropriate, the petitioner might orient its submission toward trying to show that these annual distributions expressed significant social relationships and/or informal social interaction that existed broadly among members of the group.

The BIA interview with Mr. Kenneth Leroy White yielded some evidence. Mr. White, who has served on the governing body of the petitioning group, was asked when he first came into contact with Mr. Edwin Morse, the group's leader and probably also its creator. Mr. White responded that it was when he was "very young" by which he meant that it was when he was in his late 30's and early 40's. Mr. White explained that, during the decade that he met Mr. Morse, which, he said, was the decade of the 1980's, his brother and father used to go over to Mr. Morse's house for the purpose of visiting not simply the Morse family but Mr. Edwin Morse, Sr. himself. This statement by Mr. White is significant both negatively and positively. Although it provides evidence that Mr. White did not even meet Mr. Morse, Sr. until the 1980's when he was in his late 30's and early 40's, it also provides evidence that, during the 1980's, there was at least some informal social interaction among group members, and that such interaction and social relationships were not just within immediate families or among close kinsmen, but across kin group lines. As such, it provides some evidence that the petitioner may meet 83.7(b) for the 1980's. To strengthen its case that it meets 83.7(b) for the 1980's, the petitioner should submit material and documentation to show that the social interactions that connected individual members during this decade were broadly distributed among the membership and that the social relationships that existed within the group were relationships that were significant.

The last piece of evidence available for evaluation is a statement by Mr. Morse Sr. concerning his participation in parades. The parades were events that were organized by non-Nipmucks, and generally were hosted by towns in the Dudley-Webster area. Nipmucks were invited to participate. When asked whether any Nipmucks other than himself participated in these events, Mr. Morse, Sr. replied:

> Oh, there was our council. He (?) had a girlfriend at the time - Wayno (?). She had about 8 sisters there with her, and then we had Spotted Eagle, Wildcat, Three Bears . . . There were some girls. There was Eagle Hawk from Rhode Island. He marched with his daughter. A guy named Tall Oak, his wife and kids used to be with us. There much have been at least 40 different people. When we walked there was this guy – sagamore from Sioux – Fire Hawk. He used to walk with us all the time. Some of 'em were Nipmuck. The biggest part of 'em were Nipmuck.

Participation in a parade, a symbolic activity, does not demonstrate shared social values or significant social interaction. However, if evidence is presented or preparation for these events which encompassed most of the group, it would be indicative of community. As such, this statement of Mr. Morse may indicate the availability of evidence that the petitioner may meet 83.7(b) for the early 1980's. If the petitioner were to submit material to show that most of the group participated in these activities at more than a symbolic level and that such activities were not intertribal in nature, it would strengthen its case that it meets 83.7(b) for the 1980's.

In sum, though there does exist evidence that the petitioner may meet 83.7(b) for the 1980's, without additional material and documentation, this evidence is limited and is not sufficient to conclude that the petitioner meets 83.7(b) for the 1980's.

1990's. The petitioner submitted its petition and its petition supplement in the 1980's, and chose not to amend or add to the narratives during the eight year period from 1987 to 1995 when its petition was determined to be ready for active consideration (the 1994 and 1995 submissions by #69 did not contain any narrative pertaining to modern community). This continued to be the case after petitioner #69B split from Petitioner #69 in May 1996 and thereby substantially changed its nature. The following discussion therefore evaluates whether petitioner #69B meets criterion 83.7(b) for the 1990's by using primarily field interview data. Before this data is presented, several documents, including a videotape that was submitted by the petitioner, will be addressed. The evaluation will close with the analysis of #69B residential patterns, the analysis that was conducted before the publication of the February 2000 directive.

Through minutes, newspaper coverage, and a BIA site visit,which occurred after the #69B had separated from #69A, it was confirmed that there were annual meetings for #69B that took place for the period from 1991 to 1996 in the Dudley/Webster area and that at least one of these meetings – the meeting in 1996 – was attended by some members of both bands. Without additional information or documentation from the petitioner, however, this aspect of the petitioner's arguments cannot be adequately evaluated, nor can the extent to which these meetings encompassed most of the group be determined. To establish that these meetings took place before 1991 and after 1996 and that they encompassed most of the petitioning group, the petitioner should submit additional evidence and documentation of these gatherings, such as lists of group members who have volunteered their services for these events and/or lists of members who attended these gatherings. It is also necessary to document that issues acted upon were of importance to the members.

The petitioner provided notes of a meeting identified as the "Annual Nipmuk [*sic*] business meeting" at Friendly House in Worcester, Massachusetts. According to the notes, this meeting took place on November 24, 1991. It is indicated that 300 people attended the meeting. It is highly probable that this meeting cannot be considered a meeting of the current petitioner. Rather, it appears to be a meeting of another group, a larger Nipmuc group called the Nipmuc Tribal Acknowledgment Project (NTAP). The evidence suggests that the Chaubunagungamaug Band, as it existed in 1991, had close associations with NTAP within the broader context of petitioner #69. There is evidence that NTAP was an organization formed by #69 to work on the petition for Federal acknowledgment; there is also a written claim from a #69B leader that NTAP is, or at certain dates has been, a faction of the larger Nipmuc group (Swenson and Magos to BIA 3/10/94).[157]

There was a copy of a newsletter for Nipmucks, a newsletter by the name of *Nipmucspohke*, in the record. The editor was identified as Cheryl Magos, and the city from which the newsletter is sent out was identified as Branchburg, New Jersey. The editor noted that the newsletter is not affiliated with #69B (or #69A, or, for that matter, #69). Even so, the newsletter probably is sent to more than a few members of #69B and therefore may serve to help connect members of the group with one another. In the absence of additional information, such as mailing lists, lists of group members who have made submissions to the newsletter (such as letters to the editor), and other data that indicate that the newsletter provides a vehicle through which the recipients act as a community, the newsletter does not provide evidence that the petitioner meets 83.7(b) for the mid-1990's. The petitioner is invited to submit additional information and documentation about the newsletter if it believes that the newsletter can provide evidence, which is unlikely, that it meets 83.7(b) for the mid-1990's.[158]

The videotape submission by the petitioner entitled, "Homecoming 9/13 - 14/97. Nipmuc Nation - Grafton, MA," presents footage on a gathering that took place in September of 1997 on the "Hassanamisco Reservation," which is private land of a family that belongs to the other Nipmuc petitioning group, #69A. The tape documents the various activities that were organized

[157]At least some members of #69B participated in NTAP events, which have included membership drives in several cities and towns in Massachusetts and Rhode Island ostensibly for the purpose of assembling a membership list for the broader Nipmuc (petition #69) Federal recognition effort. It is possible that part of the petitioning group, and perhaps even a significant portion of the petitioning group, was recruited during these drives. The petitioner (#69) provided documentation of the membership drives in the form of copies of flyers that advertized several meetings to recruit and bring together Nipmuc descendants. In order for NTAP activities to be considered #69B activities, the petitioner would need to present evidence that they were sponsored by the group antecedent to #69B, i.e., the Chaubunagungamaug Band.

[158]Information submitted by a third party in 1995 (Henries 1995) shed some additional light on the newsletter, indicating that: 1) The newsletter was started as late as 1994 and thus cannot provide evidence of whether the petitioner meets 83.7(b) for a very long period of time during the period since 1970, if it can even do so at all; 2) if the mailing list even includes members of the petitioning group, the mailing list extends far beyond the boundaries of the petitioning group and thus the newsletter is of dubious value for evaluating the petitioner; and 3) the newsletter is not an instrument of the petitioning group or even of a petitioning group member.

for the children and the fact that an outdoor exhibit of photographs was set up alongside the circular clearing that served as a dancing ground during the event. Also presented in the tape are a woman weaving, children and adults dancing, and dozens of people laughing, talking and eating. From the tape, it is impossible to identify which individuals are the leaders of #69B or even which are members of the group. Particularly since Nipmuck leaders have elsewhere described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson), it could not be determined whether this was a tribal activity. Since the separation between petitioner #69A and #69B had taken place in May of 1996, it did not appear that a #69A homecoming held on the Hassanamisco Reservation provided evidence pertinent to the issue of whether #69B meets criterion 83.7(b).

The interviews with seven #69B leaders yielded some indications concerning community for the 1990's. The first statement was extracted from the interview with Mr. Edwin Morse, Sr. on July 28, 1998. Mr. Morse reported that 3,000 people attended the Nipmuck gathering during which Ricky Swenson got married. Mr. Morse did not indicate how many of these participants were from the 212 members of #69B, nor did the petitioner submit any information or documentation to support the total number of attendees. Accordingly, the statement does not demonstrate that the wedding was a shared sacred or secular ritual activity encompassing most of the group, or that it shows significant rates of informal social interaction among group members.

In the interview with Mr. Glen Wayland Heath and Mr. Bert Edwin/Edson Heath, one of the Heath brothers stated that approximately 100 people come to the Nikkomo ceremony, which is one of the larger gatherings hosted by #69B. When asked whether the attendees are "coming from all tribes," Mr. Heath said, "There's all tribes. It's an intertribal thing . . . We've had people from all the way from Arizona [and] Idaho." He said that they have had as many as 200 people at some events. It is possible, though unlikely, that Nikkomo ceremonies constitute shared sacred or secular ritual activity. If so, the petitioner should submit additional material to clearly demonstrate this and to show that such ceremonies encompass most of the group. Mr. Heath's statement that Nikkomo ceremonies are intertribal raises questions about the extent to which these ceremonies connect individual members with one another as opposed to simply connecting some group members with outsiders. During the response period, the petitioner may wish specifically to address these questions.

Two other statements made by one or both of the Heath brothers could also provide a springboard for the petitioner to conduct additional research that might help show that it meets 83.7(b) for the 1990's. First, one of the Heath brothers briefly discussed "naming ceremonies" that, he said, currently take place during some of the large gatherings that are hosted by #69B. He said, "Some of the people – the natives – that have been named there are not Nipmuck, but they requested that they be named, their native name." It is possible, though unlikely, that these naming ceremonies are shared sacred or secular ritual activities. If so, they do not appear to encompass most of the group, and they may even be activities that are oriented toward outsiders. The petitioner is strongly encouraged to submit additional information and documentation about these ceremonies if the petitioner believes that they might help show that it meets 83.7(b) for the 1990's.

The final statement made by a Heath brother also involves activities alleged to occur during #69B ceremonies. Mr. Heath said that, during some of the gatherings hosted by #69B, the "young people" are instructed about, for example, how to tend the fire and what that means. He explained:

> It's a cultural thing . . . But again, it's intertribal because it's more than just Nipmuck. There are certain people that are friends of Wise Owl and Loving One. They're friends of the band. They're there and they'll always be welcome there. Federal recognition or whatever is not going to change their ability to come and set with us. That'll be there . . . We just don't work that way [excluding people].

This brief description of #69B gatherings suggests that there may have existed social relationships connecting individual members and informal social interaction between members during the late 1990's. Again, though, Mr. Heath's statement that these gatherings were "intertribal" raises serious questions about the extent to which the activity described connected members of the group with one another as opposed to simply connecting some members of the group with non-members.

A statement made by Ms. Lucyann Swenson in her interview yielded similar information. When Ms. Swenson was asked about "the powwow that you have in September" and asked how she would "characterize it," she replied, "It's an intertribal thing, and there are Indians from all over invited." She then added, "But it's also like a family gathering 'cause that's how we used to have it." When asked, Ms. Swenson said that 2,000 people attend these gatherings, fifty of whom are Nipmuck (Interview with Lucyann Swenson, 7/22/98). This brief description of a #69B gathering suggests that there may have existed social relationships connecting individual members and informal social interaction between members during the late 1990's. Ms. Swenson's statement that these gatherings were "intertribal," however, raises serious questions, questions that are mentioned above, about the extent to which these gatherings served to connect members of the group with one another rather than simply connecting some members of the group with outsiders.

The last statement that was extracted from the field interview audiotapes that pertains to an evaluation of the petitioner under 83.7(b) for the 1990's is a statement by Mr. Kenneth Leroy White. Mr. White claimed that fifty to seventy-five people on average come to "the ceremonies." When asked, he claimed that attendees at these gatherings are "mostly Nipmuck." "There are some non-Indians that come just to see what it's about," he continued. "[But it's] Mostly Nipmuck." Unlike at least two other #69B leaders who were interviewed, Mr. White suggested that outsiders were not the majority of attendees at large #69B gatherings and were not a focus of these events. If the petitioner were to submit evidence to resolve the conflicting evidence, evidence of members of the group who attend these gatherings (e.g. attendance lists), it might be able to show that these gatherings encompass most of the group, involve significant social relationships connecting individual members, and involve informal social interaction which exists broadly among members of the group.

The indications in the interviews were not sufficient evidence to show that petitioner #69B meets criterion 83.7b) for the 1990's. Therefore, the petitioner in its response to the proposed finding may wish to submit additional material and documentation to clarify, support, and/or answer some important questions about statements made in these interviews. The petitioner is invited to submit such information.

Residential Patterns of Petitioner #69B members. The petitioner did not submit an analysis of their residential patterns for purposes of describing their community. By May of 1999, such an analysis was completed based on the membership list submitted in February 1997. A summary of the data follows:

RESIDENTIAL PATTERNS OF PETITIONER 69B MEMBERS
(as reported in the February 1997 membership list)

	69B Members Adults and Children		69B Members Adults only	
	Number	Percentage	Number	Percentage
MASSACHUSETTS	**127**	**57%**	**81**	**59%**
Dudley*	2	1%	1	<1%
Webster*	9	4%	6	4%
Oxford*	19	9%	14	10%
Charlton*	7	3%	4	3%
Southbridge*	9	4%	5	4%
Auburn	10	5%	5	4%
Fiskdale	11	5%	9	7%
Medway	3	1%	2	1%
Millbury	4	2%	3	2%
Northboro	5	2%	2	1%
Northbridge	3	1%	2	1%
Sutton	5	2%	4	3%
Uxbridge	2	1%	0	0%
Warren	6	3%	3	2%
West Brookfield	4	2%	3	2%
Worcester	27	12%	17	12%
East Sandwich	1	1%	1	<1%

Summary Under the Criteria, #69B, Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians

	69B Members Adults and Children		69B Members Adults only	
CONNECTICUT	**48**	**22%**	**28**	**20%**
Thompson*	5	2%	3	2%
North Grosvenordale*	9	4%	7	5%
Putnam	25	11%	13	9%
Brooklyn	2	1%	1	<1%
Danielson	2	1%	0	0%
Moosup	1	<1%	0	0%
New London	3	1%	3	2%
East Haven	1	<1%	1	<1%
OTHER STATES	**46**	**21%**	**29**	**21%**
TOTALS	212	100%	138	100%
TOTALS FOR DUDLEY/WEBSTER AND FIVE NEARBY TOWNS*	51	23%	40	29%

*The five towns near Dudley-Webster are: Charlton, Oxford, Southbridge, Thompson, and N. Grosvenordale.

There is a possibility that, in some instances, some of the individuals listed as living at the same residence may simply have been using a common mailing address instead of living together. If true, this would mean that some of the people listed as sharing a residence in Worcester County, Massachusetts, or Thompson, Connecticut, may actually be living elsewhere, but using the mailing address of a relative for purposes of the petition.

On the February 1997 membership list, there were 212 members total (men, women, and children). Of those members, 127 (57%) were in state of Massachusetts, most of them living in townships of southern Worcester County, where the towns of Dudley and Webster are located. There were also 48 members (22%) in Connecticut, most of them in northern Windham County, and 46 members (21%) in states other than Massachusetts or Connecticut. An analysis was made of the residential patterns of adult members only (N=138). The residential distribution of the members was very similar to that of the membership as a whole.

There are any number of ways to discuss the degree to which the members in this petitioning group live in proximity to each other. The following conclusions have been drawn. It is obvious that, at the present time, there is no separate Indian village, settlement, enclave, or neighborhood in which 50 percent or more of the members of this petitioner reside in relative isolation. Only 11 members (5%) live in the towns of Dudley and Webster combined. When considering the members who live in Dudley-Webster or in one of the five contiguous townships where the

petitioner's members reside (Charlton, Oxford, Southbridge; Thompson, Connecticut, and Grosvenordale, Connecticut), the data demonstrate that 51 members (23%) lived in these towns.

When looking at the residential patterns for the broader area, the following observation can be made. Considering the townships that fall completely or partially within a ten-mile radius of Dudley-Webster (in Massachusetts: Dudley, Webster Charlton, Oxford, Auburn, Millbury, Sutton, Southbridge; in Connecticut: Thompson, North Grosvenordale, and Putnam) there were 104 members (47%). Given the larger context of southern Worcester County and northern Windham County, particularly the large number of non-Indian residents living within the same area, the petitioner's members do not constitute a separate community on the basis of geographical distribution as such. It is conceivable that the petitioner might submit additional evidence that demonstrates the actual maintenance of social ties among the group's members who live in this region and that such ties have been maintained consistently over time. There is no evidence in the record that this is the case.

Evidence Regarding Kinship and Community. The following table summarizes the data on the ancestors of #69B members and the number of descendants for each. All of the #69B members with known Chaubunagungamaug Nipmuck ancestry trace their ancestry to Lydia Ann Sprague Nichols-Shelley-Henries (H.3.4, Nipmuc GTKY File, BAR). This means that 88 per cent of the members descend from a single Chaubunagunamaug Band ancestress.

ANCESTORS OF PETITIONER 69B MEMBERS
(based on February 1997 membership list)

Ancestor GTKY	Ancestor's Name	Number (%) of Descendants in 69B
30.2.3.6	Martha Dorus Hewitt (White and Hinckley descendants) b. 1856; d. 1908	21 (10%)
H.3.4. 2.2.10.1	Eva Viola Brown Heath b. 1923; d. 1993	74 (34%)
H.3.4. 9.10.1	William Edward Henries b. 1951	5 (2%)
H.3.4.12.4	Elizabeth R. Henries Morse b. 1902; d. 1991	115 (52%)
#69A (undocumented)	Sue Kessler	5 (2%)
	TOTAL MEMBERS	212 (100%)

There is at least one problem for this petitioner in terms of demonstrating social continuity with (as distinguished from genealogical descent from) the historical Chaubunagungamaug Band.

Lydia Ann Sprague lived from 1830 to 1880. She had three partners, one of whom, Lemuel Henries, was described as a Narragansett Indian. The evidence indicates that during her lifetime she lived in tribal relations. However, most of the known descendants of Lydia Sprague are on the membership list of the other Nipmuc group, Petitioner #69A. This is true for the majority of known modern descendants of other historical Chaubunagungamaug Indians, as well: they are members of petitioner #69A. Thus, there are many other Sprague family descendants, as well as descendants of other Chaubunagungamaug Indians, who are not part of Petitioner #69B. The members of Petitioner #69B not only represent a small fraction of Chaubunagungamaug Band descendants, but also they are a very select portion of the descendants of Lydia Sprague, the group's main ancestress.

The membership list of Petitioner #69B is primarily comprised of descendants of Elizabeth R. Henries Morse (1902-1990). That is a result of the history of this group, which started out in the late 1970's as a separate extended family group, led by Mr. Edwin Morse. Evidence suggests that neither Mr. Morse nor anyone else in his extended family had associated with the descendants of other historical Dudley/Webster families in any regular or patterned way up to the formation of the Chaubunagungamaug Band. Eventually, Mr. Morse and his some of his immediate family members linked up with other Nipmuc descendants who were organizing around Zara Cisco Brough at the Hassanamisco Reservation in Grafton, even while maintaining that his own extended family was separate from the other Nipmuc families associated with the Hassanamisco group and under his personal authority. Over the years, Mr. Morse became increasingly disillusioned with the Hassanamisco group and, in May 1996, decided to petition for acknowledgment on behalf of his own extended family, apart from petitioner #69A.

Subsequent to separating from Petitioner #69A, Mr. Morse decided to add Indians from other "families." Mr. Morse's daughter, Lucyann Swenson, stated that the group's consultant at the time, anthropologist Dr. Jack Campisi, recommended that petitioner #69B petition for acknowledgment on their own (Petitioner #69B meeting minutes, February 27, 1997). Mr. Morse repeated this belief in 1998 (BIA anthropologist's data 1998). Most of the Dudley Indian descendants that Mr. Morse allowed to join his extended family's group in the petition effort are descendants of Eva Viola Brown Heath. They are also descendants of Lydia Sprague, as is Mr. Morse. The evidence indicates that Mr. Morse did not know the Heath family descendants, or any of the other people outside his own extended family whom he added to his membership list, until the late 1970's or early 1980's.

Most of group (86%) descends from either Elizabeth Henries Morse, d. 1991 (52%) or from Eva Viola Brown, d. 1993 (34%). The kinship ties for the portions of the group within each of those two family lines are primary kinship ties. On the basis of precedent, it is assumed that people related by primary kinship ties are maintaining social relations with each other. However, there is no evidence that these families have associated with each other across family lines, in any way, until very recently. In fact, there is evidence that they did not know each other at all until the late 1970's at the earliest.

Summation. The record does not contain evidence that the ancestors of the current membership of petitioner #69B constituted a distinct community from historic times through the present. The Chaubunagungamaug, or Dudley/Webster, Nipmucks, the historical tribe antecedent to the current petitioner, as a whole met criterion 83.7(b), on the basis of precedent, from first contact through 1870, largely because of the residence of a significant portion of the membership on a state-supervised reservation. For the period from 1870 through 1890, the evidence for community among the Dudley/Webster descendants as a whole is weak but sufficient. The evidence from 1890 through the mid-1970's does not demonstrate community between the extended Morse family and other Nipmucks of Dudley/Webster descent. For most of the period, there is not even evidence of community between the extended Morse family and other descendants of the Sprague/Henries family line from which it stems. From 1978 through the mid-1990's, the Chaubunagungamaug Band appears to have consisted, essentially, only of the extended Morse family. There is no evidence of significant social interaction between the extended Morse family and the other family lines now included in the membership of #69B for the 1980's. There is some evidence that the petitioner may meet criterion 83.7(b) from 1990 to 1998, but it is not sufficient to demonstrate that the petitioner meets the criterion for this time period.

Therefore, the petitioner does not meet criterion 83.7(b).

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

Historical Political Authority and Influence: Methodology. The historical Chaubunagungamaug Band or Dudley/Webster Band of the Nipmuc tribe, the predecessor group from which petitioner #69B evolved, has been in sustained contact with non-Indian settlers since the 1640's -- a period of 350 years. The historic Nipmuc tribe was located in central Worcester County, Massachusetts, in the geographical region of New England. This is a location in which, since colonial times, a substantial number of written records, whether colonial or local, state or Federal, civil or ecclesiastical, have been both generated and preserved. The materials submitted in evidence in regard to criterion 83.7(c) are extensive, but cannot be said to be comprehensive for all time periods. The preamble to the 25 CFR Part 83 regulations noted that in acknowledgment cases:

> . . . the primary question is usually whether the level of evidence is high enough, even in the absence of negative evidence, to demonstrate meeting a criterion, for example, showing that political authority has been exercised. In many cases, evidence is too fragmentary to reach a conclusion or is absent entirely. . . languge has been added to § 83.6 codifying current practices by stating that facts are considered established if the available evidence demonstrates a reasonable likelihood of their validity. The section further indicates that a criterion is not

> met if the available evidence is too limited to establish it, even if there is no evidence contradicting the facts asserted by the petitioner . . . It has been the Department's experience that claimed "gaps" in the historical record often represent deficiencies in the petitioner's research even in easily accessible records (59 FR 38 2/25/1994, 9280-9281).

The regulations provide that political process "is to be understood in the context of the history, culture, and social organization of the group" (25 CFR 83.1, 59 FR 9293). The precedents in prior Federal acknowledgment decisions indicated that for the time span from the colonial period to the 19th century, evaluation of political influence or authority had not been tied to the specific forms of evidence listed in 83.7(c), but rather was evaluated much more briefly, and generally, under the provisions of the definition of political influence or authority in 83.1. The relevant language in follows:

> Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time . . . (83.6(e)).

In many instances, for the pre-20th century portion of the historical development of the Nipmuc tribe, the individual documents can be interpreted only in the broader and more general context of its relationship to the colony and State of Massachusetts. From 1685 through 1869/1870, the colony and State, in some form, supervised a reservation for the group, through that reservation was not on a continuous land base. For that period of its history, the context for administration of the Dudley/Webster reservation was set by the legislation passed by Massachusetts and the administrative systems established by that legislation. The documents generated, by their very nature and purpose, showed less about the internal structure of the tribe's politics and/or leadership than they showed about the tribe's external relationships with the non-Indian administrative authorities. For the earlier period, the documentation has been evaluated by broad developmental stages. The isolated political documents must also be interpreted in light of the general continuity of the reservation population as shown by a wide variety of other documents (for more detail, see the draft technical report for petition #69B).

For the period from first contact through the final Dudley/Webster fund distribution in 1891, the broader evidence pertaining to the Chaubunagungamaug, or Dudley/Webster, Nipmuc Indians has been summarized above, in the "Historical Orientation." This approach was chosen because, although the primarily applicable evidence for 83.7(c) through 1891 is evaluated here, the essential requirement of the Federal acknowledgment regulations under 83.7 is that of tribal continuity. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that

the petitioner meets the criterion at a certain date. For some periods, one kind of evidence is available; for other periods, other types of evidence. This summary discussion of the major evidence for political authority or influence between first sustained contact and 1891 draws on the historical overview, presenting selected "high points" in more or less chronological order to show how the evidence is being evaluated. It is to be read together with the overview, which describes the overall evidence of tribal existence. It is also to be read together with the summary discussion of criterion 83.7(b), which describes some of the evidence for community, because much of the specific documentation cited provides evidence for both community and political influence.

The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000). Petitioner #69B has not presented any specific arguments pertaining to how it meets criterion 83.7(c). The following analysis, therefore, reviews the pertinent evidence in the record created by petitions #69, #69A, and #69B as it pertains to the historical Nipmuc tribe in the early contact period, the historical Chaubunagungamaug or Dudley/Webster Band, for the period from 1682 through 1891, and the petitioner's immediate antecedents from 1891 to the present, for the purpose of determining whether petitioner #69B meets criterion 83.7(c).

Evaluation of the Historical Political Influence or Authority of the Chaubunagunagmaug, or Dudley/Webster, Indians.

From First Sustained Contact to 1675. Scholars' comments concerning the Nipmuc Indians at the time of first sustained contact tend to be general, as in Salwen's statement: "The native groups that lived west of the fringes of European settlement . . . are the least known of any of the southern New England Indian societies . . . the so-called Nipmuck people of Massachusetts and northern Connecticut and Rhode Island appear to have spoken a southern New England language that the French called Loup . . ." (Salwen 1978, 173-174). The authorities indicate that these groups were politically decentralized: "There were other units . . . that seem to have normally functioned as almost completely independent local communities, without lasting political ties to any of their neighbors. Names like Nipmuck . . . sometimes appear in the literature as designations for large 'tribes' or 'confederacies' (Speck 1928a:pl. 20; Swanton 1952), but this usage does not seem to fit the seventeenth-century situation" (Salwen 1978, 173; citing Day 1962, Day 1969; see also Leach 1958, 73). Another modern scholar has stated that, ". . . the Nipmucks . . . added up to not much more than the changing sum of whichever interior villages chose to work together at a given time" (Bourne 1990, 126). The Federal acknowledgment regulations do not require that a historical tribe at the time of first contact have had a formal centralized governmental structure above the band or village level (Miami PF 1990, 7).

Historians and anthropologists have also published a number of general statements indicating that the 17th-century Nipmuc were not wholly independent, such as Johnson's comment that,

"Apparently, the Nipmucks had lost some of their tribal autonomy when certain of their villages began paying tribute to the Pequot, Narragansett, Massachusett and Pennacook" (Johnson 1995, 28). Larned indicated that in the 17th century, the Wabbaquassets in what is now Woodstock, Windham County, Connecticut, owed a varying allegiance to the Pequots, to Uncas of the Mohegans, or to the Narragansetts, depending on who was in power (Larned 1874, 1:4), while Bragdon stated "the Pequots did have influence among . . . the Nipmuck as far as Quinabaag (near Dudley, Massachusetts)" (Bragdon 1996, 25). Within the boundaries of modern Massachusetts: "Apparently, even a few Nipmuck sagamores paid allegiance to the Wampanoag sachem" (Johnson 1995, 9). From another perspective, Russell commented that, "the power of the Mohawks by no means ended at the Connecticut River. Their emissaries collected tribute among the scattered Nipmuck villages of central Massachusetts, . . . (Russell 1980, 187). The issue for this finding is whether the subjugation of Nipmuc bands in the 17th century to various other New England Algonquian tribes has significant impact for Federal acknowledgment. The question of "autonomy" from other tribes in the colonial period was addressed by the AS-IA in the Mohegan final determination and concluded that temporary, fluctuating subjection to other tribes did not negate the existence of tribal autonomy. The precedents clearly indicate that the acknowledgment process allows for the historical combination and division of tribal subgroups and bands, and that temporary subjection to another Indian tribe does not result in a permanent cessation of tribal autonomy (Mohegan PF 1989, 26-27; Narragansett FD, 48 Federal Register 29 2/10/1983, 6177; Narragansett PF 1982, 2). The events of this period do not indicate that the petitioner fails to meet the "autonomous entity" requirement under 83.7(c).

Historical records and narratives indicating that the Nipmuc leaders, including the sagamore of Chaubunagungamaug, executed a formal act of submission to the English in May 1668 (*Mass. Archives* 30:146; Place of Small Stones n.d., 5-6), and that after King Philip's War, the Dudley/Webster reservation was under the direct administration of Massachusetts, first as a British colony and then, after the American Revolution, until the 1869 Act of Enfranchisement, as a state. The discussions of the establishment of the "praying towns" by missionary John Eliot also fall generally under this topic of autonomy (see discussion in the "Historical Overview" section, above). In the Mohegan case, the Attorney General of the State of Connecticut argued that supervision by the colonial and state authorities indicated the petitioner did not meet the requirement that: "The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present" (83.7(c)), saying that ". . . the Mohegan had their affairs governed by a group of overseers appointed by the State of Connecticut, . . . [and therefore] the MT did not meet the 'autonomous entity' requirement of Criterion c" (Mohegan PF 1989, 26). The AS-IA concluded: "[T]he autonomy requirement is solely concerned with autonomy from other Indian tribes, not non-Indian systems of government that were imposed on the Mohegan by the state of Connecticut . . . " (Mohegan PF 1989, 26-27; for related precedents, see Narragansett PF 1982, 11; Narragansett PF 1982, 2; Gay Head PF, 4). As long as the state was dealing with a group as a group which had named leaders or the evidence shows that the group was acting in concert, thus exercising political influence internally, the petitioners meet the "autonomy" requirement of 83.7(c).

Precedent does not require detailed information concerning the internal political processes of the historic tribes which were predecessors of petitioners in the early contact periods. The documentation in the record meets criterion 83.7(c) for the undifferentiated Nipmuc historic tribe as a whole, predecessor group to the later Chaubunagungamaug or Dudley/Webster Band, for the period prior to 1675.

1675-1785. In regard to King Philip's War, during the summer of 1675, several Nipmuc sachems provided written assurances to the General Court at Boston not to assist Philip (*Mass. Archives* 30:169). During the course of the war, some maintained this agreement, while others violated it. Among the signers, and violators, was Black James, the constable of the Chaubunagungamaug praying town (Humes 1952, 14; Place of Small Stones n.d., 9; *Mass. Archives* 30). During King Philip's War, several actions by Black James indicated that he was capable of acting independently of the status he had as Eliot's appointee, and that the members of his band followed his initiatives. From 1681 through 1684, he was identified by Massachusetts authorities as leader of a "company" which held title to the southern portion of what is now Worcester County, Massachusetts, and which engaged in a series of deed transactions through which the title to most was transferred to the colony, certain lands were reserved for the band, and certain portions of those reserved lands were deeded to individual purchasers (*Mass. Col. Rec.* 5:315; Mandell 1996, 44; *Mass. Col. Rec.* 5:328-329; Daniels 1880, 36; Freeland 1894, 124, 128; Shurtleff 1854, 5:365-368; Place of Small Stones n.d., 23-23). These materials regularly named the leaders with whom the colonial authorities were dealing, although providing only minimal information about internal political processes. The documents show the existence of a group, with an acknowledged leader, in a position to negotiate with appointed representatives of the colonial authorities of Massachusetts, with the authority to cede and hold land. According to precedent: "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25). The Mohegan, Narragansett, and Gay Head tribes also retained certain portions of aboriginal territory.

Black James and Company apparently retained the second half of the reservation made in the 1682 deed, approximately 8000 acres, until 1707, when "the remaining full moiety of the five miles square consisting of 8000 acres" was sold by Black James *et al.*, reserving to themselves, their heirs and descendants forever, the right to fish, hunt, and "on great ponds or rivers necessary for their support" (Nipmuc #69 Pet. Narr. 1984, 50; Dresser 1900, 117; see also Mandell 1996, 39 citing "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachusetts," circ. 1890, photocopy, Nipmuc Tribal Acknowledgment Project, Worcester, Mandell 1996, 212n58). This deed indicated that the petitioner's antecedent group was still maintaining some level of political organization. It is not clear from the documents whether the 1707 "Black James" was the same individual who had provided leadership for this settlement prior to 1686, or whether by 1707 the phrase was regarded as a title. Collectively, however, the group was the same, had identified leadership, and was making collective decisions, which provides sufficient documentation of criterion 83.7(c) for the colonial period (see Narragansett PF 1982, 11; Gay Head PF 1987, 10; Miami PF 1990, 7).

The record contained no documentation that provided direct evidence concerning political leadership within the petitioner's antecedent group between 1707 and 1724. The 1724 document pertained to action by a non-Indian rather than action by the petitioner's antecedent group. According to the petitioner, on April 9, 1724, William Dudley conveyed by deed to the Nipmuc Indians title [*sic*] to a tract of land approximately one mile square (640 acres) which was part of their former reservation, "to plant and improve," henceforth to be reckoned as the only reserve and exception in the deed of 1707" (Nipmuc #69 Pet. Narr. 1984, 50-51; see also Eddy 1912a *in* Leavens Papers n.d.). The petitioner did not submit a copy of this deed. A newspaper article at the time of the sale of the Dudley reservation lands stated: "William Dudley allowed the Indians to improve land south of Powder Horn Brook, 'so much west of the road from Woodstock to Oxford as said Indians may have occasion for subsisting cattle, not exceeding 15 acres, for a period of 20 years, and for such further time as may be agreed upon'" (Sale of Indian Land at Webster 1887). The BIA does not have information at present whether this conveyed to the Chaubunagungamaug Band of the Nipmuc Indians as an entity, or to specific individuals. A subsequent, 1763, deed by Joseph Dudley's heirs to Edward Davis indicated that the 1724 transaction was a lease to the Indians (Daniels 1892, 774-775; citing Worcester Records XLIX, 314; see also Dresser 1900, 118) rather than a title deed as asserted by the petitioner (Nipmuc #69 Pet. Narr. 1984, 50-51). As the document itself is not in the record, the BIA has been unable to determine whether it contained information concerning internal political authority or influence within the petitioner's antecedent group in the mid-1720's.

The next document was more informative. The Town of Dudley, at a town meeting held January 30, 1733/1734, expressed a desire to build a meeting house on the Indian Joshua Pegan's old field (Dresser 1900, 117; Conant 1893, 99). The deed for land on top of present Dudley Hill, Dudley, Massachusetts, was dated March 20, 1733/1734 and recorded August 15, 1738 (Worcester County Registry of Deeds 1738, 10:230). It was then known as "Pegin Hill." A partial copy of the deed shows the signers, largely with the surnames Pegan and Quitticus (Worcester, ss; A true photostatic copy of record, of Worcester District Registry of Deeds, Book 10, page 236. Survey made 19 June 1738; Nipmuc #69B Suppl. 3/28/97). At present, the title relationship between the 1734 deed for the four acres in Dudley to the reservation land mentioned in the 1724 William Dudley deed has not been clarified. While the deed shows a group of Indians acting in concert, it is possible that the land included in the 1734 deed may have been the private property of the Pegan family. Several of the signers were living in Thompson Parish in the Town of Killingly, now within the borders of Windham County, Connecticut, and the records of the settlement of the estate of Samuel Pegan in the years following 1735 indicate that the Pegan family members were private landholders in fee simple (see discussion in the "Historical Overview" section, above), while the records show that other Indian families, not mentioned in the above deed, resided in the immediate Dudley area in the 1730's (Leavens Papers n.d.).

The various guardians of the Indians living at Dudley mentioned in the records prior to the Act of 1746 were presumably appointed by the governor of the colony under the Act of 1693. However, no records were located pertaining to the selection and appointment of guardians for the Chaubunagungamaug Band, or for a group of "Dudley Indians." During the 1730's, all of the

Dudley Indians appearing in the Massachusetts records held land at Natick. From a legal standpoint, they may have appeared in the records under guardianship because of the Natick connection. The records on individual families provide no data concerning internal political authority or influence at Chaubunagungamaug.

In 1746, an act of the Massachusetts Bay legislature called "Better Regulating the Indians" provided for the appointment of three people for each plantation to act as guardian. "The guardian had the power of a justice of the peace and could lease out land on the plantation not in use by Native People" (Reese c1980, [36]). Under the 1746 bill, Grafton (Hassanamisco) and Dudley (Chaubunagunamaug) were paired. In subsequent years, however, the two groups came to have different guardians, although there is no record of a formal separation by legislative act. Further measures concerning the sale of Indian lands were passed in the spring of 1748. The 1746 measure was elaborated on June 12 and 13, 1758, by a bill providing that there be three guardians near every Indian plantation to allot lands to the Indians and guard against trespass; also, to regulate incomes and expenditures in behalf of the tribes; and that no sale or lease of Indian property was to be made except by consent of the guardians (*Mass. Archives* 33:64-66).

While providing some background information concerning tribal continuity, these acts in themselves provide no information concerning the nature of internal political authority or influence at Dudley or among the Chaubunagungamaug Band Indians, nor do the records of the Massachusetts legislature's appointment of guardians of the Dudley Indians between 1746 and the Revolution in themselves provide any information concerning the leadership, or internal political influence or authority, of the Chaubunagungamaug Band, or Dudley Indians, for which they were assigned as guardians (for precedent: "The appointment of overseers for the Eastern Pequot reservation by the colony of Connecticut in itself provides data about the continuous existence of the tribal entity, but no specific information about internal political leadership or influence;" Eastern Pequot PF 2000, 104). The direct evidence in the record thus provides no data which shows that the petitioner's antecedent group met criterion 83.7(c) between 1734 and 1758.

On June 12 and 14, 1758, on petition of Nanny Pagan and other Dudley Indians complaining of the unjust actions of their guardians and requesting the discharge of the said guardians and appointment of new men, the Massachusetts General Court passed an order for the investigation. Signers of the complaint were members of the Pegan and Quittocus families (*Mass. Archives* 33:61; see also *Acts and Resolves* 221). The specific complaints were that their guardians had deprived them of many rights and overcharged them in a list of debts. A committee that heard the complaint advised an investigation and the Court appointed a committee to go to Dudley and investigate (*Mass. Archives* 33:61-63), but no record of report of the investigation at Dudley has been located. The 1758 signers denied that they signed a 1757 petition and mentioned the guardian's "taking away grass & fruit of Jonathan Pagan's plantation anno 1756 at that time Joseph Pagan had Jonathan's power of attorney during his absence in his Majestie's service" (*Mass. Archives* 31:61). This power of attorney from one relative to another, like the 1757 will of Abigail Quittocus, implies that the Dudley Indians had been accustomed to handling their legal affairs and real estate without guardianship. Such occasional petitions concerning issues of

importance to the group have been accepted in prior positive acknowledgment decisions as providing adequate documentation concerning political leadership/influence and internal political processes for the later 17th and 18th centuries Gay Head PF 1987, 10; Eastern Pequot PF 2000, 104).

On January 31, 1763, the heirs of Joseph Dudley sold to Edward Davis of Oxford, Massachusetts, one square mile, "adjoining the Meeting-house in the town of Dudley," being that which William Dudley leased [*sic*] to the Indian natives April 9, 1724, excepting for said Indians 200 acres on the east side thereof . . . so long as they shall continue to improve the same, agreeable to a resolve of the General Court, Jan., 1763., etc." (Daniels 1892, 774-775; citing Worcester Records XLIX, 314). The 1763 deed was apparently a transaction between the private landowners, the guardians, and the purchaser (no copy of the deed was submitted for the record). The summaries of its provisions contained no data concerning political authority or influence within the group, nor any expression of the group's opinion concerning the transaction. This was also the case with the guardians' reports for the second half of the 18th century (*Mass. Archives* 33, 463; 33, 518-520; 33, 551-552; *Journals of the House of Representatives of Massachusetts 1771-1772* 1979, 147; *Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 179, 193), which merely reported on disbursements of Dudley funds and indicated the names of the beneficiaries. These documents provided some background data on tribal continuity, but no information on internal political influence or authority within the Chaubunagungamaug Band or the Dudley Indians.

The only documentation in the record for this period from 1775 to 1785 is the military records of individual Indian men from the Dudley settlement. Petitions #69, #69A, and #69B have not presented documents to reflect the existence of internal political authority or influence within the Chaubunagungamaug Band, or the Dudley Indians, from 1758 through 1785. None were located on a survey of published records, and have not ascertained whether there was no such documentation for this period, or whether the petitioners have not submitted such documentation as may exist.

On the basis of the existence of identified leaders and process for ". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (25 CFR Part 83.1), the evidence in the record, although scanty, is on the basis of precedent adequate to meet criterion 83.7(c) for a tribe during the colonial period from 1675 through 1758. On the basis of precedent, it is not sufficient to demonstrate that the petitioner meets criterion 83.7(c) from 1759 through 1785 ("A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (25 CFR Part 83.6(d)). Petitions #69, #69A, and #69B have not presented documents to reflect the existence of internal political authority or influence within the Chaubunagungamaug Band, or the Dudley Indians, for this period. BIA researchers located none on a survey of published records, and have not ascertained whether there was no such documentation for this period, or whether the petitioners have not submitted such documentation as may exist. However, on the basis of carryover provisions from criterion 83.7(b)(2), the historical Chaubunagungamaug Band meets criterion 83.7(c) from 1759 through 1785.

1785-1891. On June 7 (Brief c.1890, 3, says June 17), 1797, the Dudley/Webster guardians conveyed all of the 200 acres of land which remained after the sale of 440 acres to Edward Davis in 1763 to Levi Davis, of Charlton, Massachusetts, to satisfy debts of $300 owed by the Indians. On his part, Levi Davis deeded to the Commonwealth a different tract of land in Dudley Township of 26 acres, 58 rods and agreed to pay, or secure the payment of, $667.00 (Brief c.1890, 3, says $1,667) plus interest into the state treasury for the benefit of the Indians (Nipmuc Pet. Narr. 1984, 53, 78). By this 1797 transaction, the physical locale of the Dudley Indians' land base, which since at least 1724 had been in the immediate neighborhood of the church in the Town of Dudley, Massachusetts, was transferred to a site near Lake Chaubunagungamaug which would, with the establishment of Webster in 1832, fall into a different town (Webster was constituted from what had been the eastern portion of Dudley and a small part of Oxford). There is no copy of the actual deed in the record. The documents as summarized in the petition and other secondary sources reflect only the actions of the guardians and the purchaser, and provide no information about the opinion of the Indians, nor do they provide information concerning political authority or influence within the Chaubunagungamaug Band or Dudley Indians.

From the date of the 1797 sale, the Dudley guardians' accounts were examined by the selectmen of the town of Dudley until the establishment of Webster in 1832. The accounts henceforth were reviewed by the Selectmen of Webster. Dudley Guardians' Accounts (Nipmuc Pet. #69A Suppl.). The state-appointed guardians continued to file reports (Worcester County, Massachusetts, Probate Records; Nipmuc #69 Pet. Narr. 1984, 53, 78; *Acts and Resolves Passed by the General Court of Massachusetts* 148, 135; *Resolves of the General Court* 1838, 674; Briggs Report 1849, 44; *Acts and Resolves* 1849, Chap. 21). While providing some background data on tribal continuity, they do not name leaders or provide any direct information concerning political authority or influence within the Chaubunagungamaug Band or the Dudley/Webster Indians during the first half of the 19th century.

One piece of hearsay evidence names two leaders on the Dudley/Webster reservation in the first half of the 19th century" (Bergner c.1990; Nipmuc Pet. #69B Suppl. 3/31/1997, 1890 folder). Both of the individuals named in this account could be verified from other records (see Nipmuc GTKY file, BAR; NARS M-704, Roll 201, 1840 U.S. Census, Worcester County, Massachusetts, Town of Webster, Frame 0069). Although these retrospective memoirs named the two men, they provided no information concerning their activities, or how political authority or influence was exercised within the petitioner's antecedent group in the 1840's. The 1849 *Briggs Report* did not mention a leader for the group or provide any information concerning its internal structure, political authority, or political influence (*Briggs Report* 1849, 43; Nipmuc #69 Pet. Suppl. 1987, 1). Similarly, the 1857 Massachusetts resolution concerning Indians in the Commonwealth provided no data concerning political authority or influence within the Dudley/Webster Group (*Resolves of 1857*, Ch. 80; *Earle Report* 1861, 103). The official documents contain no data concerning the opinion of the Indians in regard to this move.

The 1861 *Earle Report* began with a definition: "The Dudley Indians, so called, are a remnant of that portion of the Nipmugs, called the Pegan tribe, which formerly inhabited the track [*sic*] of land in Worcester County, now known as Charlton, Dudley, Sturbridge, Oxford, Southbridge,

and Webster, with portions of some of the adjoining towns" (*Earle Report* 1861, 101). The report did not name leaders and provided no information concerning political influence or authority. Earle wrote:

> As will be inferred from what has already been stated, this tribe has no municipal, religious, or educational organization. The better portion of them, scattered in various towns, belong to ... municipal organizations, and have the benefits of religious and educational institutions, such as are common to those in their condition of life. Those who reside on the reservation, though subject to the legal disabilities of Indians, enjoy the benefits of the public schools of the town, and have the usual opportunities for religious worship and instruction, so far as they choose to avail themselves thereof" (Earle Report 1861, 105).

For the post-Civil War era, the guardian's reports continued to be filed regularly throughout the Civil War years, supplemented by a record book maintained by the Town of Webster for the "Remnant of the Indians of Webster" (Nipmuc Pet. #69A Suppl. 4/21/97, Public Document No. 31 1867; Public Document No. 31 1868; Public Document No. 31 1869; Nipmuc Pet. #69B suppl. 3/28/97, Public Document No. 36 1861, Public Document No. 36 1862; Public document No. 35 1863; Public Document No. 32 1864); Remnant of the Indians of Webster; Nipmuc Pet. #69A Suppl. 4/21/1997, original at the American Antiquarian Society, Worcester, Massachusetts), provided some background data concerning tribal continuity, but did not name leaders or address the issues of political influence or authority.

On June 23, 1869, as a delayed follow-up to the recommendations of the 1861 *Earle Report*, Indians were granted state citizenship in Massachusetts (Nipmuc #69 Pet. Narr. 1984, 95; for more extensive information, see Plane and Button 1993; for description see the "Historical Overview" section above). This act provided no data concerning political influence or authority within the affected tribes.

Petitions #69, #69A, and #69B have not presented documents reflecting the existence of internal political authority or influence within the group antecedent to the current petitioner from the beginning of the 19th century through the 1869 Act of Enfranchisement. BIA researchers located none in a survey of published documents and under the provisions of the directive do not have authorization to ascertain whether there was, in fact, no documentation for this period, or whether the petitioners simply have not submitted such documentation as may exist. During the period from 1785 through 1870, however, a majority of the members of the historical Chaugunagungamaug Band continued to reside on the reservation, and the group therefore meets criterion 83.7(c) through carryover provisions from criterion 83.7(b)(2).

There is no documentation in the record for the period from 1870 through 1886 which is relevant to criterion 83.7(c). The largest body of documentation concerning the Dudley Indians between the Civil War and the 20th century was generated by the various court suits aimed at obtaining a per capita disbursement of any remaining property or trust funds held on their behalf by the Commonwealth of Massachusetts (Nipmuc #69 Pet. Narr. 1984, 96, 98-99; Sale of Indian Land

at Webster 1887; Brief c.1890). If the documentation submitted in regard to this lawsuit had contained data indicating the procedures by which the Pegan Indians who were beneficiaries of the suit had organized to engage a lawyer and pursue the issue, it would provide valuable data concerning the group's political authority and influence for the late 1880's and early 1890's. Even in the absence of that, it provides some supporting evidence that there was political authority and influence, or at least some measure of organization, among some of the descendants of the Pegan Indians, specifically the Sprague family, in the late 1880's. As the record stands, the evidence is not sufficient to show that the Chaugunagungamaug, or Dudley/Webster, Indians meet criterion 83.7(c) for the period from 1870-1891.

1891-1970. There is no written documentation in the record concerning formal or informal political authority or influence[159] within the petitioner's antecedent group, whether defined as all descendants of the Dudley/Webster Indians or as the single line of the Sprague/Henries family or the smaller line of direct descendants of Elizabeth (Henries) Morse as a subdivision of that group, for the period from 1891 through 1970 (see below, under the 1970's, for a retrospective interview statement by Mr. Edwin Morse, Sr., in regard to the time period from the 1940's through the late 1970's). The 1984 petition stated:

> During the early years of this century, Nipmuc tribal activity, as tribal, rather than individual, was probably at its lowest in recent history. At the same time, only a few years earlier, in 1890, the Dudley-Webster band had just won the most significant legal fight in their history. In a very real sense, this is indicative of the dominant trends in Nipmuc history, trends that seem to have been present from the first days of European contact, namely, that political activity was rarely obvious and political institutions were usually reactive. Most often, they responded to a particular need, dealt with a specific issue, and then returned to the more subtle fabric of tribal life (Nipmuc #69 Pet. Narr. 1984, 191). [emphasis in original]

On the basis of the requirements of the regulations,[160] the evidence in the record does not demonstrate that the petitioner meets criterion 83.7(c) from 1891 through 1978.

Political Influence and Authority under 83.7(c) since 1970: Methodology. For a general discussion of procedure under the February 7, 2000, directive, the petitioner's argumentation

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[159] ". . . representing the group in dealing with outsiders in matters of consequence" (83.1). "There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions" (83.7(c)(1)(v)).

[160] "There are no clearcut, significant examples of the exercise of political influence or authority among the Indiana Miami between the early 1940's and the late 1970's an exercise of such influence or authority was not demonstrated by alternate means" (Miami FD 1992, 4); ". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1939, 6).

(which did not distinguish sharply between social interaction and political influence or authority), and a survey of the available source material, see above under criterion 83.7(b).

BIA Definition of Crucial Questions. The primary problem as regards an evaluation of whether the petitioner meets 83.7(c) during the period since 1970 is that the petitioner appears to be a group that has been formed in recent times. The evidence currently in the record shows that: 1) the petitioning group was created in the late 1970's or early 1980's as a subgroup of a larger group (#69) and was created from members who, for the most part, had not been a part of any organized Nipmuc group until at least the 1970's; 2) the subgroup was founded by Mr. Edwin Morse, Sr. who subsequently declared himself "chief for life;" and 3) the subgroup became an independent petitioner (#69B) in 1996. As was pointed out in the evaluation of the petitioner under criterion 83.7(b), if evidence exists to refute the conclusion that #69B and its antecedent organization were created as late as 1978-1980, with no community or political continuity with the Dudley/Webster reservation, but only genealogical descent from the Dudley/Webster reservation, the petitioner is urged to submit it during the response period. The issue is significant because 83.2(c) states, "Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations."

Notwithstanding the existence of the possibility that #69B is a recently founded organization and thus may not be eligible for acknowledgment under 25 CFR Part 83, the following discussion evaluates whether the petitioner meets 83.7(c) for each of the three decades of the period since 1970, beginning with the 1970's. The discussion draws upon many of the materials that were used in the discussion of whether the petitioner meets 83.7(b) for the period since 1970, necessitating some repetition of information and analysis from the discussion of the petitioner under 83.7(b).

Evaluation of the Petitioner Under Criterion 83.7(c) for the Period Since 1970.

1970's. One letter, undated but from internal evidence apparently from July 1982, asserted that as of that date, members of the Morse family (Henries descendants from Dudley/Webster) had been working with Zara CiscoeBrough for about five years (Swenson to Reno, c. July 1982; Nipmuc Pet. #69B Suppl. June 1997). The 1984 petition stated that the Chaubunagungamaug band formed its own band council in 1978 (Nipmuc #69 Pet. Narr. 1984, 192), though elsewhere it indicated that "the political governing structure had been in place for nearly two years" prior to incorporation (Nipmuc #69 Pet. Narr. 1984, 194). However, no documentation was submitted to confirm the existence of such a council prior to 1981 – that is, there is no documentation that shows its existence until after Zara CiscoeBrough had formally petitioned for Federal acknowledgment on behalf of the Hassanamisco Reservation at Grafton.[161]

[161]The Nipmuc letter of intent to petition for federal acknowledgment is dated April 16, 1980, and was submitted on behalf of the Hassanamisco reservation at Grafton, otherwise the Nipmuc Tribal Council. As was discussed elsewhere in this proposed finding, the leader of the group that became #69B, Mr. Edwin Morse, is first

One of the documents that petitioner #69 submitted to BIA was a table that it had created, a table of documented events and gatherings at the Hassanamiset Reservation (see description under criterion 83.7(b)). Only four of the gatherings on the list may have been more than recreational. These events took place in 1979 - 1982 and are labeled, "Tribal Meeting - closed to the public," "constitution and by-laws signed by council chiefs," "Annual Meeting," and "meeting/election." The petitioner did not provide any other information about these meetings. The table provides some evidence that the petitioner may meet 83.7(c) for 1979 to 1982 if the petitioner were to supplement the entries in this table with additional information and documentation showing, for example, that the group was able to mobilize significant numbers of members for group purposes (*e.g.* for electing officers), that there existed widespread involvement in group political processes (*e.g.* through high voter turnout), and/or that most of the membership considered issues acted upon by group leaders to be of importance (*e.g.* through high levels of attendance at such meetings).

In an interview, Mr. Edwin Morse, Sr. was asked him about the thirty year period from the 1940's to the early 1970's. More specifically, he was asked about what, if any, interaction he had had with other Nipmuck during that period. The answer that Mr. Morse gave to this question is quoted below, and is addressed here, under the general heading of the 1970's, because the period he references covers some of the 1970's. About this period, Mr. Morse said that it was difficult to remember the Nipmuck with whom he might have interacted at gatherings and parties for the following reason:

> . . . because back then, I wasn't interested in that [Nipmuck stuff], so I never paid much attention [to who was or was not a Nipmuck]. If I did back then, I coulda gave you a book and you woulda been able to read it and have anything you want. But I wasn't interested in that. Just like Mr. Henries – Crow Henries – when I first met Walter . . . He wasn't doing nothin' as far as Native American people are concerned. I don't know what he told you, but he did a lot of reading . . . just like I did. I did a lot of reading because I had to. So that's why I know what's going on. If it wasn't for books, [unintelligible] be no place.

In this statement and others that he made in the interview, Mr. Morse strongly suggested that, during the period from the 1940's to the early 1970's, he and other future members of #69B with whom he was acquainted during these decades did not identify as Nipmuck (though many were aware that they were descended from Nipmuck), and, more important for an evaluation under

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known to have participated in any action sponsored by Ms. CiscoeBrough's group less than three years before the letter of intent to petition was submitted. The letter of intent provides some evidence that a Nipmuc organization existed in 1980. It does not, however, provide evidence that the #69B petitioner, or the Chaubunagungamaug Band antecedent to it, existed in 1980. In fact, no document confirms the existence of the political organization of the Chaubunagungamaug Band prior to 1981. Moreover, though the letter or intent provides some evidence that there existed a Nipmuc organization in 1980, it does not provide evidence that the antecedents of either current petitioner (#69A or #69B) maintained political influence or authority over their members as an autonomous entity in 1980. Such evidence is crucial if a petitioning group is to show that it meets 83.7(c) for any period.

83.7(c), he implied that these Nipmuck did not constitute a group. If, as Mr. Morse suggests, there was no #69B group during this period, the petitioner could not have maintained political influence or authority over its members as an autonomous entity for at least the period from the 1940's to the early 1970's. The statement by Mr. Morse, then, provides some negative evidence for the period from the 1940's to the early 1970's.

In another place on the audiotape of his interview, Mr. Morse further discussed events that occurred during the decade of the 1970's, the decade during which Mr. Morse joined a Nipmuck group for what he strongly suggested was the first time in his life. In so doing, Mr. Morse provided additional evidence that the petitioning group – the group of which he is a leader – does not meet 83.7(c) for at least the period before 1977. In describing the event of his joining the group that later became #69, an event which Mr. Morse said occurred in 1977 when he was 49 years old, Mr. Morse strongly suggested that, during the half-century from the early 1930's to 1977, there was no Nipmuc organization, association, or community of which he and most future members of #69B were a part, and there were no Nipmuc activities or expressions of a collective Nipmuc identity of which he and most future members of #69B were a part. After briefly describing a childhood in which he implied that, to the best of his knowledge, did not involve Nipmuc beyond the members of his extended family, Mr. Morse explained,

> Back then [in the 1920's and 1930's when he was a child], we knew we was Chaubunagungamaug. We knew we came from South Woodstock, CT. We knew that was in Dudley. So, uh, *but we had nobody to do anything*. And then when we got older we found out everything we had to know. About 21 years ago. That's when we stared to push forward as Chaubunagungamaug. But we didn't know uh. And then, as far as joining anything we – Zara's sister – she was giving out, I think it was $175 for clothing, $125 for food to all Nipmucks. You go down there, and you sign your name on the dotted line, and you were automatically on the tribal roll. [emphasis added]

At that point, Mr. Morse asked, "So she [Ms. CiscoeBrough] was just signing up anybody who came by?" Mr. Morse replied, "Anybody that came by. Said they was a Nipmuck."

Other evidence supports the suggestion that Mr. Morse and members of his extended family were not part of an organized Nipmuc group until 1977. Petitioner #69 submitted the minutes of a meeting entitled, "Joint Meeting: Legal Heirs of Hassanamisco, and the Nipmucs," dated May 14, 1977. The meeting was organized by Zara CiscoeBrough. Neither Mr. Morse nor any member of his extended family appears on the attendance list of this meeting. It is likely that, by the spring of 1977, Mr. Morse had not yet joined the Nipmuc group that later became #69.

Less than four months later in September of 1977, a petition describing the signers as Nipmuc "who are vitally interested in Nipmuc New Town Creation" (which was a failed effort by Nipmuc to obtain land from the state) was presented by Zara CiscoeBrough to an administrator in the Massachusetts State Government. A copy of the petition, which was submitted by petitioner #69, contained the names of thirty-seven individuals. One of these individuals was

Mr. Morse. This raises the strong possibility that Mr. Morse "signed on the dotted line," as he put it, on what he described as the Nipmuc "tribal roll" during the four month period between the Joint Meeting in mid-May, 1977, on the one hand, and the time the petition was presented in September of 1977, on the other.

This document provides the earliest evidence of the political participation of Mr. Morse, who later became "chief for life" of #69B, in Nipmuc matters. More specifically, it suggests that Mr. Morse considered at least one issue acted upon by a group leader during this period to be of importance. Though this document demonstrates that Mr. Morse participated politically in a Nipmuck group in the late 1970's, it does not demonstrate that such political participation existed broadly among members of #69B. In addition, though the document shows that Nipmucs took an interest in Nipmuc affairs, the group referenced in the document was not the petitioning group.

The petitioner could nonetheless use this document as evidence that it meets 83.7(c) for 1977 if it were to do the following: 1) submit evidence of the political participation of other future #69B members in Nipmuc matters during this period, and 2) provide an argument, accompanied by appropriate evidence, that the group referenced in the document was the petitioning group. With such information, argumentation and documentation, the petitioner might be able to demonstrate that, in 1977, participation in group political processes was widespread and encompassed most of the group and/or that most of the membership considered issues acted upon by group leaders to be of importance.

The record also contains a document of a meeting of the Hassanamisco Council (Nipmuc Tribal Council, Hassanamisco Band, Minutes 6/8/1978) that took place on June 8, 1978. Though this document contains no indication of the nature of this meeting, the roster contains the names of forty-nine people. Included is Zara CiscoeBrough, as well as members of the Morse extended family (Edwin Morse Sr.; Edwin Morse Jr., Dolly Swenson, Ruth Bessette, Shirley Lomba, Joseph Lomba, Diane, Tina, and Rickey Rigney; Ralph and Ryan Walley; Elizabeth Morse, Kimberly Santana, Ruth Morse, Edith Half Moon Hopewell, Lucille "Billie" Walley, Dorothy Prince, Ralph Walley III, Dawn Walley; Joni, Nicole, Elizabeth, Jose, and Ralph Santana). In 1979, Dolly Swenson was listed as a "regular member absent" (Nipmuc Tribal Council, Hassanamisco Band, Minutes 5/24/1979).

At a minimum, this document suggests that Edwin Morse Jr., Edwin Morse Sr., and other descendants of Elizabeth (Henries) Morse were beginning to participate politically, as well as possibly socially, with members of a Nipmuc group. This document does not demonstrate, however, that the Morses' participation in this meeting shows that the petitioner meets 83.7(c) for this period. Most important, the document does not show that this participation encompassed most of the petitioning group or that the attendees from the current #69B who attended were representing any organization antecedent to the current petitioner.

According to the 1984 petition, there had been since 1978, "a dramatic increase of tribal activity generally, and most notably at Dudley-Webster, among the Chaubunagungamaug clan" (Nipmuc #69 Pet. 1984, 192). The 1984 petition also asserted:

> Since 1978, the members of the Chaubunagungamaug clan have show [*sic*] increased political activity. Consciousness of tribal identity, an interest in the affairs of the tribe, and a concern to preserve cultural institutions have characterized the group throughout the present century. But within the past five years, this band has been particularly at pains to stress its unique clan identity within the larger identity of the Nipmuc Tribe (Nipmuc #69 Pet. 1984, 192). [emphasis in original]

In the audiotaped interview on July 22, 1998, Mr. Edwin Morse, Sr., claimed that, when the council meetings of the subgroup which later became #69B first "started," as he put it, in 1979, they were attended by 50 to 60 members. At some point during the two year period after Mr. Morse is first recorded as participating in the activities of the future #69 petitioner, it seems as though he served on its governing body. Although the evidence is far from complete, it also appears as though he also began forming a subgroup, the Chaubunagungamaug Clan, about 1979. If the number of members attending Chaubunagungamaug meetings in 1979 was as large as 50 or 60, it would suggest that many potential members of #69B considered issues acted upon or actions taken by group leaders and the new Chaubunagungamaug Clan governing body to be of importance, and that there may have been widespread knowledge, communication and involvement in political processes by many of the group's members. However, the limited documentation from the period does not provide any sign-in sheets or other evidence to support Mr. Morse's recollection of the numbers. The numbers attending a few years later (see below under 1980's) were not this large.

It should be noted that, in the same interview, Mr. Morse stated that "very few [members] come" to meetings today [1998]. In a separate interview, #69B council member, Kenny White, said the same thing about the attendance of members at current [1998] meetings (Interview by BIA researcher with Mr. Kenneth Leroy White, 7/25/98). In sum, the above statement by Mr. Morse about attendance at meetings during the late 1970's provides some indication that, if it could be verified, and the actual political purposes of the meetings could be verified, there would be relevant evidence for whether the petitioner meets 83.7(c) for the late 1970's. If the petitioner were to provide lists of members who attended these meetings in the 1970's, it would strengthen its case that it meets 83.7(c) for the late 1970's. Essentially, what the petitioner needs to show is that the political participation of members was broad, encompassing most of the group.

There were other pieces of evidence in the record which indicated that petitioner #69B does not meet 83.7(c) for the 1970's. One is a statement by Mr. Glen Heath, who, by 1991, was serving on the council of the subgroup that separated from #69 and became #69B (see description under criterion 83.7(b)). By Mr. Heath's own account, he and members of his extended family did not even meet Mr. Morse until 1979 at the earliest. As such, it is likely that they had little to no significant political relationships with other future #69B group members until 1979 at the

earliest. As the Heath family is one of only three extended families that comprise the #69B group and is thus a significant part of the petitioner, this statement of Mr. Heath's strongly suggests that the petitioner may not meet 83.7(c) for the period before the late 1970's. Similarly, in another BIA interview, Mr. Kenneth Leroy White, who has also served on the #69B governing body and, more important for our purposes, is a member of one of the other two extended families that comprise #69B other than the family of Mr. Morse, stated that he did not meet Mr. Morse until the 1980's, which was when Mr. White was in his late 30's and early 40's. It is, of course, possible that Mr. White and Mr. Heath knew one another – and NOT Mr. Morse – before the 1970's, and that the extended families of Mr. White and Mr. Heath were part of a Nipmuc group that could be considered, instead of the Chaubunagungamaug Clan, the predecessor of #69B. In the submitted material, during the field visit, and during phone conversations, however, at no point was there any indication that this might be the case (see next paragraph). If this is the case, the petitioner is strongly encouraged to submit evidence to demonstrate it.

The last piece of evidence indicating that the petitioner does not meet 83.7(c) for the decade of the 1970's are several statements made by Mr. Morse in the interview of July 22, 1998. In the interview, Mr. Morse stated that it was not until 1979 that his group, the Chaubunagungamaug band, formed a council of their own. He also said that it was not until 1979 that he was elected "chief." Mr. Morse said that he was elected "chief" by the newly-formed fifteen-member council. When asked, he was able to recall nine of the original fifteen members. He said that they were: "Me; my daughter, Lucyann; my daughter, Ruth; my son, Ed; my brother, Charles; my sister, Shirley; my sister Dorothy; Joe Lomba [his nephew or, possibly, if Joseph Lomba Sr., his brother-in-law]; and Spotted Eagle [Kenneth Brown, of Providence, Rhode Island], who has since passed away."

Mr. Morse's descriptions of events that occurred in 1979 suggest that #69B is a group that was formed in recent times. In addition, Mr. Morse's testimony about the "newly-formed-fifteen-member council" suggests that, at least in the late 1970's, the #69B leadership was made up almost entirely of members of a single family, which was Mr. Morse's extended family. Other evidence suggests that it was not simply the leadership but the group as a whole that was made up almost exclusively of this one family. As such, particularly for the period from the late 1970's through at least the 1980's, #69B was only a "narrow social group," or, more specifically, a "kin group."

In sum, there is very little evidence in the record for the decade of the 1970's. The evidence that does exist indicates that the petitioner does not meet 83.7(c) for the period from 1970 to the late 1970's. There is insufficient information to show that the petitioner meets 83.7(c) for the late 1970's, during the years when the Chaubunagungamaug Band antecedent to petitioner #69B was emerging as a formal organization. The limited evidence in the record for the period 1977-1979 does not show that the organization was exercising political influence or authority over its members. It does show that the organization itself consisted almost in its entirety of one extended family.

1980's. The earliest documentation that the petitioner had developed a formal organization was a July 23, 1981, newspaper article in which the Chaubunagungamaug Band Indians said they had met as a council with the following council members: Loving One, Harvest Moon, Morning Star, Great Owl, Little Star, Silver Fox and Wise Owl, and that they had elected Wise Owl "chief." The article also referred to an Indian burial ground behind the Gauthier Tire Co. on Thompson Road (*Webster Times*, undated; Nipmuc #69 Pet. Suppl. 1994, Ex.). Very shortly after this date, Edith Hopewell reported on the initiatives, both to Zara CiscoeBrough and to the BIA (see discussion under criterion 83.7(b)).

The "Nipmuck Indian Council By-Laws, Dudley, Massachusetts," were dated August 1, 1981 (Nipmuc Pet. Suppl. 1994, Ex.). The BIA received no information concerning the procedure by which they were drafted or adopted. They are discussed in more detail below under criterion 83.7(d). Two days after the by-laws were signed, on August 3, 1981, the *South County Advertiser*, under "Webster News," noted that "Nipmuc Indians in this area have received state approval to establish their own council." They said that they had met recently with Sam Sapiel, "commissioner of Indians on the Boston Indian Council." Loving One told the Times, "Sam said we have a perfect legal right to establish our own council, elect our own chief and hold our own elections." The article stated that all the persons involved in the initiative were descendants of Lemuel Henries, that they had decided on the name of Nipmuck Indian Council, and wanted to contact all of the Indians in the Webster, Dudley and Oxford area (Martin 1981b; Nipmuc #69 Pet. Suppl. 1994, Ex.). The BIA received no documentation from the State of Massachusetts concerning these discussions. At almost the same time, the petitioner received a donation of two and one-half acres of land, which the group still, as of 1998, refers to as its "reservation" (Webster Man Donates Land 1981).

The purposes of the organization of the Nipmuck Indian Council, as stated in the Articles of Organization, were cultural, and made no reference to the historical Chaubunagungamaug Band or to the Dudley/Webster reservation:

> A) To promote social and economic growth for all Indians, with the attention focused on the Nipmuc Indians of the Worcester County area.
> B) To promote the preservation of all Indian land (e.g., historical cemeteries) in the Worcester County area.
> C) To recommend and support legislation beneficial to Indian people of the Algonquian nation.
> D) To foster and promote the arts, crafts, culture, and language of the Nipmuc Indian (Nipmuc Pet. 1984, Ex. 20 [1]).

However, during subsequent years, the letterhead of the organization used the name "Nipmuck Indian Council of Chaubunagungamaug."

On August 19, 1981, at the Commission of Indian Affairs in Boston, Massachusetts, there was a meeting of: Shelleigh Wilcox as recording secretary: John Peters, Dolly [Swenson], Zara

[CiscoeBrough], Anna [Mays], Eddie [Edwin W. Morse, Sr.], Shirley, Gkisedtanamougk, "to resolve the problem out at Dudley-Webster." The minutes kept by Hassanamisco stated that:

> Shirley was the one who told t & g about Hassanamisit not treating their family fairly. Dolly wants to elect Eddie as chief out at Dudley-Webster. She may do that and still have no problems with the recognition. Solution: Eddie must address the Council and see what is said (Nipmuc Tribal Council, Hassanamisco Band, Minutes 8/19/1981).

Also in 1981, the Nipmuck Indian Council, Chaubunagungamaug Band, held its own pow-wow for the first time (Nipmuc Pet. Suppl. 1987, [5]) and several Dudley-Webster descendants were associated with the founding of the Algonquin Indian School in Providence, Rhode Island (founded by Little Crow, Spotted Eagle, Little Star, and Loving One) (Cerow 1989, 22).

On January 18, 1982, the Chaubunagungamaug Band formally incorporated as the Nipmuck Indian Council of Webster, Massachusetts, under the laws of the Commonwealth of Massachusetts (see more detailed discussion below in the section on governing documents). Edwin Morse Sr. held the office of "Chief for life" under the articles of incorporation. A newspaper article (unidentified, hand-dated March 28, 1982), "Nipmucks Give Thanks for Charter," by David P. Kowal, was by-lined from Thompson, Connecticut. It stated that about 25 Nipmuc and other area Indians gave thanks at a ceremony celebrating the granting of a charter by the state to a local Nipmuck clan; just over the Webster land off School street; had cleared the land which had been donated to them; charter approved by Secretary of State Michael Connolly makes the local Nipmucks, or the Charbunagungamaug [*sic*] clan, eligible for aid programs, and it allows the local Indians to represent their clan at powwows held by other Indians. The article included a picture of Wise Owl and a quote from Loving One (Kowal 1982; Nipmuc #69 Pet. Suppl. 1994, Ex.). In 1983, the Chaubunagungamaug council consisted entirely of the descendants of Elizabeth Rogers (Henries) Morse: they were all immediate relatives (siblings, children, nephews) of Edwin W. Morse Sr. (Nipmuc Pet. 1984, 195). In 1984, a vote of the council appointed a non-Indian associate of the group, George Munyan (Little Turtle), to the council (Nipmuck Indian Council minutes, June 16, 1986). In newspaper coverage of the period, Munyan was described as the band's "medicine man."

The Hassanamisco council meeting on January 27, 1982, moved to discuss the matters at Dudley-Webster" (Nipmuc Tribal Council, Hassanamisco Band, Minutes 1/27/1982). In "an effort to broaden and strengthen the actions of the Nipmuc Council and Board of Directors," the same meeting voted to establish Walter A. Vickers as "chief" (Nipmuc Tribal Council, Hassanamisco Band, Minutes 1/27/1982). A further discussion of the relationship with the "Webster Council" took place on March 27 (Nipmuc Tribal Council, Hassanamisco Band, Minutes 3/27/1982). In the late spring of 1982, the Chaubunagungamaug Band took offense at an article in the Worcester press announcing Walter A. Vickers as "chief and spokesman" for the

tribal council of the Nipmuc.[162] This brought the issue of the relation of the two bands brought to the fore.[163] In 1982, the ending of the controversy between the Chaubunagungamaug Band and the Hassanamisco Band was considered important because of its impact on the preparation of the Nipmuc petition for Federal acknowledgment. The Chaubunagungamaug Band had never submitted a letter of intent to petition and was involved in the process only through its cooperation with the Grafton group (for further details, see the draft technical report prepared for petition #69B). By the summer of 1983, members of both bands were working actively on the

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[162]Another letter written by Swenson during the same period was addressed to "Mr. Lenny" and apparently directed to the editor of one of the newspapers that had published Vickers' assertion that he was spokesman for all Nipmuc. It concerned "clarification of the statement made by Walter Vickers via Lois Wilcox" and continued:

> Walter Vickers is spokesman for the Hassanamesit Band only! We have worked very, very hard to have proper representation for each individual band. The Hassanamesit (Zara Ciscoe, Walter Vickers, Lois and the family) have fought us tooth and nail. Finally through the Indian councils and commissioners we have come to an agreement that the bands would be represented and that we (when writing, talking, etc.) would specify what band we are representing . . . Unfortunately when a big ego (Vickers) wants to play spokesmen, (and I have to doubt it, because he won't give an interview without Anna and Lois there to tell him what to say.) we can be hindered from reaching our common goals." "As I explained to you on the phone, this is a vital time for the Nipmuc people, and to print this would only start an inter-tribal feud, and it would do absolutely no good to anyone. I only as that you consider a small retraction stating that Walter Vickers is spokesman for Hassanamesit only and Chief Wise Own [*sic*] is spokesman for Chaubunagungamaug. Neither are no more or no less, they are both Sachems of their bands. They are both territorial leaders (Loving One (Womonausu) [Dolly Swenson] to "Mr. Lenny" 7/18/1982). [emphasis in original]

[163]Petitioner #69B submitted a letter, undated by by internal evidence to be ascribed to July 1982; and unsigned, with the return address "Chief Wise Owl, Nipmuck Indian Council Webster-Dudley Area, Office: 19 Park Street" to Dr. Reno. It was typed all in capitals, apparently on same typewriter used by Loving One [Lucyann/Dolly Swenson] for other correspondence (Nipmuc Pet. #69B Suppl. June 1997). The first two pages contained an extensive discussion of leadership issues and Federal acknowledgment. Concerning Zara CiscoeBrough, it stated:

> She called another meeting at Hassanamesit with Walter & Joe Vickers, Lois Wilcox, Mr. Wilson, and Mr. Hamilton (more appointed rather than elected chiefs). I showed up at the meeting with my dad, sister, Spotted Eagle, my uncle, and Little Crow. All Nipmucks!!!! At first she wanted to refuse to let the others in, until I reminded her that since it was a Nipmuck meeting, how could she rightfully refuse entrance to the Nipmucks I had brought along? She agreed (reluctantly) but she told me xince [sic] I brought them there, I would have to sit on the floor. I did.
>
> At the meeting we were asked by Walter Vickers, "Is there anyone here that objects to my being chief?" . . . I clearly specified that he was chief of the Hassanamesit. Not spokesperson for all Nipmuck people, as they put in the paper recently." . . . "It is not our intention to divide the Nipmuck people, only to have proper, affective [sic] leadership for each band. We want to at least assumilate a nation, have meetings, council of chiefs (which you know as well as I do should be representatives for each band, as well as territorial leaders, not a handful of people of Indian descent, that can be manipulated without question and appointed by one person) hold legitimate elections (documented) meeting minute (recorded) . . . I will see Jane on Friday, July 23. . . ([Swenson] to Reno [July 1982], 2).

completion of the petition, which was submitted in the summer of 1984 (see detailed discussion above in the section on the administrative history of the petition). From researcher Stephen Reno's letters of the period, it is clear that he was aware of the controversy and its possible impact on the preparation and success of the petition:

> I think Zara will realize, in time, that attempts on the part of the Dudley-Webster Band to organize and to assume a more visible and active role in Nipmuc tribal affairs will only enhance the effectiveness of the federal recognition petition. Evidence of tribal political activity is very important, and recent events can only serve to emphasize that point. At the same time, however, it is vitally important that the bands cooperate closely, otherwise it would be difficult to show tribal unity. It is a tricky problem, I'll admit, but all the signs would seem to indicate a favorable resolution (Reno to Swenson, 7/14/1982; Nipmuc Pet. #69B Suppl. June 1997). [emphasis in original]

Between July and August of 1982, the controversy was temporarily resolved. On August 15, Walter A. Vickers was formally installed as Hassanamisco Band "chief" at the tribal powwow; "Chief Wise Owl" [Edwin W. Morse, Sr.] was at the same time formally inducted into the "clan of chiefs of the Nipmuc nation" at the powwow held at Grafton. The 1984 petition stated that the ceremony "publicly healed the three month old rift between the two and chiefs" (Nipmuc #69 Pet. Narr. 1984, 194, 197; 2 Sachems Fix Rift at Festival, *Worcester Telegram*, August 15, 1982; Chaubunagungamauggs, Hassanamesits Bury Hatchet, *Worcester Telegram*, August 16, 1982; Local Chief Inducted into Clan, *South County Advertiser*, August 23, 1982). The 1984 petition stated that it was decided that the position of sachem would coordinate the two (Nipmuc #69 Pet. 1984, 196), arguing that:

> with the responsibilities of the respective bands placed in the hands of the two chiefs . . . The administrative model put the seal to what appears to have been the political organization of the Nipmuc from earliest times, viz., band autonomy with tribal cooperation. In the judgment of the principals, it is an arrangement which allows the particular needs of the separate bands to be met within the framework of tribal unity represented by the sachem (Nipmuc #69 Pet. 1984, 197).

Since the death of Zara CiscoeBrough in January 1988, the evidence in the record indicates that no one has held the position of sachem.

In May of 1984, indicative that the two bands were cooperating at that date, Governor Michael Dukakis appointed Lucyann Swenson to the Massachusetts Commission on Indian Affairs, term to expire October 30, 1986 (Dukakis to Swenson 5/9/1984; Nipmuc Pet. #69B Suppl. June 1997). Prior to this time, the Nipmuc representative on the Commission had consistently been from the Hassanamisco group, in accordance with the 1976 proclamation discussed above (see draft letter on this topic, Nipmuc Tribal Council, Hassanamisco Band, Minutes 10/16/1982). However, the formal end of the dispute did not, in fact, end the controversies that existed

between the two groups. These continued in the following years, as exemplified by a 1985 letter from the Hassanamisco Nipmuc Indian Council to Lucyann Swenson, cancelling the joint meeting between the two councils. "In addition, we have no intention of changing our charter or the name of the Council." Signed Lois Ann Wilcox, Secretary (Wilcox to Swenson, 4/30/1985; Nipmuc Pet. #69B Suppl. June 1987).

Aside from work on the petition for Federal acknowledgment, evidence indicates that the activities undertaken by the Chaubunagungamaug Band during the first half of the 1980's centered on the holding of powwows, conducting educational presentations (Nipmuc Notes 1982a, Nipmuc Notes 1982b),[164] charitable work (Princess Halfmoon 1982; 24 Families Benefit 1983), and participating in commemorative events such as the 250th anniversary of the Dudley church (Dudley Parishioners 1982) and the town of Dudley (Nipmuck Chief Marshal 1982; Patenaude 1982). During the early 1980's, the single event that generated most newspaper coverage was the reburial by the Chaubunagungamaug Band, in 1983, of some ancient skeletal remains unearthed in Connecticut on the property that had been donated to it (for detailed listing see the draft technical report for petition #69B).

The BIA's OD letter issued in response to the submission of the documented petition in 1984 had indicated that there were several areas which needed to be strengthened. The joint petitioner began preparation of a response in 1985. Actual work began in 1986, in spite of some differences of opinion on the joint council (for listing of individual correspondence in the record, see the draft technical report for petition #69B). The Response to the OD letter was received by the BIA on June 16, 1987; a second OD letter evaluating the Response, dated February 5, 1988, was sent jointly to Walter A. Vickers and Edwin W. Morse Sr. (see detailed discussion in the section above concerning the administrative history of the petition).

In 1986, the Nipmuck Indian Council of Chaubunagungamaug included several persons who were not immediate relatives of Edwin Morse, Sr.[165] Later the same year, Little Turtle, Secretary, Nipmuck Indian Council of Chaubunagungamaug, wrote the BIA to clarify the position of Mr. Edwin Morse, Sr., within the Nipmuck organization--"duly elected chief of the Chaubunagungamaug Clan (Band)," says "an official installation recognizing Chief Wise Owl's

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[164]The petitioner submitted numerous newspaper articles concerning appearances at schools, scout troops, etc. Most of these appeared to have been copied from a scrapbook, were undated, and did not identify the source. They have not been listed separately here.

[165]Present: "Chief Wise Owl" [Edwin W. Morse, Sr.], "Chief Silver Fox" [Charles L. Morse, Sr.], "Chief Great Owl" [Edwin W. Morse, Jr.], Harvest Moon [Shyrlee V. (Morse) Lomba], Dark Eyes [Shirley Ann Boyinton], Helping Beaver [Donald Hinckley], Earth Woman [name not on Indian Names list], Little Turtle [George Munyan] and Gentle Moose [Paul Chester White, Jr.]. Not present were Spotted Eagle [Kenneth Brown] and Red Sunset [Carole Jean Palavra]. It was established that Little Turtle was appointed as a member of the executive council by vote of the council in 1984. In regard to the petition response: "The members serving on the federal recognition committee are neither appointed by, nor subject to, the clan councils. The committee is a joint effort in behalf of all Nipmuck people and has been active since before the Chaubunagungamaug council was formally chartered" (Minutes, Nipmuck Indian Council of Chaubunagungamaug 6/16/1986).

office was held jointly with the Chaubunagungamaug and Hassanamisco Clans on the Hassanamisco Reservation in Grafton, MA six years ago" (Little Turtle [Munyan] to BIA 8/14/1986). The BIA replied that petitioning groups must work out their own governing procedures and leaders (Johnson to Little Turtle [Munyan] 9/4/1986).

In 1989, after the BIA had issued a second OD letter in 1987, the petitioner incorporated the Nipmuc Tribal Acknowledgment Project (NTAP), with James Louis as director, for purposes of preparing a revised petition (Doughton, Notes on the Pegan Indians, Preface; see detailed discussion above in the section on administrative history of the petition; see also the draft technical report for petition #69B). Between 1989 and 1992, the NTAP received ANA funding to draft a constitution, certify a voter's list, and conduct a "census" (NTAP By-Laws 1989, 2). The project indicated that, "our new group, called the Nipmuc Federal Recognition Committee Inc., will continue to pursue our federal recognition status, with the support of Chief Wise Owl" (Cossingham to BIA 5/8/1989; see detailed discussion above in the section on administrative history of the petition). On July 22, 1989, both of the designated leaders, Vickers and Morse, signed a document giving the NTAP authority to proceed with the petition. See the decade of the 1990's, below, for further evaluation of NTAP activities.

In addition to the formal minutes and correspondence, the petitioner presented very little evidence that is pertinent to the issue of political authority during the 1980's. The evidence it submitted includes a letter, a number of newspaper clippings, and two videotapes. Almost no explanation or analysis accompanied these submissions.

One of the few documents that was submitted by the petitioner and that is relevant to an evaluation of the petitioner under 83.7(c) for the period since 1970 was a letter to Zara CiscoeBrough from Edith Hopewell. It was not dated, but from its contents it seems to have been written in 1981. About Mr. Edwin Morse, Sr. and at least some members of his extended family, in the letter Ms. Hopewell writes:

> Enclosed find papers I tried to call you about. They are very defamitory [*sic*] to you and all our kind. They are holding a meeting 7/23/81 at their father's house in Dudley to form their own committees and chief, etc. which I know they haven't the power to do, and she should be told by you or someone in authority she is not a "Princess," her father or anyone close to was never a chief as in my case . . . All these people who are forming their own clan as they say needn't ever come to me again for help. I've helped them every year for 6 years now . . . They have only admitted to being Indian after they got $250.00 from the Indian fund.

Through its suggestion that leaders of the future #69B group planned to form committees and select a "chief," this document suggests that, in 1981, at least some members considered issues acted upon by group leaders, albeit subgroup leaders, to be of importance. With the words, "at their father's house," however, this document also suggests that these members may have been comprised principally, if not exclusively, of Mr. Morse's extended family. If so, the #69B group is only a single extended family, not a tribe. Finally, as the sender of the letter informs the

receiver of the letter of the event of the creation of the #69B group or at least of the development of a formal #69B governing body, the document provides some evidence, albeit weak evidence, that #69B was formed in recent times.

The above letter provides both negative and positive evidence with respect to 83.7(c). With its suggestion that members considered issues acted upon by group leaders to be of importance, the letter provides some positive evidence that the petitioner meets 83.7(c) for 1981. With its suggestion that the group may have been comprised of a single extended family in 1981 and that the group was formed in recent times, the document provides some negative evidence. Indeed, the letter can be considered documentation of the event of the creation of the petitioning group in the early 1980's, documentation that accompanies other evidence of this event, including evidence from interviews conducted with #69B group members. If the petitioner wishes to buttress a position that it meets 83.7(c) for the early 1980's, it should provide additional documentation and information about the above-referenced event and this period of #69B history, such as lists of people who attended meetings.

Shortly thereafter, the Government received correspondence from Mrs. Edith Hopewell[166] opposing the activities of Edwin Morse[167] and Lucyann Swenson[168] in connection with the Nipmuck Indian Council of Chaubunagungamaug and their association with Zara CiscoeBrough during the prior three years (Hopewell to Federal Communications Commission, 8/9/1981; referred to BIA for reply) and indicating that her mother, named as "Elizabeth R. Henries," should be involved in the Federal acknowledgment process for the Nipmuc Indians (Hopewell to Dear Friend, 8/11/1981; Hopewell to Tribal Government Services, 10/9/1981). The BIA, replied that Ms. Henries herself should contact the BIA directly if she wished to participate in the process (Hayes to Hopewell, 10/7/1981; Hayes to Hopewell, 11/16/1981).

BIA received a number of newspaper articles that pertain to the question of whether the petitioner maintained political influence or authority over its members during the 1980's. The articles document activities and events organized by #69B or in which members of #69B participated, including powwows, food distributions, a film showing, and a parade. Though these newspaper articles do not demonstrate that the recorded activities encompassed most of the group, they do show that, during the 1980's, there existed activities that encompassed at least a portion of the group. As such, to varying degrees, the articles provide some evidence that a Nipmuck group (and in some cases, the Chaubunagungamaug Clan antecedent to #69B in particular) was able to mobilize at least some members for group purposes, that at least some of

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[166]Sister of Edwin W. Morse, Sr. Mrs. Hopewell also used the names "Princess Half Moon" and "Yawampannamitt."

[167]Edwin W. Morse, Sr., also known as "Chief Wise Owl." He was a son of the Elizabeth R. Henries referred to in the Hopewell/Hayes correspondence: her married name was Elizabeth Rogers (Henries) Morse.

[168]Daughter of Edwin W. Morse, Sr. She is also named in various public documents of the petitioner as Dolly Swenson, and as "Loving One."

the members considered issues acted upon or actions taken by group leaders to be of importance, and that there was at least some knowledge and communication between leaders, on the one hand, and members, on the other, during the 1980's. As such, these articles provide some evidence that the petitioner meets 83.7(c) for the 1980's.

For the 1980's, other evidence that the petitioner submitted that was relevant to an evaluation of whether it meets 83.7(c) for the 1980's were two videotapes.[169] The first of the two videotaped submissions that pertain to the 1980's was entitled "Nipmuck Indians" and was dated 1984 (see description under criterion 83.7(b). The tape provides some evidence of individual political leadership and of a functioning Chaubunagungamaug Band governing body. The tape does not show that there is a political connection between the membership and leaders. The tape could be used by the petitioner as evidence that it meets 83.7(c) for the mid-1980's if the petitioner addresses several problems. First, not all persons who appear on the tape are identified, and thus cannot be confirmed as members of the Chaubunagungamaug Band antecedent to the current petitioning group. Second, the tape does not demonstrate that the political influence or authority that it claims that Chaubunagungamaug Band leaders exercised over members of the group encompassed most of the group. If, during the mid-1980's, the petitioner maintained political influence or authority over most of its members, it should submit material and evidence to clearly demonstrate this. For the 1980's, the petitioner might begin this work by creating a written narrative to accompany the tape.

The other videotape was simply labeled, "Wedding Chief Red Fox: Sept 19, 1988." This tape provides footage of a "Nipmuck" gathering in 1988 that included a powwow and that culminated in the wedding of Edwin Morse, Jr., a #69B council member, to an unidentified woman. From the tape, it is impossible to identify which individuals were the leaders of the Chaubunagungamaug Band, with the exception of Edwin Morse, Jr., or even which were members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (See Interview with Lucyann Swenson, 7/22/98), no conclusions can be drawn from the tape about whether the petitioner exercises political influence or authority over its members, whether it may be by mobilizing significant numbers of members and significant resources from members for these gatherings; or by demonstrating that, through these gatherings, there exists widespread knowledge, communication and involvement in political processes by most of the membership. If the petitioner wishes to use this tape as evidence that it meets 83.7(c), it needs to provide a written narrative and analysis of the gathering that, at a minimum, identifies the individuals who appear on the tape.

Also relevant to an evaluation of the petitioner under 83.7(c) for the 1980's were minutes submitted by the petitioner of meetings of the Chaubunagungamaug Band governing body for the mid-1980's. These minutes, among other things, chronicle the bureaucratization of the group's leadership and the efforts of group leaders to organize social (and possibly also political)

[169] A third videotape was dated 1997 and thus will be addressed in the following section, which evaluates whether the petitioner meets 83.7(c) for the 1990's.

activities for the group as a whole. The minutes describe, for example, the successful efforts of the tribal council to organize a "Winterfest" gathering in 1986. These minutes indicate that, unlike many of the other gatherings that the council organized, this gathering was intended to be closed to the public. The minutes reflect the fact that, during one council meeting (Chaubunagungamaug Minutes 1/13/86), it was announced that "flyers" for this Winterfest gathering had been mailed to over twenty addresses.

The minutes provide evidence that group leaders considered issues that they acted upon and actions that they took to be of importance; however, to show that most of the membership considered these issues and actions important, the petitioner should submit additional material. Similarly, the minutes demonstrate that group leaders undertook efforts to mobilize members and resources from members; to demonstrate that such efforts did indeed mobilize members and resources from members, the petitioner should submit additional material, such as lists of members who attended gatherings. Finally, the minutes reveal a group in the process of creating itself as a group (e.g. by deciding how "Nipmuck" is to be spelled, etc.). In so doing, the minutes strongly suggest that #69B is the current embodiment of a group that was formed in recent times. As such, it is a group that may not be acknowledged under the regulations.

Other data was culled from the minutes as relevant to an evaluation of the petitioner under 83.7(c) for the 1980's. First, the minutes that are dated October 12, 1984, document a series of events in which group leaders disciplined a member of the group. The events involved a single group member and seemed to have occurred at roughly the same time, suggesting that the series of events is perhaps best treated as a single event. According to the minutes of this meeting, a Chaubunagungamaug member, Rusty Lekas, was proclaiming himself "Chief of the Nipmucks," soliciting donations, opening Mr. Morse's mail, had posted a notice on his mailbox that indicated that he was to receive all mail directed to the "Nipmuc Indian Council," and was found drinking and under the influence of drugs while on the reservation.[170] When Wise Owl and Great Owl found Mr. Lekas drinking and under the influence of drugs while on the reservation, they "threw him off." At the same time, Loving One removed the notice that Mr. Lekas had posted on his mailbox and informed the postmaster of the problem. She and Wise Owl then went to the courthouse and "swore out" a complaint against Mr. Lekas. It was further reported in the minutes that Mr. Lekas apologized and wrote out a "promissory note" stating that he would not "do such a thing anymore."

The significance of this portion of the minutes of October 12, 1984, is that it reveals an event in which group leaders disciplined a single group member. As such, the minutes provide some evidence of individual political leadership and a functioning Chaubunagungamaug Band governing body. To strengthen its case that it maintained political influence or authority over its members during this period, the petitioner might submit additional material showing that these incidences of disciplining members are part of a larger pattern, a pattern in which group leaders exert influence on the behavior of group members. The petitioner might identify and describe,

[170]The Thompson, Connecticut, property donated to the Chaubunagungamaug Band in 1982.

for example, norms that group leaders might uphold, events in which group leaders have imposed sanctions upon members of their group, and/or events in which they settled disputes between members. Concomitantly, the petitioner could describe internal conflicts, conflicts which show controversy over, for example, the ways by which leaders discipline members.

The minutes of other meetings also contain information that the petitioner might be able to use to show that it meets 83.7(c) for the 1980's. The minutes that are dated November 11, 1985, indicate that at least three members of the council give presentations and make appearances to increase public awareness of the Nipmucks and the #69B group. For example, it was mentioned that, during Thanksgiving there were twenty programs in which "Chief Wise Owl" [Edwin W. Morse Sr.], Little Star [Ruth (Morse) Bessette], and Tall Oak [unidentified] participated. The minutes cited above do not only mention these events; they also record the results of a vote of the council that was made at the November 11 meeting. This vote was a vote to make Tall Oak the Program Coordinator for all such events. This portion of the minutes of November 11, 1985, suggest that at least three group leaders took actions with respect to their Nipmuck identity that go beyond simply attending council meetings. As such, the minutes provide some evidence of individual political leadership and perhaps even of a functioning Chaubunagungamaug Clan governing body for the early 1980's. If the petitioner were to demonstrate that the presentations and appearances of these leaders were expressions of the will of the Chaubunagungamaug group and not simply the actions of three Nipmuck individuals who also happened to be leaders of the Nipmuck Indian Council of Chaubuna-gungamaug organization, the petitioner might be able to show that, during these events, leaders articulate issues and take actions that most of the membership considers to be of importance.

The minutes dated January 13, 1986 state that Little Star [Ruth (Morse) Bessette] reported that forty-two families received holiday meals from the council. This council member also reported that toys were given to all the children under sixteen in these families. In so doing, this portion of the minutes from this meeting provides some evidence of individual political leadership and probably even a functioning Chaubunagungamaug Band governing body for the mid-1980's. If the families receiving meals and toys from the council are even part of the petitioning group, which is far from clear, and/or if the resources for these distributions were raised or otherwise provided for by group members, the petitioner might be able to show that one of the functions of group leaders is to redistribute group resources, if only during the month of December. If the resources for such a distribution do indeed come from the membership, the petitioner should document the specific ways by which leaders solicit and obtain these resources from members. Regarding this portion of the minutes of the January 13, 1986, meeting, the petitioner should also show that the efforts to provide toys and Christmas dinners were not simply the acts of a few individuals as individuals but rather were acts of political leadership. Involvement of the membership in these acts, such as through the verbal and/or material support of most members, is critical to demonstrating that most of the membership considered these events to be of importance and/or that these events involved the mobilization of most of the membership.

Other evidence that was considered in the evaluation of whether the petitioner meets 83.7(c) for the 1980's were statements from BIA interviews with seven current or former #69B group

leaders. Interviews with three of these leaders, Mr. Edwin Morse, Sr., Mr. Edwin Morse, Jr. and Mr. Kenneth Leroy White, provided some evidence that the petitioner may meet 83.7(c) for the 1980's if it were to submit supporting material and documentation about the events described in these statements. Mr. Edwin Morse, Jr. mentioned one such event that the petitioner could use to help show that it meets 83.7(c) for the 1980's and possibly even for part of the decade prior to the 1980's. When asked about "the most important issues that the council has dealt with," Mr. Morse, Jr. added to his father's statement. Mr. Morse, Sr. had said that "the biggest and most important thing was getting Federal recognition." Mr. Morse, Jr. then added that other important issues included:

> . . . discussing how many kids needed toys for Christmas or how many families needed Christmas dinners. That's what we've been doing for 20 years [which would have been from about 1978 (but see below) to 1998]. Before we did it, my aunt [Edith E. Hopewell] did it . . . for about 10 years [which would have been from about 1968 to 1978]."

At that point in the interview, Mr. Edwin Morse, Sr. clarified that it was in 1980, not 1978, that he started making food and toy distributions at Christmas time. Notwithstanding the assertion in the above quote that Ms. Hopewell made such distributions from 1968 to 1978 (or possibly from 1970 to 1980 if Mr. Morse Sr. did indeed start in 1980 and Ms. Hopewell did indeed make the distributions for 10 years), the above statement suggests that, from 1980 to the late 1990's, there existed "issues" with which the Chaubunagungamaug Band governing body has dealt (e.g. a dearth of large meals and toys at Christmas). If appropriate, during the response period, the petitioner might choose to submit documentation about these "issues" and activities, beyond the few newspaper clippings that exist about these activities, to help show that it meets 83.7(c) for all or part of the period since 1968, which is when, it is alleged, these activities were begun. In preparing this additional documentation, the petitioner should take great care to show that the federal acknowledgment effort and/or the efforts to provide Christmas dinners were not simply acts of a few individuals but rather were considered by most of the membership to be of importance and/or involved the mobilization of most of the membership. The petitioner should also take great care to show that the efforts to provide Christmas dinners were done in the context of being Nipmuck. For the period prior to the 1980's, there is almost no evidence that these distributions were even done in this context.

A BIA interview with Mr. Kenneth Leroy White also yielded some information that pertains to the 1980's. Mr. White was asked what issues have come up for the council. Mr. White mentioned the issues of "Deer Island," "the Harbor Islands," and the restructuring of the Massachusetts Commission on Indian Affairs. When asked to name and discuss "issues internal to the group," Mr. White did not identify any. Mr. White's identification of Chaubunagungamaug "issues" would be useful in evaluating whether the petitioner meets 83.7(c) if these issues were coupled with evidence that most of the membership considers these issues to be of importance. This said, the point should be made that the suggestion by Mr. White that there may not be any issues "internal to the group" raises the possibility that there may not be any internal conflicts. Criterion 83.7(c)(v) defines ". . . internal conflicts which show

controversy over valued group goals, properties, policies, processes and/or decisions" as important evidence that the petitioner maintains political influence or authority over its members as an autonomous entity. If the petitioner was to provide additional information and documentation showing that most members consider the issues identified by Mr. White to be of importance, the petitioner might be able to provide positive evidence that it meets 83.7(c) for the period from the 1980's to the late 1990's.

Like the above statement by Mr. White, a statement made by Mr. Morse, Sr. in a BIA interview might provide a springboard for the petitioner to conduct additional research toward the end of showing that it meets 83.7(c) for the 1980's. The subject of the statement is the participation of Mr. Morse in parades. On the basis of precedent, this type of participation does not, in itself, provide evidence that the petitioner meets 83.7(c), since it is possible that the participation results from the efforts of individual volunteers. In the cases under consideration, the parades were events that were organized by non-Nipmucks, and generally were hosted by towns in the Dudley-Webster area. Nipmucks were invited to participate. When asked whether any Nipmucks other than himself participated in these events, Mr. Morse, Sr. replied:

> Oh, there was our council. He (?) had a girlfriend at the time - Wayno (?). She had about 8 sisters there with her, and then we had Spotted Eagle, Wildcat, Three Bears . . . There were some girls. There was Eagle Hawk from Rhode Island. He marched with his daughter. A guy named Tall Oak, his wife and kids used to be with us. There much have been at least 40 different people. When we walked there was this guy – sagamore from Sioux – Fire Hawk. He used to walk with us all the time. Some of 'em were Nipmuck. The biggest part of 'em were Nipmuck.

Though in this statement Mr. Morse acknowledges that not all of those who "walked" with him in parades were members of #69B or even were Nipmucks, his statement provides some evidence that he, as a group leader, was able to raise interest among individuals and perhaps even among Chaubunagungamaug Band members to represent Indians (or perhaps even Nipmucks) at public events. Lists of members who participated with Mr. Morse in these events, together with other information about their preparation for participation in these events beyond the few newspaper articles that note Mr. Morse's participation, would strengthen the petitioner's case if the evidence showed more than symbolic activity.

In a BIA interview on July 25, 1998, Mr. Kenneth Leroy White was asked how he was selected to be on the council. More specifically, he asked whether there had been an election or whether his family had simply appointed him. Mr. White said that his family had appointed him. As background information, here it should be pointed out that, elsewhere in the interview, Mr. White reported that he has twice served on the council: he served "for a short time in the late 1980's" and then "came back about three years ago," which was in the mid-1990's. The significance of Mr. White's statement about how he was selected to be on the council is that it suggests that #69B group leaders are appointed by their extended families to represent their family on the group's governing body. In so doing, this statement about how the group selects

its leaders exposes group political processes and asserts a political connection between the membership and leaders, particularly in light of the fact that several sources corroborated this statement by Mr. White.

The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (AS-IA 2/11/2000; 65 *Federal Register* 7052). As discussed above, the petitioner submitted very little argumentation about the period since 1970. An evaluation of most of these arguments appears in the summary evaluation of the petitioner under 83.7(b) for the 1980's, as well as in the 83.7(b) and 83.7(c) charts for the period since 1970. Because the following argument is applicable only to 83.7(c) for the 1980's, it is evaluated here.

This argumentation involves the petition researcher's descriptions of the formal leadership of the Chabunagungamaug Band. In the submission that was made in 1987 (Nipmuc #69 Pet. Response 1987), the petition researcher argued, first, that the "chief" is an inherited position. By way of explanation or illustration, he added that Mr. Morse traces his genealogy back to Black James. Second, he argued that the band council is elected by the band membership. The terms are two years. The petition researcher then briefly discussed the larger umbrella organization for the "band chief" and "band council" of the group that later became #69B. The larger "Nipmuc Tribal Council," he argued, has been composed of the two "band chiefs;" the "sachem," who presides over all; and two additional representatives from each of the two "band councils."

The petition researcher's statements in the last two sentences of the above paragraph were confirmed through interviews. Though the governing body mentioned in the Nipmuck #69 Pet. Response 1987 is that of #69, the statements are relevant to 83.7(c) because they do indicate efforts on the part of the Chaubunagungamaug Band (which was then part of #69) to establish a functioning governing body. The two claims described in sentences three through six of the above paragraph are more problematic. Though the Dudley/Webster Indians did represent a continuation of the settlement established at Chaubunagungamaug by Black James after King Philip's War, there is no actual evidence that Mr. Morse descends from Black James. The position of Chaubunagungamaug "band chief" cannot properly be said to be hereditary. Mr. Morse has been the only one who has held that position since the 19th century, when the last identified leader was from the Jaha family line. The evidence in the record does not indicate that any descendant of the Sprague/Henries family held such a position during the 18th or 19th centuries. Mr. Morse did not assume the title until the late 1970's or possibly even the early 1980's, at which time he was more than 50 years old.

In sum, there is very little evidence for the 1980's. Without additional material and documentation, the evidence is not sufficient to conclude that the petitioner meets 83.7(c) for the 1980's.

1990's. Petitioner #69 submitted its petition and its petition supplement in the 1980's, and chose not to amend or add to the narratives during the eight year period from 1987 to 1995 when its petition was determined to be ready for active consideration. This remained the case after petitioner #69B split from Petitioner #69 in May 1996 and thus substantially changed its nature. The following brief discussion therefore evaluates whether the petitioner meets 83.7(c) for the 1990's using primarily field interview data. Before this data is presented, the other documents in the record, including a videotape that was submitted by the petitioner, will be addressed.

As noted above, the "chiefs" of the Chaubunagungamaug and Hassanamisco Bands, Edwin Morse, Sr., and Walter Vickers, transferred authority for pursuing Federal acknowledgment to NTAP in 1989. Most NTAP documentation in the record does not indicate whether or not an individual was then classified as a member of the Chaubunagungamaug Band, although some documentation indicates that the classification did not include all descendants of identified Dudley/Webster family lines.[171] Neither do the NTAP documents contain significant information concerning Chaubunagungamaug Band activities aside from NTAP. Newspaper coverage and correspondence (Armstrong School to Chief Wise Owl 5/1/1991) indicated that throughout this period, the petitioner continued to conduct various educational activities and to hold an annual powwow (Smock 9/11/1991; Chaugunagungamaug Council Strawberry Moon Festival & Potluck, Chaubunagungamaug Res. 7/1/1995, Listing in 1995 Calendar of Indian social events).[172] In a 1992 newspaper article, a member of the petitioner's council, ". . . said the

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[171]Undated letter, Thomas Humphrey Garr to "Chief Wise Owl" [Edwin W. Morse, Sr.]. Garr indicated that his family were Dudley descendants who had lived in the Brookfields, "I still have people there, but they have chosen either not to get involved or just don't know the status of the tribe," . . . ""When we were children, we were told that we were "quabogs", and to be perfectly honest and at the risk of sounding ignorant, it wasn't until I was discharged from the service after Vietnam, that I found out that Quabogs were Nipmucs . . . Let me get to my point. The literature I'm sending you I.D.'s us, for whatever we may think we are, as Nipmucs. Even though in our hearts we will always be what our parents told us we were. We also realize that we cannot be Chaubunagungamaugs, we found that out recently when we tried to have my grandson named at your Nikomis, but that really didn't matter, we had our own and named him . . . My family met 3 times a year in Spencer, East Brookfield, and sometimes Sturbridge . . . Anyway at this point I would like you to know that none of us is affliated [*sic*] with any group, as there is or has been so much squabbling and to do so we feel that this would only hurt our family group if we were to get involved. So any involvement that we have had in the past, my brother . . . and myself have decided to sever. Even though, we realize that we will need representation in certain matters, and we can think of no one that we respect more than you. So I am sending the documents that you may need. . . We would like to be represented by your council as Quabogs. If this is not possible or you would rather not represent us we will understand, believe me we can take it. We're used to it. Finishing up, it is important to us that all of us is listed on all tribal rolls especially state and fed. Can you help me on that? Even if you decide not to represent us?" (Nipmuc Pet. #69B Suppl., 1990's folder).

[172]However, some of the documentation submitted by the petitioner for this time period pertained to activities sponsored by other organization, for example a flyer for a Native American Indian Pow-wow, a tribute to Gentle Moose, Paul White. Sponsored by New England Native American Institute 2/6/1993. Others indicated that non-members functioned as powwow organizers (Chaubunagungamaug Nipmuck Indian Council invite to 14th annual pow-wow, Greenbriar Recreational, North Oxford, 9/10-11/1994. Local area affiliates: Cheryl Nawoj, Paul Santucci, Patricia Burnham, Sheldon Burnham; Harvestfest Chaubunagungamaug 94; report signed by Loving One: Silva Clan, naming ceremony [this is the Rosita Andrews family--see discussion under membership]; "Chief Wise

tribe was advised that officials in Washington would prefer to deal with one government, not two, although the two clans have operated semiseparately since the 1700s" (Dempsey, Indians' "love" of the land still flourishes, *Worcester Telegram and Gazette* 4/27/1992). The petitioner did not receive this advice from the BIA. The source of this advice is not named in the evidence in the record.

What is clear is that at least some members of the current #69B participated in NTAP events, which included membership drives in several cities and towns in Massachusetts and Rhode Island ostensibly for the purpose of assembling a membership list for the Nipmuck Federal recognition effort. In addition, it is quite possible that part of the petitioning group, and perhaps even a significant portion of the petitioning group, was recruited during these drives and ended up in #69B. The petitioner (#69) provided documentation of the membership drives in the form of copies of flyers that advertized several meetings to recruit and bring together Nipmuck descendants. If it was demonstrated that NTAP events should be considered events of the #69B petitioning group, these flyers would be treated as indirect evidence that the petitioner does not meet 83.7(c) for at least part of the period since 1970. Indeed, lists of individuals located through the search for Nipmuck descendants, if the petitioner were to provide them, may corroborate other evidence which suggests that the petitioning group was formed only recently. A group that has been formed in recent times may not be acknowledged under these regulations.

The petitioner provided a list of Nipmuck adults attending "the annual business meeting" on November 24, 1991. The meeting, which is almost certainly the meeting that is referenced above, occurred before #69B split off from #69 and formed their own group and, as mentioned above, may even be a meeting of a different but related group. This meeting is therefore far from an ideal event with which to evaluate whether the petitioner meets 83.7(c). Nonetheless, the document does suggest that there was at least some interest among Nipmucks in issues raised by Nipmuck leaders. The document does not provide evidence that there is a political connection between the membership and leaders, nor does it show that political process is going on. If the petitioner were to submit additional material, such as a description of the meeting and how, specifically, those who attended the meeting participated, the petitioner might be able to use this document as part of the evidence that it meets 83.7(c) for the early 1990's. Among other things, the nature of the group hosting the meeting needs to be clarified and explained, and a political connection between the membership and leaders that was articulated, expressed, and even produced through group political processes needs to be shown.

If the petitioner wishes to claim that this "annual business meeting" was a #69B meeting, it should specifically address the question of the extent to which it was a meeting of the petitioning group and not a meeting of NTAP or #69 as a whole. If it can be determined that the meeting was a Chaubunagungamaug Band meeting, which appears unlikely on the basis of the evidence in the record, additional information and documentation about the meeting could help show that

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Owl" present; also Sue Kessler; Nipmuc Pet. #69B Submission 2/24/1997).

there is a political connection between the membership and leaders and thus that members of the group maintain a bilateral political relationship with the group.

In the record was a copy of a newsletter for Nipmucks, a newsletter by the name of *Nipmucspohke*. The editor is identified as Cheryl Magos, and the city from which the newsletter is sent out is identified as Branchburg, New Jersey. The editor notes that the newsletter is not affiliated with #69B (or #69A, or, for that matter, #69). The petitioner provided almost no information about the newsletter, making it impossible to evaluate whether this document provides evidence that the petitioner meets 83.7(c). Other evidence (see Ron Little Crow Henries submission of June, 1995), indicates that: 1) The newsletter was started no earlier than 1991 and possibly as late as 1994 and thus cannot provide evidence of whether the petitioner meets 83.7(c) for a very long period of time during the period since 1970, if it can even do so at all; 2) if the mailing list even includes members of the petitioning group, the mailing list extends far beyond the boundaries of the petitioning group and thus the newsletter is of dubious value for evaluating the petitioner; and 3) the newsletter is not an instrument of the petitioning group or even of a petitioning group member. This raises serious questions and doubts as to whether the newsletter can be of any use to the petitioner in helping show that #69B meets 83.7(c). However, if, upon further examination, the petitioner wishes to argue that the newsletter helps show that it meets 83.7(c), it might try to demonstrate, if appropriate, that the newsletter shows, for example, that the petitioner is able to mobilize members and significant resources from members. Toward this end, the petitioner could document how many members are mobilized to help distribute the publication, to help fund the enterprise, and/or to help provide the content of issues. Alternatively, if appropriate, the petitioner could argue that the newsletter shows that members are involved in political processes. Toward this end, the petitioner could identify, for example, debates over group issues that might appear in successive issues of the paper.

In late 1993, the board of the Chaubunagungamaug Council was "re-established."[173] Unlike the 1986 board, with the exception of George Munyan [Little Turtle] it consisted only of members of the immediate family of Edwin W. Morse, Sr. (Chaubunagungamaug Council Minutes [no day or month], prior to 11/15/1993).[174] The record does not contain a clear explanation of the internal controversies within petitioner #69 at the time, specifically no clear explanation of the

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[173]Edwin Morse authorized all Chaubunagungamaug records to be made available to Donald B. Murdock and/or his attorneys or representatives 8/21/1993. Murdock was connected with Casino Magic "with whom we have an exclusive agreement currently in effect." FAXED to BIA by Joe Membrino of Hall, Estill etc. FAX to Holly Reckord 9/3/1993.

[174]Undated minutes, "Meeting of the Chaubunagunamaug [*sic*]. Attended: "Chief Wise Owl" [Edwin W. Morse Sr.], Loving One, Great Owl, Big Tree, Sly Fox, Young Buck, Flamming [*sic*] Star, Little Star, Precious One. First order of business elect a Board. Election was held to re-establish the council. Board re-established consisting of "Chief Wise Owl," Loving One, Great Owl, Big Tree, Sly Fox, Red Tree [Lucille E. Walley], Young Buck, Flamming [*sic*]Star, Little Star. Little Turtle corresponding secretary. Treasurer, Loving One and Big Tree; Secretary, Sly Fox, assistant secretary, Little Star. Agenda: By Laws, charter. Loving One is working on the charter. $5.00 per month dues. Board will get in touch with as many Nipmuc Indians as they can to attend meeting in Dudley, MA, Nov. 21, 1993. Next meeting, Nov. 15, 1993.

relationship between the Chaubunagungamaug Band and the NTAP (Nipmuc Tribal Council Minutes 12/14/1993; Nipmuc Tribe Resolution, Joint Resolution #1 12/15/1993). In November 1993, some board members of the NTAP under the guidance of Ron Henries or Little Crow held nominations for the Nipmuc Tribal Council (Swenson, Magos, and Black Eagle Sun to Record [*sic*] 3/10/1994). On November 22, 1993, Edwin Morse wrote to BAR that: "we have been informed of unauthorized groups and/or individuals implying by correspondence to represent the Nipmuck (Nipmuc) Nation including both the Chaubunagungamaug and Hassanamisco Bands." . . . "In conclusion we hereby request that all activities cease at once regarding the Nipmuc(k) recognition project until we are satisfied that no unauthorized parties are purporting to represent the interests of our people" (Morse to BAR 11/22/1993). This was followed by a December 15, 1993, meeting in Washington, DC, between representatives of both original groups within petitioner #69 and AS-IA Ada E. Deer (Wise Owl, Red Fox, and Little Fox to BAR 12/22/1993; Jennifer Greaney, Nipmucs push for national recognition, *Worcester Telegram & Gazette* 12/28/1993; Wise Owl to Reckord 1/6/1994).

Documentation concerning the ensuing controversy between Edwin W. Morse, Sr. and NTAP concerning a proposed contract with Casino Magic contained no data in regard to political processes within the Chaubunagungamaug Band itself (Nipmuc Nation Board Meeting Minutes 1/18/1994; James Lewis Resolution 1/18/1994; Morse to BAR 2/3/1994; Vickers statement re: NTAP and Nipmuc Nation 2/9/1994; Vickers, Lewis, and Henries Resolution re: NTAP 2/16/1994; BAR meeting with Ronald G. Henries, James Lewis, Walter Vickers, Al Catalano and Sue Ghosch of Murphy and Associates 2/16/1994; Morse to BAR 2/??/1994; Nipmuc Nation Board Meeting Minutes 2/22/1994). In March of 1994, the BIA received an extensive letter concerning these internal disputes from three members (Swenson, Magos, and Black Eagle Sun to Record [*sic*] 3/10/1994). One of the signers, Morse's daughter and a member of the Chaubunagungamaug Band council, joined in questioning the validity of the election of Edwin Morse or "Chief Wise Owl," but also maintained that Walter Vickers and Hassanamisco Band did not have a state-recognized council; while NTAP was not functioning in accordance with its own bylaws (see also Dolly Loving One Swenson to "My Nipmuck Brothers and Sisters" 3/11/1994; registered mail to Attorney Virginia Baylon, Bruce Curless-Commissioner, Lucille Dawson-ANA, Charles Little Fox Hamilton, Ron Little Crow Henries, Edwin Red Fox Morse Jr., Edwin Wise Owl Morse Sr., Mr. Nelson and Mr. Conrad (Casino) Ms. Holly Record-Indian Affairs, BIA (Edwin W. Morse Sr. [Wise Owl] to Kay Davis, BIA 12/10/1994). During this period, however, Morse and his family continued as members of the Nipmuc Nation council.[175]

[175]Listing of Nipmuc Council, names, addresses, phone numbers; submitted by Cossingham: James Cossingham, Ray Cote, Bill Gould, Don Gould, Conrad Luster, Ruth Bessette, Ron Henries, Edwin Morse ("Chief Wise Owl"), Edwin Morse, Jr. ("Chief Red Fox"), Lucyann Swenson)("Dolly") (Loving One), Pam Ellis, Charles Hamilton ("Chief Little Fox"), Mary Ann Hendricks, Pam Vickers, Walter A. Vickers ("Chief Natachaman"); Law Offices of Alan, Scott, Herman 3/--/1995.

In March of 1994, the BIA received an extensive letter concerning these internal disputes from three members (Swenson, Magos,[176] and Black Eagle Sun to Record [*sic*] 3/10/1994). In this letter, Ms. Swenson and Ms. Magos claimed that Mr. Morse's group (now #69B), Mr. Vickers's group (now #69A), and NTAP were "factions" of a larger Nipmuc group. One of the signers, Edwin W. Morse Sr.'s daughter Lucyann Swenson, a member of the Chaubunagungamaug Band council, joined in questioning the validity of the election of Edwin Morse or "Chief Wise Owl," but also maintained that Walter Vickers and Hassanamisco Band did not have a state-recognized council, while NTAP was not functioning in accordance with its own bylaws.[177] During this period, however, Morse and his family continued as members of the Nipmuc Nation council.[178] This letter needs to be addressed separately, though briefly, here. In the letter, the authors claim that Mr. Morse's group (Chaubunagungamaug Band), Mr. Vicker's group (Hassanamisco Band), and NTAP were "factions" of a larger Nipmuc group. Because bitter, faction-like conflicts can provide evidence that political processes extend beyond the organizations to the membership in general, and because internal conflicts which show controversy over valued group goals, properties, polices, processes and/or decisions can reveal that a group maintains political influence or authority over its members, the petitioner might choose to submit additional material about these groups and the relationship of NTAP and the group headed by Walter A. Vickers to #69B. This said, it should be pointed out that it is probable that the conflicts referenced above are not internal to the petitioning group and thus could not be used to show that the petitioner meets 83.7(c).

After the #69 petition was placed on active consideration in July 1995, internal dissension concerning the proper approach to the petition for Federal acknowledgment intensified within the board of the Nipmuc Nation (Morse to Reckord 1/17/1996; Johnson to Reckord 1/21/1996; Nipmuc Nation Tribal Council Minutes 2/21/1996; Nipmuc Nation Minutes 3/2/1996; Johnson to Reckord 3/4/1996; Nipmuc Nation Minutes 3/13/1996; Nipmuc Nation Minutes 3/16/1996; Minutes of Nipmuc Nation Council Meeting 3/27/1996; handwritten and typed notes of Nipmuc Nation Council Meeting 3/27/1996; Vickers to Davis 3/31/1996; Nipmuc Nation Minutes 4/11/1996; Quigley to Reckord and Davis 4/15/1996; Doughton to Geneology [*sic*] Committee, Nipmuc Nation 4/20/1996; Nipmuc Nation Technical Assistance Consultation with ANA 4/20-21/1996; Ellis to Reckord 4/24/1996; Vickers to Davis 4/30/1996).

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[176]Cheryl Magos is the editor of a newsletter for Nipmucs (*Nipmucspohke*) in which she has claimed that the newsletter is affiliated with neither group (see above).

[177]See also Dolly Loving One Swenson to "My Nipmuck Brothers and Sisters" 3/11/1994; registered mail to Attorney Virginia Baylon, Bruce Curless-Commissioner, Lucille Dawson-ANA, Charles Little Fox Hamilton, Ron Little Crow Henries, Edwin Red Fox Morse Jr., Edwin Wise Owl Morse Sr., Mr. Nelson and Mr. Conrad (Casino) Ms. Holly Record-Indian Affairs, BIA (Edwin W. Morse Sr. [Wise Owl] to Kay Davis, BIA 12/10/1994).

[178]Listing of Nipmuc Council, names, addresses, phone numbers; submitted by Cossingham: James Cossingham, Ray Cote, Bill Gould, Don Gould, Conrad Luster, Ruth Bessette, Ron Henries, Edwin Morse ("Chief Wise Owl"), Edwin Morse, Jr. ("Chief Red Fox"), Lucyann Swenson)("Dolly") (Loving One), Pam Ellis, Charles Hamilton ("Chief Little Fox"), Mary Ann Hendricks, Pam Vickers, Walter A. Vickers ("Chief Natachaman"); Law Offices of Alan, Scott, Herman 3/--/1995.

Shortly after a technical assistance visit to the Nipmuc Nation by BIA staff members in the first week of May 1996, the Webster/Dudley Band of Chaubunagungamaug Nipmuc Indians withdrew from the Nipmuc Nation. The formal split in petitioner #69 took place on May 8, 1996 (Chief Wise Owl [Edwin W. Morse, Sr.] to Davis 5/3/1996; Morse to Dear Member 5/7/1996; Nipmuc Nation Minutes 5/8/1996; Chief Wise Owl [Edwin W. Morse, Sr.] to Reckord 5/22/1996; Chief Wise Owl to Vickers 5/22/1996). From that date forward, the Nipmuc Nation is designated for administrative purposes as #69A, while the Chaubunagungamaug Band is designated for administrative purposes as #69B (for further details, see the introductory section on the administrative history of the petition, above). In regard to the separation, Morse wrote:

> There have been excessive irreconcilable differences between us and the Hassanimisco Band and others, and it is our decision to separate. Along these differences have been improper and incomplete genealogies to the extent that many of the members of the Hassanimisco Band and others cannot be proven to be Nipmuck Indians and have subsequently delayed, denied or withheld information regarding genealogies. There have been overt attempts to keep incrininating evidence from surfacing. This is not acceptable to me and my Band (Wise Owl to Reckord 5/22/1996).

For the period since May 1996, most of the documentation in the record pertains to either the Federal acknowledgment process for the current petitioner (Jandrow to Dear Sir 6/5/1996; Weber to Wise Owl 7/4/1996; Weber to Wise Owl 9/4/1996; Wise Owl to Weber 9/4/1996; Weber to Swenson 9/17/1996; Wise Owl to Reckord 9/19/1996; Wise Owl to Davis 10/02/1996; Wise Owl to DiNapoli 10/14/1996; Miller to Wise Owl 2/12/1997) or to continuing controversies with petitioner #69A (Bessett and Swenson to Reckord, n.d. [after 6/19/1996]; Wise Owl to Weld 8/20/1996; Weber to Swenson 8/25/1996; Swenson to Harshbarger 9/11/1996; Wise Owl to Garr 10/19/1996).[179] For a listing of further correspondence on these matters, see the draft technical report for petition #69B. The minutes also devoted a significant amount of discussion to various gaming proposals (Chaubunagungamaug Minutes 2/13/1997; Chaubunagungamaug Minutes 2/27/1997). At one meeting, the minutes stated: "Chief Wise Owl stated that if Washington asked if there was any talk of putting up a casino say no, we plan on building schools, and housing, a medical center, and a community center" (Chaubunagungamaug Minutes 3/27/1997).

When there is evidence of other activities, there is little data concerning how the decision to take the action was reached (Notice of Resolution in Support of Deer Island by Nipmuck Indian Council of Chaubunagungamaug 6/20/1996). Since May 1996, the #69B council has again been formatted to include persons other than the direct descendants of Elizabeth (Henries) Morse, but without a clear explanation of the process by which the membership was changed or the

[179]The BIA received little information from the petitioner explaining its relationship to either #69A or to NTAP for the period following the petitioner's decision to split from #69.

members chosen.[180] In July 1996, the first issue of *Chaubunagungamaug News* stated: "The criteria for being a Chaubunagungamaug is direct blood lineage to a Chaubunagungamaug named on the 1861 Earl [*sic*] Report, or the 1891 Disbursement List." However, at least two members of the council who served between 1996 and the present did not meet this qualification. (Listing of Chaubunagungamaug council members, with addresses 3/27/1997; Nipmuc Pet. #69B Suppl. June 1997).

It was impossible to evaluate whether the petitioner meets 83.7(c) for the late 1990's using the videotape submission by the petitioner entitled, "Homecoming 9/13 - 14/97. Nipmuc Nation - Grafton, MA" (see description under criterion 83.7(b)). From the tape, it is impossible to identify which individuals are the leaders of #69B or even which are members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson, 7/22/98), no conclusions can be drawn about whether the petitioner meets 83.7(c) from this submission.

The BIA received another third party submission, a series of letters from Mrs. Janis Weber, that is also relevant to an evaluation of the petitioner under 83.7(c) for the 1990's. Together, the letters provide an account of how Mr. Weber came to be enrolled in #69B. This account is given by Mr. Weber's wife, who researched Mr. Weber's genealogy and contacted the BIA for information about #69B.[181] In relating the story of Mr. Weber's enrollment, among other things Mrs. Weber reports that it was not until shortly before Mr. Weber was enrolled in the group that he became acquainted with the group's leader, Mr. Morse. Here it should be pointed out that, because Mr. Weber's brother and perhaps other of his primary kin came to be enrolled in #69B as a result of the actions of Mr. Weber, Mrs. Weber's account also implicates the relationship between the extended family of Mr. Weber and the petitioning group. One of the letters makes reference to the fact that, in September of 1996, Mr. Weber and his brother were serving on the #69B tribal council (Weber to Davis 9/16/96). The statement by Mrs. Weber that her husband did not know Mr. Morse until shortly before her husband was enrolled provides evidence that the petitioning group does not represent the incorporation of a long-standing entity, but rather was formed only recently, particularly when viewed in the context of other evidence which suggests that this is the case. In its entirety, the evidence suggests that, with the exception of members of his own extended family, including some of his sisters and their children and grandchildren, Mr. Morse did not know many, if not most, of the members of #69B much before the late 1970's,

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[180]Present "Chief Wise Owl," Moose, Loving One, Star, Ken White, Helping Beaver [Donald Hinckley], Big Bear [Glen Wayland Heath]. Moose: explanation of grounds for separation from Hassanameesit: excess spending of money, Washington came to visit and Hassanamessitt would not allow them into their files. Helping Beaver asked if Grand Casino is going to continue to fund us. "Chief Wise Owl" stated no. Self-election of council (Minutes of Chaubunagungamaug Meeting 6/20/1996).

[181]During the summer and early autumn of 1996, Janis Weber was working as an unpaid researcher for #69B. During the autumn of 1996, she changed her affiliation to #69A, which resulted in an exchange of numerous letters between Lucyann Swenson and Weber (all cc:ed to the BIA) as well as letters directed to the BIA (Swenson to Stearns n.d., received by BIA 3/31/1997).

which was not long before the #69B group seems to have been created. The fact that Mr. Weber and his brother were able to secure seats on the group's governing body only a few short years after they met the leaders of #69B supports the thesis that the group was formed only recently, while the short duration of his affiliation indicates that the group's membership is unstable. Lucyann Swenson shortly thereafter stated to the BIA that, "[w]e still haven't received our documents, genealogies, research papers, old photos, etc..from the Sutton office as well as the stuff Janis Weber has. She is now affiliated with the Sutton office . . ." (Swenson to Stearns n.d., received by BIA 3/31/1997). Other individuals, in addition to the Weber brothers, were also able to secure such positions only a few years after joining the #69B organization, as will be seen below.

The BIA interviews with seven #69B leaders yielded some evidence that the petitioner may meet 83.7(c) for the 1990's if it chooses to submit additional material and documentation to clarify, support, and/or answer some important questions about statements made in these interviews. These interviews also yielded some negative evidence. Some of statements extracted from the interview audiotapes are presented below.

The first set of statements were extracted from the interview with Mr. Edwin Morse, Sr., who reported that 3,000 people attended the Nipmuck gathering during which Ricky Swenson got married. Mr. Morse did not indicate how many of these participants were members of #69B (which has only 212 members in total), nor did the petitioner submit any information or documentation to support the claim of large attendance. Accordingly, the statement of Mr. Morse does not demonstrate, for example, that most of the group considered issues raised by group leaders to be of importance. Likewise, without additional description and/or analysis of the event, the BIA cannot conclude that this event shows that there is political process going on or that members of #69B maintain a bilateral political relationship with the group. The petitioner is invited to submit such information.

Mr. Morse also stated in the interview that tribal council meetings are open to all members. Then, he described the scope of member participation in these events:

> They [members of #69B] can come if they want, but I live so far away from everything they don't come . . . It's always in our newsletter after the meeting. Very few of them come. When I lived in Webster [which, he later said, was when the council meetings started in 1979], we used to have fifty or sixty people come to the council meeting.

Despite giving notice of the meetings in a publication sent to the homes of members of #69B, by Mr. Morse's own admission, few Nipmucks attend council meetings. This suggests that most of the membership may not consider issues acted upon or actions taken by group leaders and the #69B governing body to be of importance. Of course, other factors may explain the low attendance at council meetings. If there is/are other explanation[s], the petitioner should provide it/them for consideration for the final determination.

During the interview, Mr. Morse described the families that are represented in his group. This extraction from the interview audiotapes is provided for informational purposes only. In particular, it helps shed light on the composition of the #69B group as described by its leaders and Mr. Morse in particular. This is important because, as discussed above, for at least several years after #69B was created, the group was comprised almost exclusively of Mr. Morse's extended family.

In the interview audiotapes with the seven #69B leaders, Mr. Morse and others several times stated that each #69B extended family selects a member to represent them on the council. This representation infers that there are four families that comprise #69B: Mr. Morse's family and the three extended families that are represented by Mr. Heath, Mr. Hinkley, and Mr. White (see further discussion under criterion 83.7(e)). Mr. Morse did not explain why he listed two surnames with each individual. Mr. Morse explained the situation as follows:

> My family it's Henries and Sprague. Big Bear [His name is Glen Heath] – he's got Nichols and Brown. His brother, Bert [who is a former council member], same people. Don Hinkley. He is a Dorus? Actually Pegan and Dixon (Or Dorus and Dixon). [Doesn't remember which, he said.] Then there's Kenny White. He's White and Dorus. Then my daughter, Lucyann, and her daughter, Dianne Raymond. And [Wise Owl's] son.

It appears from this statement of Mr. Morse that, at the time of the interview in 1998, four extended families functioned as political units of the #69B group. According to Mr. Morse, at the time of the interview these four families were represented on the council by 1) Mr. Morse, his son, his daughter and possibly his granddaughter, 2) Mr. Heath, 3) Mr. Hinkley and 4) Mr. White.

There were three pieces of information in the interview with Ms. Lucyann Swenson that are relevant to an evaluation of the petitioner under 83.7(c) for the 1990's. First, Ms. Swenson stated that only about 50 people from the membership list of #69B attended the annual powwow at Thompson. There are 212 people on the membership list. If only 50 attend the powwow, less than 25% of the membership attend what the leadership of #69B considers to be the most important Nipmuck event of the year. This low attendance of Nipmucks at the group's most significant annual gathering is all the more striking given than 75% of the membership, or 159 Nipmucks, live within a ten mile radius of the towns of Dudley and Webster, which are very close to the reservation where the gathering is held. If we consider only those Nipmucks who live nearby as able to attend the gathering, we find that as many as 66% are not attending, even though they live as close as a ten minute drive from the annual gathering and even though they receive notice of the date and time of the gathering well in advance through a newsletter that is sent to all members. This raises serious questions as to whether the petitioner maintains political influence or authority over its members. As such, this statement provides some evidence that the petitioner does not meet 83.7(c) for the 1990's, or at least the late 1990's.

Second, Ms. Swenson described a recent event in which her father's sister's child, Bradley (whom she also identified as the son of "Aunt Billie"), called some elders, as she put it, "honkies." Ms. Swenson said that, at the time, Bradley was serving as an apprentice to a medicine man and had moved to the town of Oxford for that reason. Ms. Swenson said that she told Bradley that he was no longer needed in Oxford and that he was no longer welcome in "the circle of elders." Ms. Swenson claimed that, shortly thereafter, Bradley "quit" #69B, enrolled in #69A, and is now "trying to unseat us."

In this statement, Ms. Swenson provided an example of an event in which group leaders discipline a member. By so doing, group leaders seem to be maintaining norms and enforcing sanctions to direct or control behavior. The BIA interviews mentioned only this single example of group leaders disciplining a member, and from data that the petitioner submitted but failed to analyze, the BIA identified only one other similar example. To show that the petitioner has maintained political influence or authority over its members as an autonomous entity, the petitioner should submit descriptions, documentation, and analysis of other similar examples and show that this influence is being exercised by leaders over most of the membership. If appropriate, the petitioner should also submit any material that may exist about dispute resolution by group leaders.

Third, in her brief description of the powwow in September that is hosted by #69B, Ms. Swenson remarked that there is a "public announcement of the new Indian names of kids." When asked to describe and discuss the "naming ceremony," she said only that names are "approved by the circle of the elders. There are usually four elders." This body approves or disapproves the names, she explained, and the ceremony "congratulates on the new name."

The petitioner provided almost no additional information about these events. If, as Ms. Swenson suggests, a body of four individuals exercises some authority by approving or disapproving names, the "naming ceremony" events might provide some evidence that the petitioner meets 83.7(c) for the late 1990's. To use these events to demonstrate this, the petitioner should provide descriptions of these events, preferably in some detail. Given the suggestion that "native names" are conferred upon non-Nipmucks during these events and that the naming ceremonies are public and intertribal (See Interview by BAR researcher with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98), the petitioner should also address questions about the proportion of ceremony participants who are group members and the extent to which these naming ceremonies are held for the general public as opposed to the #69B group.

Several statements that were made in the interview with Mr. Glen Wayland Heath and Mr. Bert Heath are relevant to an evaluation of the petitioner under 83.7(c) for the 1990's. The first such statement was made by Mr. Bert Heath. Bert Heath secured a seat on the tribal council in the mid-1990's despite the fact that he had not even met Mr. Morse until the late 1970's at the earliest, which was when Bert was in his late 30's. Mr. Heath described how he became a council member:

> Little over two years ago, I went on the council. They had some members on there that Chief Wise Owl had appointed, and they just didn't prove out that they were native. Chief Wise Owl said, 'I'd rather have a native on there.' And that's what we did. I had a meeting with the chief. In fact, we had dinner . . . And then he brought me [and?] he said, 'Guess what? Council member!' And then, [unintelligible] three or four months, and then when they made some changes on the council, then I was brought on."

The first part of Mr. Heath's admission fits with other evidence submitted by the petitioner or revealed in interviews, evidence which strongly suggests that, with the exception of members of his own extended family, Mr. Morse did not know many, if not most, of the current members of #69B before the late 1970's, which was not long before #69B appears to have been created. The fact that Mr. Heath, like his brother and the Weber brothers, was able to secure a seat on the group's governing body not long after he met Mr. Morse supports the thesis that the group was formed only recently. Groups that have been formed in recent times may not be acknowledged under the regulations. This said, it should be pointed out that other reasons could explain the selection of such individuals (*e.g.* wealth, influence)

The second piece of information from the audiotaped interviews with the Heath brothers was provided by Mr. Glen Heath. First, Mr. Heath pointed out that he has three aunts, one of whom, he said, did not wish to join #69B because she did not wish to identify "that way," by which he meant as an Indian. Then, Mr. Heath said that, while his aunt Ethel lives in Connecticut, his aunt, Mary, lives in California. He said that, despite the fact that Mary lives in California, she is on the membership list and gets the newsletter. Moreover, he said that he telephones her at least once or twice and month to keep her informed of "what's going on," by which he meant current events and developments with respect to #69B. According to Mr. Heath, he, who is a member of the council as was mentioned above, gives and receives information about #69B matters from members of his extended family, the family whom he represents on the council. This provides some evidence not only that there exists political process in #69B but also that political processes, at least among Mr. Heath's family, "work" in the way that has been described by Mr. Morse, Ms. Swenson, and others who were interviewed by the BIA researcher. To establish that there is widespread knowledge, communication and involvement in political processes by most of the group's members and not simply by members of Mr. Heath's family, the petitioner should provide additional information and documentation.

Last, in the interview with the Heath brothers, one of the brothers mentioned certain activities that, he alleged, occurred during what he described as Nipmuck ceremonies. More specifically, Mr. Heath said that, during some of the gatherings hosted by #69B, the "young people" are instructed about, for example, how to tend the fire and what that means. He explained:

> It's a cultural thing . . . But again, it's intertribal because it's more than just Nipmuck. There are certain people that are friends of Wise Owl and Loving One. They're friends of the band. They're there and they'll always be welcome there.

> Federal recognition or whatever is not going to change their ability to come and set with us. That'll be there . . . We just don't work that way [excluding people].

This brief description of #69B gatherings by Mr. Heath suggests that group leaders may exert influence on the behavior of individual members. If this is the case, and there is no evidence that this is the case, the petitioner should provide detailed descriptions of how, specifically, #69B leaders exert this influence by describing, for example, the ways leaders establish norms, maintain norms, or enforce sanctions to direct or control behavior. The petitioner should also address questions about the extent to which the actions described by Mr. Heath involve members of the group, questions that are raised by Mr. Heath's statement that these gatherings are "intertribal." It is possible that many, if not most, individuals being "influenced" by #69B leaders at these (and other) gatherings are non-members.

Several statements by Mr. Kenneth Leroy White pertain to an evaluation of the petitioner under 83.7(c) for the 1990's. When asked whether there were any meetings with the group as a whole, Mr. White replied that the council meetings are open to the membership, and when asked whether "a lot of people" or "mostly council members" who "usually come" to these meetings, Mr. White said, "mostly council members." Later, Mr. White claimed that fifty to seventy-five people on average come to "the ceremonies," and, when asked, Mr. White said that attendees are "mostly Nipmuck." "There are some non-Indians that come just to see what it's about," he continued. "[But it's] Mostly Nipmuck."

In the first part of this portion of the interview with Mr. White, which involved statements about meetings with the group as a whole, Mr. White provided information about attendance at council meetings during the late 1990's that is corroborated by statements made by Mr. Morse (see Interview with Mr. Edwin Morse 7/22/98). Mr. White's statement about the proportion of Nipmucks at "ceremonies," however, is not corroborated by the statements of other #69B leaders and may even contradict them. If the petitioner were to submit evidence, such as attendance lists, of members of the group who attended these gatherings, the discrepancy between Mr. White's account and other accounts might be resolved, and, more important, the petitioner might be able to show that these gatherings encompassed most of the group and that they show that the petitioner meets 83.7(c).

Last, when asked in the interview, Mr. White replied that a newsletter is published and distributed to the membership about once a month. He then added, "We try to get it out once a month." The petitioner provided almost no additional information about the newsletter, making it impossible to evaluate whether it provides evidence that the petitioner meets 83.7(c). It is unlikely that this newsletter could be of much use to the petitioner in helping show that it meets 83.7(c). However, if, upon review, the petitioner wishes to argue that it meets 83.7(c) through evidence that includes the newsletter, if appropriate it could try to show, for example, that the group mobilizes members and significant resources from members through the newsletter. It could document how many members are mobilized to help distribute the publication, to help fund the enterprise, and/or to help provide the content of issues. It should be noted that this newsletter probably is not the newletter edited by Ms. Magos but rather that of Ms. Swenson, a

council member, who published and distributed a newsletter on behalf of the council (see "Minutes of the 'Nipmuck Indian Council' - Webster," Nipmuc #69 1987 Response, Attachment 3).

Summation. Although evidence is limited for the period from early contact to the establishment of the Chaubunagungamaug reservation in the 1680's, the historical Chaubunagungamaug Band, as a portion of the historical Nipmuc tribe, meets criterion 83.7(c) during this time on the basis of precedent. From the late 17th century through 1870, direct evidence of political leadership provided by petitions and similar documents is sparse. However, in the context of the existence of a reservation upon which the majority (over 50%) of the Chaubunagungamaug, or Dudley/Webster, Indians resided, the historical Chaubunagungamaug Band meets 83.7(c) from the 1680's through 1870 by carryover from criterion 83.7(b)(2). From 1870 through 1891, the only evidence is provided by the group's hiring of a lawyer and pursuit of a suit against the State of Massachusetts. This evidence is insufficient, but indicates that the historical tribe from which the petitioner descends, the Dudley/Webster Indians, may have continued to meet 83.7(c) from 1870 through 1891.

From 1891 through 1976, the record contains no documentary evidence or oral history of continuing formal or informal political influence or organization within the petitioner's antecedent group, whether that group be defined as the Dudley/Webster descendants as a whole, or limited to the direct ancestors of the current members of petitioner #69B. The petitioner does not meet 83.7(c) from 1891 through 1976. For 1977-1980, there is limited evidence that the leaders of the current group began to interact with the Nipmuc group focused on the Hassanamisco Reservation and headed by Zara CiscoeBrough, but there is no evidence that there was political influence or authority within any organization antecedent to petitioner #69B during those three years. From 1981 through 1986, there is evidence that an organization with officers existed, but insufficient evidence that this formal organization exercised political influence or authority over its members who were, additionally, at that period, only a portion of the current petitioner. Though some evidence does exist that the petitioner may meet criterion 83.7(c) for the 1990's, it is limited. Without additional material and documentation, this evidence is not sufficient to conclude that the petitioner meets 83.7(c) from 1976 to the present.

Therefore, the petitioner does not meet criterion 83.7(c).

83.7(d) **A copy of the group's present governing document, including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.**

The petitioner has submitted a copy of its current governing document, which includes enrollment criteria. For further details on all of the following documents, consult the draft technical report for petition #69B.

Prior Governing Documents. The earliest document, dated August 1, 1981, entitled "Nipmuck Indian Council By-Laws," was submitted in 1984 (Nipmuc #69 Pet. 1984). An undated revision was submitted in 1994 (Nipmuc #69 Response 1994, Ex. 6). A third revision of these by-laws was attached to the Chaubunagungamaug Band constitution signed August 9, 1996 (Nipmuc Pet. #69B Suppl. 12/10/1996).

The predecessor organization of the current Chaubunagungamaug Band formally incorporated under name of the "Nipmuc Indian Council, Inc.," according to the laws of the Commonwealth of Massachusetts on January 18, 1982 (Nipmuc Pet. 1984, Ex. 20 [1]). Under category 3 concerning "class of members," paragraph A) stated: "Membership in the Council is open to all Nipmuc Indians or descendants of Nipmuc Indians who are recorded as such on the Tribal Rolls with the approval by Majority vote of the Council. Documented proof of heritage must be submitted and accepted by the Council" (Nipmuc Pet. 1984, Ex. 20 [2]). This provision did not require that applicants be descendants of the Chaubunagungamaug Band, nor of former residents of the Dudley/Webster reservation.

The petition materials on occasion referenced the existence of a Chaubunagungamaug Band constitution dated January 1982 (get cites). No such document was submitted in any of the petition materials by #69, #69A, or #69B. It may have been a mistaken terminology for the Articles of Organization discussed above, or it may have been the otherwise unknown document referenced in the Articles of Organization.

On November 21, 1983, both Walter A. Vickers and Edwin Morse, Sr. signed a "Governing Document of the Nipmuc Tribe" (Nipmuc Pet. 1984, 220-220b). There is no indication that it was adopted by vote of the membership of either the Hassanamisco Band or the Nipmuck Indian Council Inc. [Chaubunagungamaug Band], nor did the document contain any provision for ratification. Since the petitioner #69B has withdrawn from the joint group, this document has no validity for it.

A "Constitution of the Nipmuc Nation" was drawn up and adopted under the auspices of the NTAP in 1993 (Nipmuc Pet. #69A Suppl. 1/21/1997, Attachment C). In the #69A supplementary submission of January 21, 1997, the cover letter to Attachment A stated: "This Constitution was voted on by members of the Nipmuc Nation, on February 21, 1993. Please note both Chief Wise Owl and Chief Walter Vickers approved this process and voting on this referenced date. See back pages" (Nipmuc Pet. #69A Suppl. 1/21/1997, Attachment A Cover Letter). The two back pages consisted of photocopies of ballots No. 25 and No. 146 (absentee), the first signed "Chief Wise Owl" and the second signed "Chief Matachaman Walter A Vickers." Since petitioner #69B has withdrawn from the Nipmuc Nation, this document has no validity for it.

According to the minutes of a meeting held in late 1993, the board of the Chaubunagungamaug Band was "re-established" and officers were elected. Little Turtle was to serve as corresponding secretary. A meeting to revise the by laws and charter was scheduled to be held in Dudley on November 21, 1993. The new council was to be called the Chaubunagunamaug Council. No revised governing documents stemming from this meeting were submitted.

Current Governing Document. On July 31, 1996, the BIA received a copy of the "Constitution of the Chaubunagungamaug Band of Nipmuck Indian [*sic*]," accompanied by a cover letter (DiNapoli to Reckord 7/18/1996). The cover letter was on letterhead of the Nipmuck Indian Council of Chaubunagungamaug; the document itself was undated and unsigned. The BIA received another copy of the same document, each page containing the embossed seal of the Nipmuc Indian Council of Chaubunagungamaug, on December 10, 1996. This may be the constitution referred to in handwritten notes, not formal minutes, taken of a #69B council meeting held July 11, 1996, which mentioned that a by-laws and constitution were "being written up" (Nipmuc Pet. #69B Suppl. 6/19/1997). The five-page document consisted of a preamble and four sections. A one-page by-laws, variant from the 1981 by-laws, with blank spaces for signatures and notarization, was attached to the copy received in July. Section I pertained to membership; Section II to tribal government; Section III to tribal council duties; and Section IV to ordinances and resolutions. It contained no amendment procedures or provisions for adoption or ratification.[182]

A letter sent to the BIA by petitioner #69A on December 15, 1996, referred to a provision concerning inactive members "incorporated into our new constitution adopted on August 8, 1996" (Morse and Morse to BIA/BAR 12/15/1996). The BIA located no such provision in the 1996 constitution submitted by the petitioner. Although the constitution contained no provisions for amendments, on January 13, 1997, a letter from Edwin Morse Sr. and Edwin Morse Jr. sent an amendment to the Chaubunagungamaug constitution which re-defined the family lines to hold council seats (Morse and Morse to Reckord 1/13/1997). It did not indicate the procedure by which the amendment was adopted, or the date, or have additional council signatures.

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

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[182]The Chaubunagungamaug Band of Nipmuck Indian Council issued Volume 1, Issue 1, of a newsletter entitled *Chaubunagungamaug News* in July 1996. The second page included a "1996 Event Schedule." This newsletter made no reference to a preceding or proposed adoption of a new constitution by the organization (*Chaubunagungamaug News* July 1996). The remainder of the documents contained in the #69B mailing received by the BIA on December 10, 1996, were certified with the signatures of the #69B council members, dated November 29, 1996. There was no council certification of the constitution.

However, the August 8, 1996, constitution and the January 1, 1997, amendment, have been submitted by petitioner #69B as its current governing document. Therefore, the petitioner meets the requirements of criterion 83.7(d).

83.7(e)(1)	**The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.**
83.7(e)(2)	**The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. This list must include each member's full name (including maiden name), date of birth, and current residential 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.**

In this petition, the historic tribe from which descent is to be shown is the Dudley/Webster, or Chaubunagungamaug, Band of Nipmuc Indians as established in south-central Worcester County, Massachusetts, from the late 17th through the late 19th centuries. Most (87%) of the members of petitioner #69B descend from persons identified as Dudley/Webster Indians in the 19th century official records created and maintained by the State of Massachusetts which are defined as qualifying documents by the petitioner's constitution, namely the 1861 *Earle Report* and the 1891 distribution list. Such official records comprise evidence acceptable to the Secretary under the 25 CFR Part 83 regulations, 83.7(e)(1)(i-v) (see the listing of precedents on the accompanying charts).

Guardians' records, Federal census records, and similar documents created in the 19th century provide documentation of tribal membership as of the date the document was created, but rarely provide any detailed genealogical data concerning the ancestry of the individuals named, or the tribal affiliation of more distant ancestors in the colonial period. The BIA's evaluation of the requirement of descent from the historic tribe takes these limitations into consideration. The records used by the BIA to examine the assertion of descent from the historic tribe have been the same types of records which have been used to verify descent from a historic tribe in prior

cases.[183] The Federal acknowledgment regulations do not impose a blood quantum requirement for tribal membership. The issue evaluated for Federal acknowledgment is descent. The evaluation therefore focuses on whether the petitioner's ancestors were members of the Dudley/Webster Indians in the 19th century, and that therefore their descendants meet criterion 83.7(e) for descent from the historical tribe.

Eligibility Criteria.[184] The 1981 [Chaubunagungamaug] Nipmuck Indian Council By-Laws (Nipmuc Response 1994, Ex. 6) provided a set of enrollment criteria.[185] These by-laws did not define acceptable "documented proof." Neither the 1983 nor the 1993 joint constitutions contained distinct provisions for membership in the Chaubunagungamaug Band.[186]

On August 9, 1996, the current governing document for #69B, "Constitution of the Chaubunagungamaug Band of Nipmuc Indian," was signed by Edwin Morse, Sr., and Edwin

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[183]In regard to the use of ethnic identifications in individual census enumerations and on individual vital records (births, marriages, and deaths), there was no consistency in the ethnic identifications throughout the entire period for which such official records have been maintained. While some documents identified the persons carried on the records of the guardians of the Dudley/Webster reservation as Nipmuc, or as Indian, others identified ethnicity as non-Indian. Under the regulations, descent from the historic tribe is not evaluated by means of a scorecard (x identifications as Indian vs. x identifications as non-Indian). Rather, since the record contains extensive documentation concerning the ties of the families and individuals to the Dudley/Webster reservation, the inconsistency in specific individual ethnic identifications has no significant impact on the evaluation of petition #69B.

[184]For further details, see the draft technical report for petitioner #69B.

[185]1. Set up established persons who are direct decendants [*sic*] of Nipmuck Indians and recorded as such, only documented proof, must be accepted by council.

2. Members of the tribe must be of Indian descent, but spouses can become associate members, they cannot be elected to office or serve on council, they will be allowed to make motions and take part in discussions (Nipmuc Response 1994, Ex. 6).

[186]The 1983 joint constitution provided that: "Membership in the Tribe (or Nation) shall be determined on the basis of documented proof (birth or death certificate, etc.) of Indian ancestry. No specific blood quota need be met to be eligible for membership in the Nipmuc Tribe (or Nation)" (Nipmuc #69 Pet. 1984, 220). The 1983 constitution did not specify in Article II, Section 1, that the Indian ancestry that qualified a person for membership be Nipmuc. However, when read in context of Article I's statement that the organization consisted of "a number of bands or clans of Indian people who have produced evidence of genealogical relationship to a family or ancestor known to be Nipmuc Indian" (Nipmuc #69 Pet. 1984, 220), this requirement was implied. The 1983 constitution nowhere defined any documents which were regarded as acceptable documentation of earlier Nipmuc ancestry other than "birth or death certificate, etc."

Section I, Paragraph A, of the 1993 joint constitution stated that the following persons were eligible for membership: "Blood descendants of a person or persons identified as Native American and Nipmuc as defined through standards established through the Nipmuc Tribal Council" (Constitution of the Nipmuc Nation 1993, [1]).

Morse, Jr. (Nipmuc Pet. #69B Suppl. 12/10/1996).[187] For circumstances surrounding its adoption and issues of validity, see the discussion above under criterion 83.7(d). Section I, Tribal Membership, prescribed:

> **A. Eligibility**
> Blood descendants of a person or persons identified as Chaubunagungamaug Band of Nipmuck Indian as defined through standards established through the Chaubunagungamaug Band of Nipmuck Indian as being a descendant of a Chaugunagungamaug Band of Nipmuck Indian named on either the 1861 Earle Report of the 1890 Disbursement List (Nipmuc Pet. #69B Suppl. 12/10/1996).[188]
>
> **B. Application for Membership**
> Application for membership shall be by completion of an official registration form.[189]

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[187]The by-laws attached to this constitution, signed by Edwin W. Morse Sr. and Edwin W. Morse Jr. on August 9, 1996, did not provide additional details. The first stated only that, "The Chaubunagungamaug Band of Nipmuck Indians will accept as members persons who are direct descendants of Chaubunagungamaug Nipmuck Indians and recorded as such. Only documented proof must be accepted by council as noted in our Constitution" (By Laws of the Chaubunagungamaug Band 1996; Nipmuc Pet. #69B Suppl. 12/10/1996).

[188]The article contained the further implementing provisions:

> **C. Status Verification**
> The method for determining Nipmuck heritage established for the Chaubungagungamaug Band of Nipmuck Indian is hereby adopted as the uniform research procedure to be utilized in all cases to identify Chaubunagungamaug Band of Nipmuck Indian and to determine if each applicant is of Chaubunagungamaug Band of Nipmuck Indian heritage.
>
> **D. Enrollment**
> A Tribal Roll shall be maintained on which shall be recorded the name of every person living who has applied for tribal membership and who has been certified to be of Chaubunagungamaug Band of Nipmuck Indian Dudley/Webster heritage.
>
> All applicants whose Chaubunagungamaug Band of Nipmuck Indian heritage is certified shall be entered on the Tribal Roll of the Chaubunagungamaug Band of the Nipmuck Indians.

[189]A letter from petitioner #69B to the BIA dated December 15, 1996, enclosed a copy of a two-page membership application in use by the group. This letter stated:

> Our requirements for documentation into the Chaubunagungamaug Band include birth, marriage or death certificates along with any other supporting documentation (family diaries, family Bibles, ect..) For all members tracing back to an identifiable Nipmuck on one of our base rolls, which is either the 1861 Earle Report or the 1890 disbursement list (Morse and Morse to BIA/BAR, 12/15/1996) [original written in all capital letters].
>
> We request that these documents be submitted to our council along with the application for approval/ verification. The council along with our two researchers who are Sue Kessler and

E. Ineligibility
No person shall be certified a member of the Chaubunagungamaug band of Nipmuck Indian while his or her name is on the roll of any other Band, whether Federally recognized or not (Nipmuc Pet. #69B Suppl. 12/10/1996).

The provision entitled "Ineligibility," apparently intended to prohibit dual enrollment, is drafted in such a way that any other group can make an applicant for membership in #69B ineligible for membership by simply refusing to remove his or her name from the membership list, even if they have been formally requested to do so in writing. The way this provision is drafted has the effect of making a substantial number of persons on the #69B membership list submitted for acknowledgment technically ineligible for acceptance by #69B, as they have also been retained on the membership list of #69A (see analysis below).

Membership Lists, 1979-1997.

Joint Lists.[190] The earliest membership list for the modern petitioner was submitted with the 1984 petition for #69 as Attachment 6 (Nipmuc List 1977-1979). The great majority of the persons listed without prefixes, from 028 to the end were descendants of Nipmuc who had lived on the Dudley/Webster reservation, although some were descended from families that never resided on either reservation during the time period for which guardians' and trustees' records exist. The members were not identified by ancestral line, nor were their parents named.

The official membership list submitted by petitioner #69 with the 1984 petition was headed: Federal Acknowledgment Project. Membership Roll of the Nipmuc Tribe: Hassanamisco & Chaubunagungamaugg [*sic*] Bands" (Nipmuc List 1981). This list was accompanied by ancestry charts for most of the members. However, these were frequently incomplete, tracking only to a parent or grandparent, with no indication of the person claimed as the qualifying Nipmuc ancestor. It distinguished those persons who were "legal heirs" to the Hassanamisco Reservation, but did not specify which members were of Dudley/Webster descent.

The petitioner did not submit an updated membership list with the 1987 Response. An updated list, dated April 9, 1995, and headed "Nipmuck Nation Tribal Roll" (Nipmuc List 1995) was a

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Moose [Edwin W. Morse, Jr.] will inform the applicant in writing via certified mail if more information is need. The applicant is also informed on how to obtain this information. Applicants are enouraged to make appointments or call with any questions or problems they may have (Morse and Morse to BIA/BAR, 12/15/1996) [original written in all capital letters].

[190]For a more detailed discussion of the joint lists, see the draft technical report for petitioner #69B.

supplementary submission to the 1994 Response. The "Application for Registration on Nipmuck Tribal Roll"[191] stated in the first paragraph:

> Individuals of Nipmuck ancestry may be added to the tribal roll pending approval by the council. Acceptance will be based upon the evidence of legal documents (certificates of birth or death) either stating "Indian" - "Nipmuck" - or "Native American" or a documentable blood relationship to a registered individual or family (Application for Registration 1994).

This paragraph alone would have implied that non-Nipmuc Indians were eligible for membership. However, the fourth paragraph contained the following additional requirement:

> Please note; Only the blood decendants [*sic*] of identified Nipmuck ancestors will be considered for enrollment in theNipmuck Tribe (Application for Registration 1994).

Pages 1-51, received by the BIA on July 11, 1995, covered persons then considered members of the Chaubunagungamaug Band and was certified by representatives of both bands.[192] The BIA received page 58, headed headed "Chaubunagungamaug Tribal Roll Continues," on September 5, 1995. The BIA concluded that after omitting duplicate entries and 11 deceased persons, the Chaubungungamaug Band was listing 706 members.[193] The allocation of membership on the 1995 list is of particular interest in that later, at the time of the 1996 split between the Chaubunagungamaug Band and the Nipmuc Nation, Chaubunagungamaug would insist on descent from the Dudley/Webster reservation as the basic eligibility criterion, excluding the *Earle Report*'s "Miscellaneous Indians" category. It clearly was not making this requirement in 1994/1995, which would be the root of several later membership controversies (for more detail, see the draft technical report for petition #69B).

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[191]On August 24, 1994, Edwin Morse Sr. furnished the BIA with "one copy each of our TRIBAL ROLL APPLICATION form and a form for ASSOCIATE MEMBERSHIP." He stated, "Obviously, there is no connection, nor is any connection implied, between the very distinct categories of tribal roll (heritage) and associate membership (inter-cultural organization)" (Morse to Reckord 8/24/1994) [emphasis in original]. Both membership forms were on the letterhead of the Nipmuck Indian Council of Chaubunagungamaug.

[192]It was signed by: "Chief Wise Owl" Edwin Morse, Lucyann Loving One Swenson, "Chief Matachaman" (Walter A. Vickers), Pam Vickers, Conrad J. Luster, Pamela A. Ellis, James Eagle Hawk Cossingham, Wm. W. Gould Sr., Donald R. Gould, Ronald Little Crow Henries, Ruth Star Bessette, "Chief Red Fox" Edwin Morse Jr. (Nipmuc List 1995, 51).

[193]The "band" attributions on this list did not correlate to documented ancestry. The 1995 "Hassanamisco" included some persons of Dudley/Webster ancestry. The 1995 "Chaubunagungamaug" listing included not only descendants of Dudley/Webster reservation Nipmuc, but also at least one family line that never appeared before or since on any of the petitioner's membership lists, and, for the first time on an official membership list submitted by the petitioner, numerous persons descended from persons on Earle's 1861 list of "Miscellaneous Indians." An undocumented Tingley ancestral line was included for the first time.

Petitioner #69B submitted a series of documents which indicate that #69, the joint petitioner, still did not have firmly established membership eligibility criteria several months after the submission of the 1995 membership list. An agenda for a council meeting of the Nipmuc Nation on March 2, 1996, included as one of the items to be considered, "Establishing a certified Base list" (Nipmuc #69B Suppl. 6/19/1997). The minutes of the same meeting, March 2, 1996, contained extensive discussion of the establishment of a base roll, completion of a membership roll, and Nipmuc ancestry. On April 30, 1996, William A. Starna, Research Associates, sent a memorandum to Pamela Ellis, Nipmuc Tribe. In this monthly report, he stated: "Despite apparent actions by the tribal council, the researchers have yet to receive copies of tribal resolutions that approve either the membership criteria, the selected base rolls, or the process under which individuals may apply and be approved for membership" (Nipmuc #69B Suppl. 6/19/1997). This was the status of membership eligibility in the joint petitioner immediately preceding the split which occurred in May 1996.

Prior #69B Membership Lists since May 1996. Between May of 1996 and February of 1997, petitioner #69B submitted a series of membership lists which stood in an uncertain relationship to one another. The lists were as follow:

On May 31, 1996, the BIA received a membership list headed "Nipmuck Tribal Roll of Chaubunagungamaug" (Nipmuc #69B List 5/31/1996). It was uncertified and provided to the BIA by Robert DiNapoli, an investor who was working with the petitioner. The individual membership numbers were newly assigned. It included some persons noted as deceased. It contained 70 names, but appeared to be missing every other page, as there was a consistent pattern to the omitted numbers. It contained members of some family lines, specifically Comee and Tingley, that would not appear on the subsequent #69B lists.

Later certifications submitted by petitioner #69B referred to a membership list adopted on August 8, 1996, and submitted on November 20, 1996 (Nipmuc #69B Certifications 12/10/1996).[194] The BIA did not receive such a submission and believes that these certifications pertained to the next item.

On October 16, 1996, "Chief Wise Owl" [Edwin W. Morse Sr.] faxed to the BIA a 41-page membership list with a cover page that read: "Full Tribal Roll Printed August 23, 1996. Inactive Members marked INACTIVE in upper right corner" (Nipmuc #69B List 8/23/1996). The list was uncertified. It had apparently been compiled by Robert DiNapoli, an investor working with the group.[195] A second partial copy, marked up, was faxed to the BIA by Janis Weber, a

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[194]Signed by Edwin Morse Sr., Edwin Morse Jr., Lucyann Swenson, Richard Rigney, Glenn Heath, Susan Kessler, Donald Hinckley, Kenneth White, on November 29, 1996.

[195] On October 15, 1996, Edwin W. Morse Sr. faxed a #69B "Mailing List" to Dr. Robert Stearns, BAR, on 10/15/1996 (Nipmuc #69B Mailing List 1996). It had slightly variant individually assigned membership numbers from the official list. The BIA received another copy of this partial, uncertified mailing list from Morse on October 28, 1996. The mailing list included people who were not on the membership list, and was useful in that it

researcher, on October 29, 1996. On December 12, 1996, the BIA wrote the group with some questions pertaining to the list (Reckord to Morse 12/8/1996). On December 10, 1996, Edwin W. Morse, Sr., replied that the membership list adopted August 8, 1996 [*sic*], and submitted to BIA on November 20, 1996 [*sic*], was official. The dates for adoption of the membership list given in this letter did not match the ones on the list that Morse faxed to BAR.

The list contained 374 names. Sixty-five persons were marked "INACTIVE." These were primarily descendants of a Natick/Ponkapoag family from Stoughton, Massachusetts (see discussion below, under "Membership Controversies," of the #69B membership questions raised by Rosita Andrews), but included also the three marked as deceased and a scattering of others. The petitioner responded to BIA questions about how the categories were to be handled (Maddox to Morse 12/8/1996) by saying that the inactive members should be omitted from consideration in analyzing the list, which provided a membership of 309.

A large proportion of the persons on this list were Sprague/Henries/Morse descendants; more were Sprague/Henries and Sprague/Nichols descendants. There were also Dorus descendants and a nuclear family which claimed, but could not document, descent from the Hassanamisco Stebbins family.[196] A #69B council member contacted the BIA with numerous membership questions, including those pertaining to adoption of Hassanamisco families into Chaubunagungamaug, whether the Chaubunagungamaug Band and Hassanamisco Band could have the names of the same people on both rolls, and whether the BIA would permit #69A and #69B become one again if the differences were worked out (Hinckley to Reckord, telephone inquiry, 10/21/1996). The BIA replied in writing to the head of the group, with a cc: to the council member (Maddox to Morse 11/26/1996).

Current #69B Membership List (February 10, 1997, Membership List, #69B). The #69B supplementary submission received by the BIA on February 24, 1997,[197] contained a #69B membership list dated February 10, 1997, and certified on February 17, 1997, by "Chief Wise Owl" Edwin Morse Sr. and "Chief Red Fox" Edwin Morse Jr. (Nipmuc #69B List 2/10/1997). Their signatures were witnessed, but the list was not certified by the full #69B council. This list, analyzed by the BIA for purposes of the proposed finding, contained 212 individuals, of whom 93 are also listed as members by #69A.

Membership Controversies. The split in petitioner #69 that occurred in May 1996 has resulted in continuing controversies between the two current petitioners. On May 7, 1996, Edwin W. Morse

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indicated that significant numbers of the members were grouped together for mailing purposes (20 at one address, 31 at another address). The functioning address was frequently that of a grandmother or grandfather.

[196]On July 28, 1997, the BIA received a letter from the " Webster/Dudley Nipmuc Indians" (unsigned) indicating removal of the adult head of this family from membership on the #69B council because there was no documentation of Nipmuc descent (Webster/Dudley Nipmuc Indians to BIA, 7/28/1997).

[197]This submission also contained some supplementary genealogical charts and other data.

Sr. sent a letter to persons eligible for membership in #69B by which they could affirm their membership in writing. The petitioner submitted copies of these letters to the BIA.[198] Many were not signed by the individual, but by the head of a family (a parent signing for adult children, etc.) There was no indication that the person signing on behalf of minor children was the custodial parent or legal guardian.

Petitioner #69A, which defines itself as including the entire Nipmuc Nation, including the descendants of the Dudley/Webster reservation, has continued to send correspondence to the persons who chose to affiliate with petitioner #69B. Edwin W. Morse Sr. has protested this practice,[199] as have other members of the #69B council (Swenson to Reckord n.d., received by BIA 8/22/1996; Swenson to Henries 4/20/1997). On March 18, 1997, the #69B council members wrote to #69A objecting to the use of their members' names on the #69A roll (Morse to Nipmuc Nation Tribal Office 3/18/1997). The nature of the controversy between the two groups is indicated by the fact that the #69A council member who responded to this letter, Ronald G. Henries Sr., is a first cousin of Edwin W. Morse Sr. and descends through the same Sprague/Henries family line. On April 18, 1997, he replied with a discussion of enrollment procedure (Henries to Wise Owl [Morse] 4/18/1997). The #69B members have, in some cases, not followed appropriate procedures in requesting the removal of their names from the #69A membership list.[200] On June 3, 1998, the BIA received an extensive mailing from Lucyann Swenson, with a cover letter dated May 4, 1998, in triplicate, in triplicate, concerning the continuing membership controversies (Swenson to De Marce [*sic*] 5/4/1998; Nipmuc #69B admin file).

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[198]The #69B packet (undated) containing copies of signed letters of individuals choosing to affiliate with #69B was received by the BIA on January 14, 1997.

[199]Letter of Edwin Morse to Nipmuc Nation Tribal Office re: letter that they sent out to both #69A and #69B requesting that genealogical charts and accompanying documentation be sent to the Sutton office (Morse to Nipmuc Nation Tribal Office, 7/9/1996).

Form letter from the Nipmuc Nation Tribal Office saying, "You may now officially consider yourself an official member of the Nipmuc Nation, . . . Your name has been entered on to the tribal roll and forwarded to the United States Bureau of Indian Affairs. Your membership in the tribe will help the Nipmuc Nation earn its just place as a Native American Tribe formally recognized by the Government of the United States" (Nipmuc Nation Tribal Office to Dear Member, 7/30/1996). Edwin W. Morse Sr. faxed a copy of this letter addressed to one of his granddaughters to the BIA on August 30, 1996, with the handwritten notation "This is a letter sent out by the Sutton office. Will you let me know if it holds any water. They are sending them to my family" (Morse to BIA 8/30/1996).

"To Nipmuc Nation Tribal Office from Nipmuck Council of Chaubunagungamaug, Chief Wise Owl" . . . "It has come to my attention that a recent letter has gone out from your office to members of both the Chaubunagungamaug Band and the Hassanamisco Band requesting that genealogical charts and accompanying documentation be sent to the Sutton office. The problem with this letter is that it went under my name and with a signature that is allegedly mine." . . . (Morse to Nipmuc Nation Tribal Office 9/9/1996).

[200]The BIA received a copy of a letter written by a sister of Edwin W. Morse to the Nipmuc Nation that stated, "I want you to remove me and my family from your tribal list immediately, I belong to Chief Wise Owls clan" (Mansker to Henries 5/22/1997 [emphasis in original]). This request included the names of numerous persons over 18 who are legally responsible for their own enrollment, and was not clear that Ms. Mansker was the parent or legal guardian of those persons under 18 whom she listed.

In another controversy related to the split between #69A and #69B, but not part of the direct controversy between the two groups, a family of Natick/Ponkapoag descendants, headed by Jeannette Silva and Rosita Andrews, and calling itself the Silva Clan, have written repeatedly to the BIA because the family wants to be in #69B rather than #69A (Andrews to Steam [*sic*] 1/12/1997; Andrews to Record [*sic*] 6/13/1997; Andrews to Reckord 9/26/1997). Ms. Andrews included documentation that in 1994, "Chief Wise Owl" [Edwin W. Morse Sr.] had welcomed them. The BIA replied with copies of the current #69B constitution and membership eligibility standards (Reckord to Andrews 7/25/1997), which differ from those that were used by #69 in 1994, and confirming that the names of this family were currently on the membership list submitted by #69A but not on the membership list submitted by #69B. It remains, however, the case that the names of the Silva Clan were included on the #69B membership as late as August 1996, even though marked INACTIVE (see discussion above). Control over membership is the prerogative of the petitioner. Although their names were carried on earlier lists, the members of this line do not meet the constitutionally prescribed requirements of the petitioner.

The 25 CFR Part 83 regulations address only issues of dual enrollment with federally acknowledged tribes — not issues of dual enrollment with other petitioners. However, during the comment period following publication of this proposed finding, the petitioner should clarify all of the dual enrollment problems in relation to petitioner #69A.

Ancestry. Of the persons listed as Dudley/Webster Indians on the 1861 *Earle Report* and the 1891 disbursement list--the two basic qualifying documents accepted by the #69B constitution as providing eligibility for membership--the BIA has determined that the following family lines are known to have living descendants (for further details see the background genealogical report, Nipmuc GTKY File, BAR).[201] Of them:

Esther Jaha's line has descendants only in #69A;
Esther Humphrey's line currently has descendants only in #69A; a few were included on a prior #69B list;
James Pegan [Wilson]'s line has descendants only in #69A;
James E. Belden's line has descendants only in #69A;
Lydia Ann (Sprague) Nichols Shelley Henries' line has descendants in both #69A and #69B;
Betsey (Pegan) White's line has known descendants only through the Henries family, which also descends through Lydia Ann Sprague, as noted above: it has descendants in both #69A and #69B.

[201]The individuals listed on the 1861 *Earle Report* and the 1891 disbursement list have been traced to ancestors named on early 19th century guardians' reports for the Dudley/Webster reservation. In several instances, these families could be traced well into the 18th century (for more details, see the background genealogical report, Nipmuc GTKY File, BAR, and the draft technical report for petition #69B).

A large numerical majority of the known Dudley-Webster descendants remained with #69A at the May 1996 split. More Dudley/Webster family lines are represented in #69A than in #69B. Current members of #69B now claim eligibility through Lydia Ann (Sprague) Nichols Shelley Henries (descendants of Lydia Ann Sprague's other children are in #69A or not enrolled):

Through her daughter Hannah (Nichols) Brown (descendants also in #69A)
71 of 212 members (none dually enrolled with #69A)
Through her son Walter S. Henries (descendants also in #69A)
4 of 212 individuals (3 dually enrolled with #69A)
Through her son Winfred Henries[202] (descendants also in #69A), all through one of his daughters, Elizabeth Rogers (Henries) Morse.
110 of 212 individuals (79 dually enrolled with #69A).

Basically, therefore, the petitioner's members who are eligible under its own constitution all descend through one woman, Lydia A. Sprague, while more than half of them descend through one of her granddaughters, Elizabeth Rogers (Henries) Morse.

Additionally, #69B has 25 members who claim eligibility through a Dorus line that appeared on no Dudley/Webster records. The name "Polly Dorus" did appear on the 1890 distribution list, but it is not clear from the documentation that it pertained to the same woman named Polly Dorus who was the ancestress of these members (the death record and the Worcester County, Massachusetts, probate record associated with the 1886-1891 disbursement process are in conflict). Eleven of these 25 persons are dually enrolled with #69A.

The final membership list for #69B also included one Hazzard/Ransom descendant and one Thomas descendant (neither dually enrolled with #69A). Neither is eligible for membership by #69B's standards. It also contained five persons whose claim to descend from the Hassanamisco Stebbins line is undocumented, and whose membership was suspended subsequent to the date of the final membership list.

Summation. In this petition, the historic tribe from which descent is to be shown is the Dudley/Webster, or Chaubunagungamaug, Band of Nipmuc Indians as established in south-central Worcester County, Massachusetts, from the late 17th through the late 19th centuries. Of the members of #69B, 185 of 212 (87%) descend from the historical Dudley/Webster Band of Nipmuc Indians, and meet the petitioner's own membership requirements. Another 25 of 212 (12%) descend from Indians traditionally resident in northeastern Connecticut and south-central Massachusetts, but have not been shown to be of Dudley/Webster Nipmuc descent, or of other Nipmuc descent. Only 1% of the membership has not documented Indian ancestry. Eighty-

[202]Betsey (Pegan) White has known descendants only through one great-granddaughter Angenette (Arkless) Henries, wife of Winfred Henries, above. Therefore, while she provides additional Nipmuc ancestry for the 110 Henries family members who descend from that couple, those descendants still come through the marriage of one couple.

seven per cent of members showing descent from the historical tribe is within precedents for meeting criterion 83.7(e) (Jena Choctaw PF 1994, 12; Jamestown Clallam PF, 1980, 4; Chinook PF 1997, 39; Principal Creek PF 1984, 4; Samish Amended FD 1995, 14).

Therefore, the petitioner meets criterion 83.7(e).

83.7(f) **The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe. However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe. The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.**

No members of petitioner #69B are known to be dually enrolled with any federally acknowledged American Indian tribe. Therefore the petitioner meets criterion 83.7(f).

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

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

CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION A - The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.

Summary of the Evidence: On June 5, 1890, the Massachusetts legislature resolved that the sum of money owed to the "Pegan Indians," otherwise known as the Dudley/Webster Indians or the Chaubunagungamaug Band, should be paid to the commissioners for *per capita* distribution, and instructed the commissioners to compile a list of all *bona fide* descendants of the Pegan Indians alive in 1869 at the time of enfranchisement. The funds were distributed on January 13, 1891, which represented the termination of the last vestiges of state supervision over the group. Documentation levels dropped off sharply in succeeding years.

The 1984 petition for Federal acknowledgment dealt with the lack of identification of an Indian entity at Dudley/Webster throughout much of the 20th century by presenting the argument that the petition was on behalf of all Nipmuc Indians, and that therefore, it was adequate to show documentation for Hassanamisco (Grafton) when there was none for Chaubunagungamaug (Dudley/Webster) and *vice versa*. However since the current petition, #69B, pertains only to the Chaubunagungamaug Band, or specifically the descendants of the Dudley/Webster Indians, this technique is not applicable. Petitioner #69B did not arrange its supplementary submissions by criterion, but rather chronologically, by decade, and did not present specific arguments concerning how it perceived the group to have met criterion 83.7(a) from 1900 to the present. Consequently, the BIA researcher surveyed the evidence submitted in petitions #69, #69A, and #69B to identify all those items which might be pertinent to criterion 83.7(a) for the current petitioner, and evaluated them.[1]

[1]Throughout the chart for criterion 83.7(a), the boldface listing, for example **(a)(6)**, in the column "form of evidence" does not indicate that the item of evidence under analysis met the criterion under that form of evidence. Rather, it indicates the BIA researcher's determination of the category or type of evidence into which the document discussed could best be construed to fall. Technical problems associated with the table format of the charts do not permit the repetition of this footnote on each chart page.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1900-1909	(a)(1) Federal Census of 1900 (NARA T-623, Roll 151, Roll 152, Roll 691, Roll 692, Roll 695).	Some Dudley/Webster descendants, including both direct and collateral ancestors, of the present petitioner, were listed on the special Indian Population schedules in the Town of Webster, Worcester County, Massachusetts (NARA T-623, Roll 695, 65A, ED1698, Sheet 1 #13/14). Others were living in neighboring Dudley, and in proximity to one another (NARA T-623, Roll 691, ED1604, Sheet 11A, #106/200, 107/201; Sheet 11B, #110/212). Not all of the known descendant families in Webster were on the special Indian Population schedules (NARA T-623, Roll 695, 62A, ED1698, Sheet 15 #228/361). Another cluster of descendant families was living in nearby Woodstock, Connecticut (NARA T-623, Roll 152, 230B, ED533, Sheet 3B #65/70; 231A, ED533, Sheet 4A, #80/85; 247A, ED534, Sheet 7, #149/155 and #149/156) and Killingly, Connecticut, with different family lines sharing the same households (NARA T-623, Roll 151, ED516, Sheet 16, #290/355 overwritten #287/369).	Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. It does not require identification of the [Indian] entity as being a tribe (Duwamish PF 1996, 4). Huron Potawatomi PF 1995, 4, and MBPI PF 1997, 3, noted that (a) was met when census enumerators stated that the enumerated individuals constituted an "Indian village" or "Indian colony." Before the 1994 regulations clarified that the focus of (a) was on an "entity," previous findings cited census classifications as evidence of an identification of individuals as Indians.	While this material is useful for showing continuing community under 83.7(b) and descent under criterion 83.7(c), it does not constitute an external identification of an entity under 83.7(a).	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1900-1909	(a)(1) U.S. Senate Hearing, 1900 (Hearing 1900, 110).	A U.S. Senate Hearing on "New York and Rhode Island Indians" included a "List of Massachusetts residents claiming to be Narragansett heirs," dated August 5, 1897.	Narragansett PF 1982, 8; San Juan Paiute PF 1987, v, and FD 1989, 4; and MBPI PF 1997, 4, provided examples which were accepted as meeting (a) of identification of a group by a Federal official.	The list included two descendants of the Dudley/Webster Indians claiming to be Narragansett — not Nipmuc — heirs. As the claim did not come through the Nipmuc side of these families, and no Nipmuc entity was identified, the documentation does not pertain to criterion 83.7(a).	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1900-1909	(a)(5) Hodge 1907, 2:74-75; Mooney 1928, 4.	Scholarly reference works.	Narragansett PF 1982, 9; Death Valley PF 1982, 4; San Juan Paiute PF 1987, v, and other cases have provided examples which were accepted as meeting (a) of a group having been described in a published article by a scholar.	Hodge's *Handbook of American Indians North of Mexico* contained only a historical notice concerning the Nipmuc, with no reference to any events subsequent to King Philip's War in the late 17th century. Mooney listed the Nipmuc as extinct by 1907.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1910-1919	(a)(1) 1910 Federal Census (NARA T-624, Roll 144, Roll 630).	Several Dudley/Webster Indian families were still in Webster itself (NARS T-624, Roll 630, ED1834, Sheet 22A #289/259) and identified as "Indian," but not included on the special Indian Population schedules that year. Other families were located in Woodstock, Connecticut (NARA T-624, Roll 144, ED598, Sheet 2A #29/29, #29/30; Sheet 2B, #35/36). The family ancestral to the majority of the members of petitioner #69B was not located in 1910: evidence from birth records of the children indicated that they were probably living in Providence, Rhode Island. The petitions for #69, #69A, and #69B submitted only limited census material for this year; BIA researchers made only limited additional use because of the absence of Soundex indexes for Massachusetts and Rhode Island.	Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. Huron Potawatomi PF 1995, 4, and MBPI PF 1997, 3, noted that (a) was met when census enumerators stated that the enumerated individuals constituted an "Indian village" or "Indian colony." Before the 1994 regulations clarified that the focus of (a) was on an "entity," previous findings cited census classifications as evidence of an identification of individuals as Indians.	The data located did not include all the ancestral families of the petitioner. Identifications as "Indian" were of individual families, rather than of a group or entity. While census material is useful for showing continuing community under 83.7(b) and descent under criterion 83.7(e), it does not, unless it shows a residential tribal group, constitute an external identification of an entity under 83.7(a).	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1910-1919	(a)(5) Last Survivor of the Nipmucs, *Boston Sunday Herald*, September 6, 1914.	This was an article concerning Angela (Sprague) Leach. Her immediate recollections were vague, because of the early deaths of her parents. She had been bound out, and then married a local white farmer.	Jena Choctaw PF 1994, 2, and Chinook PF 1997, 7, provided examples which were accepted as meeting (a) of local newspaper identification of a local Indian group or its leaders.	Nothing in the article indicated the existence of a continuing Indian entity.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1920-1929	(a)(1) Federal census of 1920 (NARA H-562, 1920 Soundex Index, Massachusetts; NARA T-625, Roll 198, Roll 745).	More Dudley/Webster descendant families were located in 1920 than in 1910 in Massachusetts; some were identified as Indian by the enumerator (NARS T-625, Roll 745, ED 32, Sheet 3B #35/59), but others were not (NARS T-625, Roll 745, ED 32, Sheet 10B #99/186). Some were still in Woodstock, Connecticut (NARA T-625, Roll 198, ED369, Sheet 9A #199/206), while some children of the Henries family were located in Rhode Island (NARS T-625, ED310, Sheet 2, Line 86; ED 70, Sheet 77, Line 77). The direct ancestress of the largest number of the petitioner's members was not located on the 1920 census (the petitioner's records indicated that she had married in 1918 at Wayland, Massachusetts).	Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. Huron Potawatomi PF 1995, 4, and MBPI PF 1997, 3, noted that (a) was met when census enumerators stated that the enumerated individuals constituted an "Indian village" or "Indian colony." Before the 1994 regulations clarified that the focus of (a) was on an "entity," previous findings cited census classifications as evidence of an identification of individuals as Indians.	The data located did not include all the ancestral families of the petitioner. Identifications as "Indian" were of individual families, rather than of a group or entity. While census material is useful for showing continuing community under 83.7(b) and descent under criterion 83.7(e), it does not, unless it shows a residential tribal group, constitute an external identification of an entity under 83.7(a).	This census material does not meet (a) for 1920. This material does not constitute an external identification of an entity under 83.7(a).
1920-1929	(a)(6) McMullen 1994; Braxton to Bicknell 12/30/1923; Nipmuc #69 Pet. 1984, 135.	Thomas Bicknell's Algonquian Council of New England carried the name of John Braxton as a "Nipmuc tribal sachem," on December 30, 1923, Braxton, describing himself as "Chief of Nipmuc," provided to Bickness "as complete a list, as possible, of names of the Nipmug [*sic*] tribe," which was in fact a list of 37 members of the Belden family, whom he described as "lineal descendants of Black James." The 1984 petition commented that, "his exact connection with the Dudley-Webster band is a matter of some conjecture. He appears on none of the tribal lists of the time" (Nipmuc #69 Pet. 1984, 135).	For examples of identifications by other Indian tribes and organizations which meets (a), see Grand Traverse Band PF 1979, 4; Death Valley Shoshone Pf 1982, 8; Poarch Creek PF 1983, 3; San Juan Paiute PF 1987, vi. Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. For identification of entities under 83.7(a)(6), cf. "The petitioner . . . has been identified by and accepted for membership in both regional and National American Indian organizations" (Snoqualmie PF 1993, 6), and "the petitioner 'has been a member of NCAI since 1978'" (Narragansett PF 1982, 9).	Bicknell's undertaking was not an association of entities in the same sense as NCAI. His main involvement was with the Hassanamisco Nipmuc, but one photograph submitted indicated the participation of at least three Dudley/Webster Indian descendants from the Jaha family line in the Indian Council of New England (also called the Algonquin Council of New England) as it existed from 1923 to 1926 (Pet #. 69A Suppl.). In 1923, Braxton resided in Allston, Massachusetts; later at Roxbury, both of which were near Boston. The material does not identify an existing Indian entity, but only descendants of individual Dudley/Webster Nipmuc families. No direct ancestors of the current membership of petitioner #69B are known to have participated.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1930-1939	(a)(1) Report on New England Indians, prepared by Gladys Tantaquidgeon for John Collier, COIA, 1934.	Although Tantaquidgeon is known to have made the acquaintance of various Nipmuc, both Hassanamisco and Dudley/Webster, during her association with Bicknell (Sarah Cisco to Bicknell 10/12/1924; McMullen 1994, notes p. 4), her 1930's survey of New England Indians did not include either group.	Narragansett PF 1982, 8; San Juan Paiute PF 1987, v, and FD 1989, 4; and MBPI PF 1997, 4, provided examples which were accepted as meeting (a) of identification of a group by a BIA official. See also specific use of this report (Mohegan PF 1989, 2).	This report provides no evidence for the existence of an entity.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1930-1939	(a)(4) Holley c. 1937; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1910).	Field visits by Helen G. Holley, who interviewed the non-Indian husband of the late Angela (Sprague) Leach. "Little can be found of Mrs. Leach's background before she came to Sturbridge. That she belonged to the Christianized Indians who early adopted white ways is known for certain. Though the old grandmother told her many old legends of her people, white folks in general were not interested and Angie was not talkative." Holley also interviewed Walter Henries, another collateral ancestor of the members of the current petitioner, who lived in Quinebaug, Connecticut, but found the results disappointing. He: "seemed like a promising person, but actually knew very little of his origin, . . .He said he was a Nipmuck Indian but of what local tribe he could not say. He was born in "Brimfield Four Corners", which is East Brimfield. His mother traveled around peddling baskets and mats, which she made. . . His mother's maiden name was Sprague. This was a family name belonging to Pegan Indians formerly on the reservation in East Webster, but he said his mother was not a Pegan; she was a Nipmuck . . . He could remember no dances, or stories, or beliefs of his people (Nipmuc Pet. #69B Suppl. 2/28/1997).	Houma PF 1994, 5, provided an example which was accepted as meeting (a) of the identification of a group by a sociologist.	Angela (Sprague) Leach was still living as late as 1922. This interview gave no indication of the continuing existence of an Indian entity to which she belonged during her adulthood. Walter Henries survived well into the 1930's, but his interview also gave no indication of the continuing existence of an Indian entity with which he was identified.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1930-1939	(a)(5) Colorful Parade is Opening Feature of Dudley's Celebration, *Webster Evening Times* 6/27/1932; Historic Quinebaug to Mark Connecticut's Tercentenary: Two Descendants of Original Nipmuck Indian Settlers to Participate Sunday, *Worcester Evening Gazette* 10/16/1935; Last of Nipmucks Claimed by Death, *Webster Times*, 9/28/1936.	These newspaper articles featured members of the Henries family, collateral ancestors of the majority of the members of petitioner #69B. All focused on individuals or families: for example, the "Last of the Nipmucks" included an interview with a niece and mentioned numerous surviving relatives.	San Juan Paiute FD 1989, 5, noted that the petitioner is not required to have been identified with the specific tribal name currently used by the petitioner. Jena Choctaw PF 1994, 2, and Chinook PF 1997, 7, provided examples which were accepted as meeting (a) of local newspaper identification of a local Indian group or its leaders.	None of these articles indicated the existence of a continuing Indian entity, but only individual families which were locally well known to be descendants of the Dudley/Webster Nipmuc Indians.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1940-1949	(a)(1) Gilbert 1949.	This was a survey of surviving Indian groups in the Eastern United States, compiled by a researcher at the Library of Congress.	Narragansett PF 1982, 8; San Juan Paiute PF 1987, v, and FD 1989, 4; and MBPI PF 1997, 4, provided examples which were accepted as meeting (a) of identification of a group by a Federal official.	The Dudley/Webster group was not mentioned by Gilbert, although he referred to the Belden family when discussin the Hassanamisco Nipmuc (Gilbert 1949, 410). There are no Belden descendants in the membership of the current petitioner.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1940-1949	(a)(4) Speck 1943.	Anthropologist Frank Speck's visit to the Nipmuc in 1943, and subsequent publication, focused exclusively on Hassanamisco. He did not visit or interview any of the Dudley/Webster descendants, and quoted Sarah (Cisco) Sullivan as making only the vaguest reference to them (Speck 1943, 54). Speck was unaware of the historically different roots of the two reservations: "The internal dissension characteristic of most small communities in America, both Indian and English, may be held responsible for certain 'family troubles' that caused some Nipmuc to 'move off by themselves and settle at Dudley,' according to Sarah Cisco. Further information upon the constituency of this group of Nipmuc is entirely lacking as yet. Sarah Cisco knew little of them herself. She was acquainted only with the Wilson family there" (Speck 1943, 54). Generally, see also (Nipmuc Pet. Narr. 1984, 116-117).	Narragansett PF 1982, 9; Death Valley PF 1982, 4; San Juan Paiute PF 1987, v, and other cases have provided examples which were accepted as meeting (a) of a group having been described in a published article by a scholar.	Specifically, Speck indicated that Sarah (Cisco) Sullivan did not appear to know the Dudley/Webster Nipmuc, or much about them. His article contained no description of a contemporary Dudley/Webster Indian entity.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1950-1959	(a)(2) Nipmuc Tribe Revived, *Worcester Telegram* 6/21/1950; Nipmuc Indian Chapter 1950 [unidentified newspaper article].	These articles relate to the 1950 chartering of a "Nipmuc Tribe" in Worcester, Massachusetts, by the State of Massachusetts, and are thus secondary evidence concerning a state relationship with an entity. The participants in the newly chartered organization included some Hassanamisco Nipmuc descendants and some individuals who have not been identified as of either Hassanamisco or Dudley/Webster ancestry.	Snohomish PF 1983, 9, and Wampanoag PF 1985 provided examples which were accepted as meeting (a) of identification of a group by a State official. Tunica-Biloxi PF 1980, 3; Gay Head PF 1985; Miami PF 1990, 2; and Jena Choctaw PF 1994 contain precedents for identification of an Indian entity by a state legislature as meeting (a).	Only one Dudley/Webster descendant participated in this initiative; he has no descendants in the current petitioner. The articles made no mention of an existing Dudley/Webster Indian entity antecedent to petitioner #69B.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1950-1959	(a)(6) Program, Hassanamisco Powwow, 7/4/1950.	This program showed the participation of Elizabeth (Henries) Morse, "Princess Morning Star, Nipmuc Tribe," in an intertribal activity.	For examples of identifications by other Indian tribes and organizations which meets (a), see Grand Traverse Band PF 1979, 4; Death Valley Shoshone Pf 1982, 8; Poarch Creek PF 1983, 3; San Juan Paiute PF 1987, vi. Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. For identification of entities under 83.7(a)(6), cf. "The petitioner . . . has been identified by and accepted for membership in both regional and National American Indian organizations" (Snoqualmie PF 1993, 6), and "the petitioner 'has been a member of NCAI since 1978'" (Narragansett PF 1982, 9).	The program provided no identification of an entity.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1960-1969	No documentation	The petitions submitted no documentation concerning external identifications of any Dudley/Webster Indian entity during this decade.	83.7(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.	No documentation was submitted for the BIA to evaluate and analyze in regard to external identifications for the period 1960-1969.	Does not meet (a).
1970-1979	(a)(2) Dukakis 1976; Nipmuc #69 Pet. 1984, Ex. 7; Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1970.	Letter of the Governor of Massachusetts proclaiming the Massachusetts Commission on Indian Affairs in 1974; listing the governing bodies in 1976	Snohomish PF 1983, 9, and Wampanoag PF 1985 provided examples which were accepted as meeting (a) of identification of a group by a State official. Tunica-Biloxi PF 1980, 3; Gay Head PF 1985; Miami PF 1990, 2; and Jena Choctaw PF 1994 contain precedents for identification of an Indian entity by a state legislature as meeting (a).	There is no evidence in the record that the state of Massachusetts had established a relationship with an entity representing the descendants of the Dudley/Webster Indians in the 1970's. The references pertained to the Hassanamisco Nipmuc tribal Council.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1970-1979	(a)(5) Oxford Woman Leads Drive, 1976 (Nipmuc Pet. #69B Suppl. 2/28/1997, folder 1970 [unidentified newspaper article]); Gary V. Murray, Webster Acts to Preserve Old Indian Burial Ground, *Worcester Telegram* 8/30/1977.	The first article concerned the efforts of a Dudley/Webster descendants, Edith (Morse) Hopewell, in the field of social welfare for Indians; the other pertained to archaeology.	Chinook PF 1997, 7, and Cowlitz PF 1997, 17, provided examples which were accepted as meeting (a) of local newspaper discussion of a local Indian group and description of its activities.	The 1976 article indicated that there were more than 90 American Indians living in southern Worcester County, most Nipmuc and Narragansett, but did not indicate the existence of an entity. See also further discussion under criterion 83.7(b).	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).
1970-1979	(a)(6) Nipmuc Tribal Council, Hassanamisco Band, Minutes 6/8/1978/ Minutes 5/24/1979.	By 1978, members of the Morse family (Edwin Morse Sr.; Edwin Morse Jr., Dolly Swenson, Ruth Bessette, Shirley Lomba, Joseph Lomba, Diane, Tina, and Rickey Rigney; Ralph and Ryan Walley; Elizabeth Morse, Kimberly Santana, Ruth Morse, Edith Half Moon Hopewell, Lucille "Billie" Walley, Dorothy Prince, Ralph Walley III, Dawn Walley; Joni, Nicole, Elizabeth, Jose, and Ralph Santana) attended a meeting of the Hassanamisco Council (Nipmuc Tribal Council, Hassanamisco Band, Minutes 6/8/1978). In 1979, Dolly Swenson was listed as a "regular member absent" (Nipmuc Tribal Council, Hassanamisco Band, Minutes 5/24/1979).	For examples of identifications by other Indian tribes and organizations which meet (a), see Grand Traverse Band PF 1979, 4; Death Valley Shoshone Pf 1982, 8; Poarch Creek PF 1983, 3; San Juan Paiute PF 1987, vi. Samish amended FD 1995, 4, and Duwamish PF 1996, 3, 4, noted that (a) requires the identification of an entity or group, not just individuals. For identification of entities under 83.7(a)(6), cf. "The petitioner . . . has been identified by and accepted for membership in both regional and National American Indian organizations" (Snoqualmie PF 1993, 6), and "the petitioner 'has been a member of NCAI since 1978'" (Narragansett PF 1982, 9).	The Hassanamisco minutes for 1978 and 1979 do not identify any entity which these members of the Morse family represented. The 1984 petition stated that the Chaubunagungamaug band formed its own band council in 1978 (Nipmuc Pet. Narr. 1984, 192), though elsewhere it indicated that "the political governing structure had been in place for nearly two years" prior to incorporation (Nipmuc Pet. Narr. 1984, 194). However, no documentation was submitted to confirm the existence of such an organization prior to 1981, after Zara CiscoeBrough had formally petitioned for Federal acknowledgment on behalf of the Hassanamisco Reservation at Grafton.	Does not meet (a). This material does not constitute an external identification of an entity under 83.7(a).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980-1989	(a)(5) *Webster Times* 7/23/1981 [untitled article]; *South County Advertiser* 8/3/1981; Webster Man Donates Land 8/24/1981 [unidentified newspaper]; Alice Martin, Indian Council Approved; Freyer 1981.	Beginning in 1981, there was newspaper coverage concerning the independent existence of a Chabunagungamaug Band of Nipmuc. Two days after the formal #69B by-laws were signed, on August 3, 1981, the *South County Advertiser*, under "Webster News," noted that "Nipmuc Indians in this area have received state approval to establish their own council." They said that they had met recently with Sam Sapiel, "commissioner of Indians on the Boston Indian Council." Loving One told the Times, "Sam said we have a perfect legal right to establish our own council, elect our own chief and hold our own elections." The article stated that all the persons involved in the initiative were descendents of Lemuel Henries, that they had decided on the name of Nipmuck Indian Council, and wanted to contact all of the Indians in the Webster, Dudley and Oxford area (Martin 1981b; Nipmuc Pet. Suppl. 1994, Ex.). Freyer summarized the Federal acknowledgment process and interviewed the major petition researcher for #69, Dr. Stephen J. Reno, who commented, "Any anthropologist worth his salt will say the group (the Nipmuck tribe) has disappeared entirely" (Freyer 1981, 15). The article also quoted John Shapard of the BIA, who pointed out that the maintenance of aboriginal culture had no bearing on the process, which required that a group demonstrate continuous political existence since colonial times (Freyer 1981, 15).	Chinook PF 1997, 7, and Cowlitz PF 1997, 17, provided examples which were accepted as meeting (a) of local newspaper discussion of a local Indian group and description of its activities.	On September 23, 1981, a newspaper article, written by a reporter who attended a pow-wow, surveyed the situation (Freyer 1981): "There's the Morse family of Dudley, who recently awakened to their Indian heritage, formed a new tribal council for the Dudley-Webster band and held that band"s first powwow in 107 years. And there's Zara Ciscoe Brough, or Princess White Flower, chief of the Hassanamisco band of the Nipmuck nation, granddaughter of a chief (Freyer 1981, 15). The Freyer article continued: "Although White Flower [Zara CiscoeBrough, Hassanamisco] has always been active in Indian affairs, for many Nipmucks ethnic awareness has come only recently and ethnic knowledge only through research. Such was the case of the Morse family, whose study of family roots led to a desire to revive the Dudley/Webster clan of the Nipmucks, which now claims 103 members. They established a new tribal council and initiated a new chief, Edwin Morse Sr., Chief Wise Owl. These efforts met with resistance from the Hassanamiscos, who believed tribal rules prohibited a second chief and council; the dispute had to be settled through the Commission on Indian Affairs (Freyer 1981, 18; Nipmuc Pet. #69B Suppl. 2/28/1997). This material constitutes an external identification of the Hassanamisco and Chaubunagungamaug bands as of 1981, and mentions the Nipmuc Nation, even though some of the material quoted in the article expressed doubt concerning the nature of the entity.	Meets (a) for the organization antecedent to petitioner #69B for 1981.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980-1989	(a)(6) Nipmuc Tribal Council, Hassanamisco Band, Minutes 8/19/1981.	The minutes refer to a meeting at the Commission of Indian Affairs in Boston, Massachusetts, "to resolve the problem out at Dudley-Webster."	Snohomish PF 1983, 9, and Wampanoag PF 1985 provided examples which were accepted as meeting (a) of identification of a group by a State official.	This attention by a state agency constitute external identification of the two entities as of 1981, the Hassanamisco and Chaubunagungamaug Bands.	Meets (a) for the organization antecedent to petitioner #69B for 1981.
1980-1989	(a)(5) Newspaper articles. Chief Wise Owl named Clan Chief [unidentified newspaper article, hand-dated 8/12/1982]; Nipmuck Clan Asks Reagan to Fire Interior Secretary Watt [unidentified newspaper article 1/29/1983]; David P. Kowal, Nipmucks Readying Study of 'Roots' Key to Claims, *Worcester Telegram* 8/19/1983. Dudley Parishioners 1982; Nipmuck Chief Marshal 1982; Patenaude 1982; Pegan or Dudley Indians Played a Large Role in History, *Webster Times* 10/27/1982.	From 1981 to the present, newspaper coverage has continued to provide external identification of the Chaubunagungamaug Band, under varying names, as a Nipmuck Indian entity. There has also been newspaper coverage of the group's educational activities (*Westfield Update* 14(3), May/June 1990, 4-5), charitable work (Princess Halfmoon 1982; 24 Families Benefit 1983), and participation in commemorative events such as the 250th anniversary of the Dudley church. Some newspaper coverage included both retrospective discussion of the historical Nipmuc tribe and some description of the modern organization (Edward Patenaude, Henries Wasn't Last of the Nipmucks, *Sunday Telegram* 10/5/1986; Don Cerow, Nipmucks in New England: Yesterday and Today, *Resource; A Guide to Creative & Wholistic Products & Services* Fall 1989, 3, 8-9	Chinook PF 1997, 7, and Cowlitz PF 1997, 17, provided examples which were accepted as meeting (a) of local newspaper discussion of a local Indian group and description of its activities.	During the early 1980's, the single event that generated most newspaper coverage was the reburial by the Chaubunagungamaug Band, in 1983, of some ancient skeletal remains unearthed in Connecticut on the property that had been donated to it (Century-Old Remains are buried in Nipmuck Ceremony [unidentified newspaper article] 2/7/1983). This event presumably also generated identification of the organization by a state agency in Connecticut, the Connecticut Indian Affairs Council (CIAC), but no direct documentation, other than the newspaper articles, was submitted to show it.	Meets (a) for the organization antecedent to petitioner #69B for the 1980's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(a)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1990-1999	(a)(5) *Worcester Telegram and Gazette* 3/191/1991; James Dempsey, Indians "Love" of the Land Still Flourishes, *Worcester Telegram and Gazette* 4/27/1992; Jennifer Greaney, Nipmucs Make Gains in Try for Federal Recognition, *Worcester Telegram and Gazette* 3/16/1995.	The Dempsey article contained statements concerning Chief Wise Owl and the "Chaubunagungamaug clan." Only two original bands have survived, Hassanamiscos and Chaubunagunga-maugs. Loving One says about a year ago the two tribal councils formed one 15-member Nipmuc tribal council, which has been meeting at least monthly. "She said the tribe was advised that officials in Washington would prefer to deal with one government, not two, although the two clans have operated semiseparately since the 1700s."	Chinook PF 1997, 7, and Cowlitz PF 1997, 17, provided examples which were accepted as meeting (a) of local newspaper discussion of a local Indian group and description of its activities.	This lists only a sampling of the external identifications of the Chaubunagunga-maug Band, Nipmuc Nation, in the 1990's. While the majority focus on a relatively few named leaders, they assume, if they do not describe, the existence of an entity.	Meets (a) for the organization antecedent to petitioner #69B for 1991-1995.

Recommendation: No continuing Dudley/Webster Indian entity was identified by external observers between 1900 and 1980. Petitioner #69B has been identified as an Indian entity only since the formation of its antecedent organization in 1981. The petitioner has not been identified on a substantially continuous basis as an Indian entity from 1900 to the present. The petitioner therefore does not meet the requirements of criterion 83.7(a).

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CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION B - A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

Summary of the Evidence: The petitioner, #69B, asserts continuity from the historical tribe of the Chaubunagungamaug Band of Nipmuc Indians. Petitioner #69B was originally part of a joint petition submitted by a broader group of Massachusetts Nipmucs, which was assigned #69. The current petitioner broke with the broader group in May 1996. The other Nipmuc petitioner, now #69A, asserts continuity not only with the Chaubunagungamaug Band which was located on a reservation property in the Town of Dudley, later the Town of Webster, in Worcester County, Massachusetts, but also with the Hassanamisco Band and with descendants of with other bands and "praying towns" that existed in the 17th century but subsequently ceased to exist as organized entities. To the extent that petitioner #69A also asserts continuity from the historical Chaubunagungamaug Band, the charts prepared for evaluation of petition #69B will also be relevant for evaluating #69A. They will not be prepared in duplicate for #69A, but will be appended to evaluation of that petition.

The regulations provide that, "*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). Prior decisions pertaining to New England tribes indicate that for the time span from the colonial period to the 19th century, evaluation of community has not been tied to the specific forms of evidence listed in 83.7(b), but rather is evaluated much more briefly, and generally, under the provisions of the definition of community in 83.1. For the earlier period, it did not make sense to divide the documentation by decade, but rather by much broader developmental stages. This approach should be seen in the light of the preamble to the regulations, which states that some commenters to the 1994 regulations: ". . . saw this revision and the revised definition of community as requiring a demonstration of specific details of interactions in the historical past, and thus as creating an impossible burden . . . A detailed description of individual social relationships has not been required in past acknowledgment decisions where historical community has been demonstrated successfully and is not required here . . . further, the language added to § 83.6 clarifies that the nature and limitations of the historical record will be taken into account" (59 FR 9287, 2/25/1994). The relevant language in 83.6 follows: "Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time . . . " (83.6(e)).

The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000). Petitioner #69B has not presented any specific arguments pertaining to how it meets criterion 83.7(b). The following analysis, therefore, reviews the pertinent evidence in the record created by petitions #69, #69A, and #69B as it pertains to the historical Nipmuc tribe in the early contact period, the historical Chaubunagungamaug or Dudley/Webster Band, for the period from 1682 through 1891, and the petitioner's immediate antecedents from 1891 to the present, for the purpose of determining whether petitioner #69B meets criterion 83.7(b). For the earlier period, it did not make sense to divide the documentation by decade, but rather by much broader developmental stages. The isolated political documents must also be interpreted in light of the general continuity of the band's population as shown by a wide variety of other documents (see draft technical report).

In this case, there is considerable evidence for community within the Chaubunagungamaug Band, or Dudley/Webster Indians, in the period prior to 1891. Petitioner #69B represents, however, essentially descendants of only one family of that band, with a few members from another line, while many members of even those two family lines are members of petitioner #69A. From 1891 onward, until the formation of an organization in 1980, the petition contains only minimal information concerning the nature of interaction between the families antecedent to petitioner #69B, insufficient to demonstrate community.[1]

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[1]Throughout the chart for criterion 83.7(b), the boldface listing, for example **(b)(1)(vii)**, in the column "form of evidence" does not indicate that the item of evidence under analysis met the criterion under that form of evidence. Rather, it indicates the BIA researcher's determination of the category or type of evidence into which the document discussed could best be construed to fall. Technical problems associated with the table format of the charts do not permit the repetition of this footnote on each page of the charts.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1630-1675	(83.1), (b) Salwen 1978, Russell 1980, Mandell 1996, Bragdon 1996; Johnson 1995; Humes 1952, Reese c1980; Connole 1976; Dacey 1995; Savage 1996 *Massachusetts Archives, Colonial Records of Massachusetts*; Gookin 1836, Gookin 1972; Hoadley 1868, Hoadley 1870, Hoadly 1873; O'Callaghan 1854.	Historical narratives, mainly by modern anthropologists, pertaining to Colonial contact, and giving limited information, only from an external viewpoint, concerning the aboriginal community. The most extended series of relevant records is that generated by Massachusetts, consisting of the microfilmed records in the Massachusetts Archives and the published series of Massachusetts Colonial Records. Some relevant material is also to be found in the published Connecticut colonial records and the New York colonial documents.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Although the tribe remained strong culturally and politically, it gradually declined in size and political strength through epidemics and conflicts with other tribal groups" (Narragansett PF 1982, 1); "The Mohegan suffered a drastic population decline during the early period of European contact, perhaps as much as 93 percent by 1650" (Mohegan PF 1989, 2). "Under precedents for evaluating tribes in early years of contact with Europeans, before substantial cultural changes had occurred, even after tribes had become politically subject to colonial authorities, the material cited is sufficient evidence to show that criterion 83.7(b) is met" (Eastern Pequot PF 2000, 68).	Precedent does not require detailed information concerning the internal community of the historic tribes which were predecessors of petitioners in the pre-contact and early contact periods.	This meets (b) for the undifferentiated historic Nipmuc tribe as a whole, predecessor group to the later historic Chaubuna-gungamaug Band, for the period prior to 1675.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1630-1675	**(83.1), (b)** Leach 1958, Salwen 1978, Russell 1980, Bourne 1990, Johnson 1995, Mandell 1996.	"There were other units, in the interior and on the western Connecticut coast, that seem to have normally functioned as almost completely independent local communities, without lasting political ties to any of their neighbors. Names like Nipmuck . . . sometimes appear in the literature as designations for large "tribes" or "confederacies" (Speck 1928a:pl. 20; Swanton 1952), but this usage does not seem to fit the seventeenth-century situation. At best, some of these names may reflect linguistic or cultural homogeneity, but the scarcity of evidence makes even linguistic identification difficult in most cases (Day 1962, 1969)" (Salwen 1978, 173). ". . . the Nipmucks were a loosely organized people residing in scattered villages, each separate group having its own sachem. Although these various rulers might confer on important matters from time to time, there seems to have been no single, clearly defined, over-all structure of government for the entire tribe" (Leach 1958, 73).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained. "In the early contact period, i.e., the 1600's, the Miamis consisted of a series of independent tribes of related peoples. The largest of these, the Crane tribe, which numbered several thousand people, evolved into the historic Miami tribe during the early 1700's. Bands within the tribe were more or less composed of families related to the village chief, plus additional attached followers. Villages of from 50 to 200 people were the primary settlements" (Miami PF 1990, 3). "Under precedents for evaluating tribes in early years of contact with Europeans, before substantial cultural changes had occurred, even after tribes had become politically subject to colonial authorities, the material cited is sufficient evidence to show that criterion 83.7(b) is met" (Eastern Pequot PF 2000, 68; Paucatuck Eastern Pequot PF 2000, 70).	Scholars have provided varying descriptions of the organization of the prehistoric and early historic Nipmuc. One modern scholar has stated that, ". . . the Nipmucks . . . added up to not much more than the changing sum of whichever interior villages chose to work together at a given time" (Bourne 1990, 126). Precedent does not require detailed information concerning the internal community of the historic tribes which were predecessors of petitioners in the pre-contact and early contact periods.	This meets (b) for the undifferentiated Nipmuc historic tribe as a whole, predecessor group to the later Chaubunagungamaug or Dudley/Webster Band, for the period prior to 1675.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1646-1682	(83.1), (b) Salisbury 1990; Johnson 1995; Place of Small Stones (Nipmuc Pet. #69A); Humes 1952, Reese c1980; Mandell 1996, Leavens Papers n.d.; Gookin 1836, Gookin 1972, Earle Report 1861, Larned 1874, 1.	"In central Massachusetts, between the Boston area and the Connecticut River Valley, lay "Nipmuck country," where a collection of bands had traded furs to all sides. By the late 1660s their lands too were the object of attention by speculators and prospective settlers. . . . It was in this setting that Puritan missionaries, strengthened by a substantial injection of new funds from England in 1649, launched a new offensive. Most effective were Eliot among the Nipmucs and John Cotton, Jr., among some of the Pokanokets' recent Wampanoag allies. Eliot's success rested mainly on his ability to protect Nipmuck communities from tribute demands and military attacks by Niantics and Mohegans" (Salisbury 1990, 92). One of these was at the foot of Lake Chaubunagungamaug, or Webster Lake. Gookin described it in 1674 as occupied by Black James, and consisting of about nine families, constituting 45 individuals.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Major cultural changes were evident during the 1700's. After resisting Christianization in the 17th and early 18th centuries, a large body of the tribe was converted in the 1740's, . . ." (Narragansett PF 1982, 2).	Black James was not only the sagamore at Chaubunagungamaug, but was also appointed by Eliot as constable of all the praying towns of the Nipmuc region (Larned 1874, 7). As of 1674, these towns had a population of just under 400 persons (Larned 1874, 6-8). The settlement also had a teacher, Joseph from Hassanamessit, and the leadership enforced the norms accepted by the towns (Gookin, 80). Prior findings re: tribes which have received positive Federal acknowledgment decisions did not address in detail the evidence available from the 17th century or classify it into the categories detailed in 83.7(b)(1)(i-ix). The nature of the historical record does not make such an enterprise possible. This very succinct summary is less succinct than those in prior findings (see precedent column) and is the result of detailed analysis of the material from the early period to 1685 by the BIA research staff (see draft technical report).	On the basis of precedent, this material is sufficient to meet (b) during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1670's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1671-1675	(83.1), (b) Johnson 1995.	"The Christianized 'Praying Indians' were usually encouraged to separate from the rest of their tribe into new villages called 'Praying Indian towns'" (Johnson 1995, 146). The first "praying town" in the future Worcester County was not established until 1671 (Humes 1952, 8). "Between 1646-1674, Eliot converted about eleven hundred tribal people in fourteen different villages, from Natick in the east to the Merrimac River in the north and as far west and south as the Nashua River and northeastern Connecticut. Natick, Punkapoag, Hassanamesitt (Grafton), Okommakamesit (Marlborough), Wamesit (Lowell), Nashoba (Littleton), Magunkaquog (Ashland), Manchage (Sutton), Chaganakongkomun (Webster), Pakachoog (Worcester) and Washacum (Sterling) were the "Praying Indian" towns under the jurisdiction of the Massachusetts Bay Colony (Johnson 1995, 147).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Major cultural changes were evident during the 1700's. After resisting Christianization in the 17th and early 18th centuries, a large body of the tribe was converted in the 1740's, . . ." (Narragansett PF 1982, 2).	Eliot specified that Chaubunagungamaug, established in 1672 at the head of the lake, was a "new plantation," i.e. not the site of a prior Indian village, and well accommodated with upland and meadows. Gookin stated that it took its name from "a very great pond about five or six miles long that borders upon the south end of it" (The Great Trail of the Indians n.d., 5; Leavens Papers). However, "There was another village at the foot of the [Chaubunagungamaug or Webster] lake, near Bates Grove, these were the non-praying Indians, Nipmucs this village was destroyed by the English in King Philips war. After the war the Indians scatered, many returned afterward and settled near the old burying grounds on Harris street" [spelling and punctuation *sic*] (Leavens Papers n.d., unpaged).	On the basis of precedent, this material is sufficient to meet (b) during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1670's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1674	(83.1), (b) Gookin; Earle Report 1861; Larned 1874, 1.	The most extensive information concerning the situation within these "praying town" settlements comes from the report of a journey undertaken by Eliot and Daniel Gookin in the autumn of 1674 It made very clear that the "praying towns" were not large. On September 14, Gookin recorded that there were 45 persons at Chabunakongkomun (Dudley) (Gookin, *Indians of Massachusetts*; cited in *Earle Report* 1861, 102; Larned 1874, 1:7-8). Eliot appointed Black James of Chaubunagungamaug constable of all the praying towns (Larned 1874, 7). During this journey, Gookin and Eliot continued into and reported on the Connecticut praying towns. Gookin's descriptions indicated close ties between the personnel of these towns, Chaubunagungamaug, and Hassanamisco, and provide a "praying town" population for this region approximated to just under 400 persons.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Major cultural changes were evident during the 1700's. After resisting Christianization in the 17th and early 18th centuries, a large body of the tribe was converted in the 1740's, . . ." (Narragansett PF 1982, 2).	Chaubunagungamaug did not, at this time, exist in isolation from the other Nipmuc praying towns. About 1670, Joseph and Sampson, only sons of Petavit, sachem of Hamannesset, came as Christian missionaries to Wabbaquasset. By the time of Eliot and Gookin's visit, Joseph was teaching at Chaubunagungamaug and there were three villages in modern Connecticut. The largest, 30 families with about 150 persons, was at Wabbaquasset in the present town of Woodstock in the vicinity of Woodstock hill. Myanexit was seven miles southwest of Chaubunagung-amaug (20 families, about 100 persons) on the Quinebaug (then called the Mohegan) River, with John Moqua as minister; Gookin reported that there was another praying town at Quinnatisset, six miles south (20 families, about 100 people) "within four miles of the south line of Massachusetts colony," now Thompson Hill, but they did not visit it because they were short of time and travel conditions were difficult. On September 15, 1674, Eliot appointed a Natick Indian named Daniel as its minister (Larned 1874, 1:6-8).	On the basis of precedent, this material is sufficient to meet (b) during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1670's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1676	(83.1), (b) Larned 1874, 1; Humes 1952; Leach 1958.	On June 2, 1676, a Connecticut contingent, 240 English and 200 Indians under Major Talcott, departed from Norwich on an expedition through the Nipmuck Country. They marched north to Wabaquasset, found an Indian fort and about 40 acres of corn growing, but no Indians. They then proceeded to "Chaubongagum," where they killed and captured 52 of the enemy (Larned 1874, 1:10; Humes 1952, 16n4) and proceeded to Quabaug (Leach 1958, 205). By June 22, Talcott was back in Connecticut; on his way to the Narragansett country with 300 English soldiers plus Indian auxiliaries. He again went first to Wabaquasset; then eastward into northern Rhode Island, where he captured four Indians at Nipsachuck (Leach 1958, 211). Henchman did not wait for Talcott's return; the Connecticut Council urged him to proceed against the Indians in the Nipmuck Country. He led the Massachusetts troops back east; left a strong detachment at Quinsigamond with orders to inviestigate the vicinity of Mount Wachusett and Lancaster; and with the remaining troops went to Marlborough, arriving the evening of June 29 (Leach 1958, 206-207).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	This campaign provides some additional confirmation that the settlements reported by Gookin and Eliot were there. The data is not sufficient to meet (b), but can be used as supporting evidence in connection with other evidence showing the existence of a named, collective, Indian entity for a period of more than 50 years.	Does not in itself meet (b), but contributes toward meeting (b) under (b)(1)(viii).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1676	(83.1), (b) A Place of Small Stones, n.d.; *Transactions of the Colonial society of Massachusetts* 1916-1917, 19:25-28.	In August of 1676, 40 children taken from their families, most Christian, were assigned to English families as servants. Sixteen of the names were "connected to the Nipmues of central Massachusetts," including: a boy named John his father named Alwintankus late of Quantisit [Thompson, Ct.] his father & mother present consenting the boys age about 12 years . . . a Boy aged ten years, one Wonnaputanan his guardian & one Upacun of Quantissit [Thompson, Ct.] his grand mother was present a boy aged about six years son to Nohanet of Chobnakonkonon [Dudley]. The Boy named Samuel a Boy named Peter aged nine years his father dead his mother present named Nannantum of Quantisit [Thompson, Ct.]	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	This data provides some additional confirmation that the settlements reported by Gookin and Eliot were there. It is not sufficient to meet (b), but can be used as supporting evidence in connection with other material showing the existence of a named, collective Indian entity for a period of more than 50 years.	Does not in itself meet (b), but contributes toward meeting (b) under (b)(1)(viii).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1676-1681	(83.1), (b) Leach 1958; Larned 1874, 1; A Place of Small Stones n.d.	Historians from the 17th through the 19th century often alleged that the remainder of the Nipmuc fled central Massachusetts, either joining the northern Indians in Maine, Vermont, and Canada, or moving west into New York. It was first noticed mid-July when a sizable company crossed the Connecticut River and slipped past Westfield; another group crossed above Springfield on August 11, this latter group was attacked and damaged by Talcott while in transit (Leach 1958, 236). To some extent, the movement was temporary. Larned stated, "The few remaining Nipmucks found a refuge with some distant tribes; the Wabbaquassets remained with Uncas at Mohegan. The aboriginal inhabitants of the future Windham County were destroyed or scattered, . . ." (Larned 1874, 1:11), but commented two pages later that, "The Indians, as they recovered from the shock of defeat, gathered again around their old homes and laid claim to various sections" (Larned 1874, 1:13). This process occurred in Massachusetts as well.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	Out-migration did not account for all the population decline. On July 2, 1676, when James the Printer of Hassanamisco came into Cambridge with others, he, "told the authorities that during the past year more Indians had died of disease than had been killed by the English--a most significant fact, if true" (Leach 1958, 213-214; citing *Mass. Archives* 30:207, 216; 5 MHC, V, 14; Gookin, 527-29). Some Nipmuc certainly remained in Massachusetts and Connecticut after King Philip's War, returning within the next few years to the sites of some of Eliot's "Praying Towns," including Chaubunagung-amaug. Extensive 18th-century records enable a demographic historian to reconstitute the Nipmuc population of Massachusetts, almost name-by-name, and provide no justification for assuming that large numbers of unidentified Indians remained within the boundaries of what are now Worcester County, Massachusetts, and Windham County, Connecticut. The Nipmuc who remained after the end of King Philip's War were primarily Christian Indians or their close associates.	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1681	(83.1) (b) *Records of the Colony of Massachusetts Bay* 5; *Massachusetts Archives* 30; Mandel 1996; Daniels 1880; Freeland 1894.	On May 11, 1681, the General Court of Massachusetts Bay Colony authorized William Stoughton and Joseph Dudley to investigate land titles in Nipmug country (Records of the Colony of Massachusetts Bay 5:315). In June of 1681, Stoughton and Dudley hosted a general meeting of the Indians at Cambridge, Massachusetts, reporting back that they found them "willing enough to make claym to the whole [Nipmuc] Country but Litigious & Doubtfull amngst themselves" (Mandell 1996, 44). The investigation continued into the autumn, with the commissioners file a report to the General Court on October 17. They reported that of the Nipmuc Country, the southern part was claimed by Black James and company; . . . (Records of the Colony of Massachusetts Bay 5:328-329). As can be seen from the specific provisions of the deeds, the "southern part" being claimed by "Black James and company" included the Nipmuc territory lying in what is now Windham County, Connecticut.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The documents show the existence of a group, with an acknowledged leader, in a position to negotiate with appointed representatives of the colonial authorities of Massachusetts, with the authority to cede and hold land. For explanatory analysis of the border dispute between Massachusetts and Connecticut in this region which led to Massachusetts' purchasing and granting lands which are now comprised within the boundaries of Connecticut, see the draft technical report for petition #69B (BAR 7/15/1998). The lands purchased by Stoughton and Dudley were soon regranted by them to other speculators and to settlers. For this process, see also the draft technical report for petition #69B (BAR 7/15/1998).	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagunganaug Band for the 1680's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1682-1686	**(83.1), (b)** Shurtleff 1854, Daniels 1880; Daniels 1892; *Records of the Colony of Massachusetts Bay,* Series 1, Vol. 5; *Mass. Archives* 30; Freeland 1894; A Place of Small Stones (Nipmuc Pet. #69A). (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	During the 1680's, Black James participated in a sequence of deed transactions which led to the later establishment of the Chaubunagungamaug or Dudley/Webster reservation as it existed from the 1730's through the 1870's. The two sale deeds, dated February 10, 1681/82, were formally delivered May 19, 1682, at Natick (Daniels 1880, 36; Freeland 1894, 124; Freeland 1894, 128; Shurtleff 1854, 5:365-368). Black James and Company reserved from the sale "a certain tract of five miles square in two parcels" (Place of Small Stones 21-23; *Records of the Colony of Massachusetts Bay* 5:341-343). The first parcel was on the Quinebaug river at Maanexit, three or four miles south of Chaubunagungamaug, and thus within the bounds of modern Connecticut. The other tract of land, at Quinnatisset, was four or five miles southeast of Maanexit, in the present town of Thompson, Connecticut (Nipmuc #69 Pet. Narr. 1984, 50).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1); "In the Tunica-Biloxi case there was a separate territory exclusively occupied or utilized by part of the tribe" (Miami FD TR 1992, 6). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2). Several prior tribes evaluated by the BIA (Narragansett, Mohegan, and Gay Head) all retained remnants of aboriginal land, as exemplified by: "An area approximately corresponding to the Charlestown township was specifically defined in a 1709 deed by King Ninegret, which ceded all other areas claimed by the tribe" (Narragansett PF 1982, 9).	These materials regularly name the leaders whom the colonial authorities had appointed and with whom the colonial authorities were dealing, though providing only minimal information about internal political processes. The retention by "Black James and Company" of land which fell within the aboriginal territory shows the existence of a continuing group at this date at a level which falls within the general precedents expected for the colonial period. Generally, all of the evidence of the petitions, etc. for the colonial period through the end of the 19th century applies in some measure to showing the existence of this form of evidence.	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1680's.
1684	**(83.1), (b)** Mandell 1996.	A 1684 letter of John Eliot's, as cited in a secondary source, did indicate that there were Nipmuc residents at Chaubunagungamaug at that date ("John Eliot noted that, in addition to worship services at the four 'stated' reserves--Natick, Punkapoag, Wamesit, and Chabanakongkomun--they held 'occasional' prayer meetings 'at places of fishing, hunting, gathering chestnuts, in their seasons.'" (Mandell 1996, 36; citing Eliot to Boyle 185, Mandell 1996, 212n48)). However, the petitioner did not submit the copy of the original letter.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	No other document than the letter, no copy submitted to the BIA, indicates that Chaubunagungamaug was a "stated reserve" in 1684 in addition to the three regularly mentioned in documents of the General Court. Mandell's further assertion that "Chabanakongkomun [was] far from English settlements, and the village did not reappear in colonial records until the 1720s" (Mandell 1996, 36) is certainly invalid, as can be seen from documents from the records of the town of Oxford, Massachusetts, and from Connecticut records.	Unsubstantiated statements in a secondary source do not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1690-1699	(83.1), (b) Melvoin 1989; *Massachusetts Archives* 30:287, 30:300; O'Callaghan 1854; Metcalf 1880; Mandell 1996; Larned 1874, 1; Daniels 1880, Freeland 1894, Daniels 1892.	By 1689, through 1697-1698, Massachusetts was involved in King William's War (Leach 1988, 137; Melvoin 1989, 185), the colonial aspect of the War of the League of Augsburg (Melvoin 1989, 186). It necessarily impacted the Indians settled within the boundaries of the Massachusetts Bay colony. In 1690, the Massachusetts General Court again "ordered all Indians in the Bay Colony to go to Natick or Punkapoag" (Mandell 1996, 39). In connection with this measure, Mandell wrote that, "The isolation of Chabanakongkomun, the westernmost Nipmuc town reestablished in the 1680s, is indicated by its absence from the 1690 restrictions" (Mandell 1996, 39). However, the absence of the Chaubunagungamaug settlement from these restrictions more probably resulted from the primary concern of the Connecticut government with this border settlement during the period of the 1690's.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	Building upon the purchases of the early 1680's, in 1684, Worcester, Massachusetts, then in Suffolk County, was organized as a town, and several others followed. Indians continued to reside in the organized English towns of the region, and various petitions from Indians indicated that they intended to continue to do so. The restrictions placed on the Hassanamisco, Chaubunagungamaug, and Wabaquasset locations by the General Court in 1695 during King William's War (*Mass. Archives* 30:368-368a) indicate that these were regularly inhabited locales during the 1690's. In 1698, Grindal Rawson and Samuel Danforth's visitation of Indian congregations in Massachusetts reported on Hassanamisco , but did not mention Chaubunagungamaug or any of the three former towns that would come later to be south of the Connecticut line in Windham County (Rawson and Danforth 1809, 129-134), though other evidence indicates that they were in existence (Larned 1874, 1:33).	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1690's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1702-1783	**(83.1), (b)** Conkey, Boissevin and Goddard 1978; Mandell 1996; Grumet 1996, Calloway 1997.	Very little secondary scholarship is available to illuminate Nipmuc development in the 18th century. In 1978, the Smithsonian Handbook's treatment provided one paragraph each for Natick, Dudley, and Hassanamisco between King Philip's War and the mid-19th century (Conkey, Boissevain, and Goddard 1978, 180). Daniel R. Mandell's *Behind the Frontier: Indians in Eighteenth-Century Eastern Massachusetts* (Mandell 1996) does focus primarily upon the coast and Natick, treating central Worcester county only incidentally and largely ignoring those Nipmuc who lived south of what is now the Massachusetts-Connecticut border. This is also true of Mandell's chapter (Grumet 1996). The recent collection edited by Colin G. Calloway (Calloway 1997) contains little Nipmuc data, with none for this specific period. **The limited nature of synthetic secondary scholarship for the period following King Philip's War requires determination of the developments almost entirely from archival documents, which can be somewhat supplemented by local histories of the Worcester County towns in which Nipmucs resided.**	No rule or precedent; included for informational purposes.	There was documentable continuity between the pre-King Philip's War and post-King Philip's War populations of the Nipmuc settlements in Worcester County, Massachusetts, and Windham County, Connecticut, although the overall Indian population was much smaller. Some Nipmuc had returned to Chaubunagungamaug by 1681 and some individual Indian families re-settled their private landholdings in Worcester county. Throughout the 18th century, the Connecticut Nipmuc continued to intermarry with the Worcester County settlements. This process is documented not only by the records of Natick and the reservations, but also evidenced by vital records kept by the towns and churches of the region and the land records of Suffolk, Middlesex, and Worcester Counties, Massachusetts, and Windham County, Connecticut. **As individuals, these re-settlers were not all necessarily "praying Indians," as evidenced by the baptisms of Nipmuc Indian adults in the church records of the 18th century. However, all the families seem to have been close associates of the prominent "praying Indian" leaders of Eliot's day.**	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1704	(83.1), (b) *Massachusetts Archives* 31; Leavens Papers, n.d.	On November 22, 1707, the General Court received a petition from Timothy Dwight of Dedham, Massachusetts, asking that the land conveyed to him by the family of Black James at Dudley "for furnishing provisions to the mother of Black James, to keep her and her children from starving," be confirmed (*Mass. Archives* 31:46-48). There is an ancient plan in the Massachusetts Archives, showing 240 acres lying north of 'Chabanaguncamogue Pond.' That undoubtedly shows the land where the [praying] town stood.---- It was 'Cirveied Octob 23. 1700.' and was filed with a petition . . . Black James had been an important chieftain, and he was also active in the government and development of the praying towns through that expansive territory. The land shown on that survey of 1700 is clearly the land where the praying town stood." An old fort is indicated in the center of that plan . . . This tract of land was on the hill above the Slater East Village Mill plan showed the fort on the left of the present road top of hill. There was no road there at that time" (Great Trail of the Indians n.d., 5).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	Because of the 1700 date of the survey, this event must have taken place in the 1690's, well before the date at which the petition for confirmation of the deed was filed. In connection with other documents from the 1690's, it confirms the presence of a residential Indian community at Chaubunagungamaug.	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1690's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1707	**(83.1)** Nipmuc #69 Pet. Narr. 1984, 50; Dresser 1900; Mandell 1996; *Suffolk Reg., Deeds, Libro 26, Folio 215*; "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachusetts," c1890; *History of Dudley* n.d. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	Black James and Company apparently retained the second half of the reservation made in the 1682 deed, approximately 8000 acres, until 1707, when "the remaining full moiety of the five miles square consisting of 8000 acres" was sold by Black James *et al.* to William Dudley for 10 pounds, because of the "great love and good will, esteem and affections" which they bore toward Joseph Dudley and his family, reserving to themselves, their heirs and descendants forever, the right to fish, hunt, and "on great ponds or rivers necessary for their support" (Nipmuc Pet. Narr. 1984, 50; Dresser 1900, 117; see also Mandell 1996, 39 citing "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachu-setts," circ. 1890, photocopy, Nipmuc Tribal Acknowledgment Project, Worcester, Mandell 1996, 212n58). **The petition submissions for #69, #69A, and #69B do not include an actual copy of this deed. According to Suffolk County, Massachusetts, records, Joseph Dudley did not re-sell any of these lands prior to his death on April 2, 1720; his sons, Paul Dudley and William Dudley, began selling them to prospective settlers in 1721 (*History of Dudley*	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The deed reserved to the Indians, the heirs and descendants forever, the right to plant, hunt, and use such parts as would be necessary for their support. The motivation for the sale is not known. In light of the substantial restrictions on Indian movement, hunting, and fishing imposed by the Massachusetts General Court during Queen Anne's War, 1704-1708 (see the draft technical report for Petition #69B, BAR), the Indians may have seen little advantage retaining title and some protection in Dudley's holding it. By the end of Queen Anne's War, the condition of the Indians resident within the colony had apparently become very difficult. In July of 1712, the New England Company's commissioners decided that the "miserable Condition of the Indians at Natick" could best be solved "by Suitable Encouragement to endeavour to bring the Indians from Punkapog, and Hassanamisco, and such other near adjacent places as may have Scattering Indians in them; unto a Cohabitation at Natick" (Mandell 1996, 57, 215n43). These deliberations did not specifically refer to either Chaubunagungamaug or Wabaquasset.	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1700-1720 period.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1724	**(83.1)** Nipmuc #69 Pet. Narr. 1984, 50-51; "In the Matter of the Dudley Indians" Brief c.1890; Leavens Papers n.d.' Sale of Indian Land at Webster 1887; Dresser 1900. The 1890 brief referenced Suffolk County, Massachusetts, deeds (this land fell in Suffolk County prior to the formation of Worcester County): Suffolk Reg. Deeds Lib. 26, Fol. 215; Suffolk Reg. Deeds, Lib. 37, Fol. 269; also Worcester Reg. Deed, Lib. 49, Folio 313, 317; Worcester Reg. Deeds B.59, 20.	According to the petitioner, on April 9, 1724, William Dudley conveyed by deed to the Nipmuc Indians title [*sic*] to a tract of land approximately one mile square (640 acres) which was part of their former reservation, "to plant and improve," henceforth to be reckoned as the only reserve and exception in the deed of 1707. This square mile extended from a brook at the northeast corner of Isaac Newell's farm, south to the north line of Paul Dudley's Manexet farm (Nipmuc Pet. Narr. 1984, 50-51). For a fairly extensive study of the location of this square mile, based on copies of old deeds held by the heirs of William Dudley, see an extensive letter to the *Webster Times* by a local historian (Eddy 1912a *in* Leavens Papers). The petitioner did not submit a copy of this deed. **A newspaper article at the time of the sale of the Dudley reservation lands stated: "William Dudley allowed the Indians to improve land south of Powder Horn Brook, 'so much west of the road from Woodstock to Oxford as said Indians may have occasion for subsisting cattle, not exceeding 15 acres, for a period of 20 years, and for such further time as may be agreed upon'" (Sale of Indian Land at Webster 1887).**	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The printed series of Suffolk Deeds terminates in 1684; transactions subsequent to that date must be searched in microfilms of the original deed books. The BIA does not have information at present whether this conveyed to the Chaubunagungamaug Band of the Nipmuc Indians as an entity, or to specific individuals. A subsequent, 1763, deed by Joseph Dudley's heirs to Edward Davis indicated that the 1724 transaction was a lease to the Indians (Daniels 1892, 774-775; citing Worcester Records XLIX, 314; see also Dresser 1900, 118) rather than a title deed as asserted by the petitioner (Nipmuc #69 Pet. Narr. 1984, 50-51). Prior findings re: tribes which have received positive Federal acknowledgment decisions did not address in detail the evidence available from the early 18th century or classify it into the categories detailed in 83.7(b)(1)(i-ix). The nature of the historical record does not make such an enterprise possible. For a detailed survey of the material available in this instance, see the draft technical report for #69B (BAR 7/15/1998).	In the absence of copies of the primary sources, which are extant and are obtainable from public record repositories, the statements in the secondary sources are not sufficient to demonstrate that the petitioner meets (b) for the 1720's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1734	**(83.1)** Dresser 1900; Conant 1893; Leboeuf and Wakefield 1929; Worcester County Registry of deeds 1738, 10:230, 10:236. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	One of the most extensive sources of information pertaining to this period results from the desire of the desire of Dudley, expressed at a town meeting held January 30, 1733/1734, to build a meeting house on the Indian Joshua Pegan's old field (Dresser 1900, 117; Conant 1893, 99). The deed for land on top of present Dudley Hill, Dudley, Massachusetts, was dated March 20, 1733/1734 and recorded August 15, 1738 (Worcester County Registry of Deeds 1738, 10:230). It was then known as "Pegin Hill." The four acres were to be used for the purpose of a church, meeting house, and training ground (Leboeuf and Wakefield 1929, 6; Worcester county Registry of Deed 1738, 10:230), the land constituting an irregular triangle at the northwest corner of the Indians' square mile of land (copy of Chandler's Survey *in* Leboeuf and Wakefield 1929). A partial copy of the deed shows the signers, largely with the surnames Pegan and Quitticus (Worcester, ss; A true photostatic copy of record, of Worcester District Registry of Deeds, Book 10, 236).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	At present, the title relationship between the 1734 deed for the four acres in Dudley to the reservation land mentioned in the 1724 William Dudley deed has not been clarified. It is possible that the land included in the 1734 deed could have been the private property of the Pegan family: the records of the settlement of the estate of Samuel Pegan in the years following 1735 certainly imply that the family were private landholders in fee simple. Other Indian families, not mentioned in the above deed, were apparently residing in the area on the 1730's. A survey of a road from the East Village to Dudley Hill, laid out by the selectmen on March 17, 1737, mentioned as a landmark not only "the Indian land" in general, but "a pitch pine near Collicom's wigwam" in particular (Leavens Papers). Several of the 1734 signers were living in Thompson Parish in the Town of Killingly, now within the borders of Windham County, Connecticut. The Dudley Indians were reserved special seating in the church at Dudley as a provision of this deed. They did not establish a separate church for the band.	Meets (b) for the 1730's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1735-1757	**(83.1)** Now and Then c.1932; *Massachusetts Archives* 31, 265-266; 268-269; *Massachusetts Archives* 32, 6-7; *Massachusetts Acts and Resolves* XII, 1735-36, 208; Mandell 1996.	Samuel Pegan was the man described by Mandell as having left Natick during the 1720's to "join his relatives" at Chaubunagungamaug (Mandell 1996, 84). He was dead by November 19, 1735, when two of his sons, Jonathan Pegan and Isaac Pegan, on behalf of the heirs, petitioned for a General Court order for the sale of the estate (*Mass. Archives* 31:265-266, 268-269). Subsequent records include documents such as the January 1739/40 memorial of John Chandler Esq. & Mr. William Lyon, upon the petition of Jonathan & Isaac Pegan, two of the sons of Samuel Pegan of Dudley, Indian (*Acts and Resolves* 659; MA State Archives, *Mass. Archives* 31, 265-270). Petition of Jonathan & Isaac Pegan for themselves and the rest of the children of Samuel Pegan late of Dudley, Indian, decd., left lands in said place; had a lot of about 68 acres in Natick unimproved, request to sell the unimproved (*Mass. Acts & Resolves* XII, 1735-36, 208). A few years later, the 1757 will of Abigail Quittocus of Dudley named several of these children of Samuel Pegan as her cousins (Dresser 1900, 118-119; Now and Then c1932).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2). "There is evidence in the 18th and 19th century records that the population of the Lantern Hill reservation did not constitute a totally endogamous group, but intermarried with neighboring Indian tribes. However, this did not constitute an innovation. Rather, all data concerning Indian genealogy of new England . . . indicated that at least the ruling families . . . sustained a regular practice of patterned out-marrige, while their were early occurrences of marriage into other tribes on the geographical margins of the southern New England region . . . The 25 CFR Part 83 regulations specifically allow for the movement of individuals and families between tribes, while patterned outmarriage with other tribes is interpreted as evidence in favor of community." (Paucatuck Eastern Pequot PF 2000, 71-72).	The various guardians of the Indians living in Dudley mentioned in the records prior to the Act of 1746 were presumably appointed under the Act of 1693. However, no records were located pertaining to the selection and appointment of guardians for the Chaubunagungamaug Band, or for a group of "Dudley Indians." During the 1730's, all of the Dudley Indians appearing in the Massachusetts records held land at Natick. From a legal standpoint, they may have appeared in the records under guardianship because of the Natick connection. Samuel Pegan left a widow, five sons, and two daughters; the daughters and youngest son were fostered to English families (*Mass. Archives* 31, 265-270). Almost all of the persons listed on reports of the guardians as "Dudley Indians" between 1768 and 1774 were descendants of the Natick-connected Samuel Pegan family (his children had been named in 1745-46 as Samuel Pegan, Jonathan Pegan, Solomon Pegan, Hannah Pegan, and Patience Pegan) (*Acts and Resolves* 523-524).	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1735-1768	(83.1), (b) Published vital records of the Town of Dudley, Worcester County, Massachusetts (Systematic History Fund 1908).	The alphabetized summaries of church records and civil vital records from Dudley for the mid 18th century list numerous marriages and baptisms of individuals identified as Indian. The surnames appearing were Pagan (most common), Quitticus in a variety of spellings including Chakies, Cooper, Ephraim, Thomas, David, Chalcom, and Awassamaug (as Wonsimaug). The birthplaces listed for the Indian spouses ranged from Natick, Massachusetts, to Killingly, Connecticut.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Major cultural changes were evident during the 1700's. After resisting Christianization in the 17th and early 18th centuries, a large body of the tribe was converted in the 1740's, . . ." (Narragansett PF 1982, 2); "The 25 CFR Part 83 regulations specifically allow for the movement of individuals and families between tribes, while patterned outmarriage with other tribes is interpreted as evidence in favor of community." (Paucatuck Eastern Pequot PF 2000, 71-72).	The church and vital records do not describe an Indian community, whether at the Chaubunagungamaug settlement or extending more widely. Taken together with other evidence such as the guardians' reports, they strengthen the other evidence indicating that a community continued to exist.	Does not in itself meet (b) for the mid-18th century, but contributes to meeting (b).
1746-1758	(b) Reese c1980; Mandell 1996; *Massachusetts Archives* 31, 564-564a; 31, 567; 33, 64-66. **(b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.**	In 1746, an act of the Massachusetts Bay legislature called "Better Regulating the Indians" provided for the appointment of three people for each plantation to act as guardian. "The guardian had the power of a justice of the peace and could lease out land on the plantation not in use by Native People" (Reese c1980, [36]). According to Mandell, the act authorized, "the appointment of three guardians for each native enclave in the colony. These guardians were given the power not only to act as justices and to manage the community's account, but also to take land that the Indians were not using and lease it to white farmers or cattlemen. Guardians were to submit annual reports to the court--few of which are extant, if they were ever submitted. Three men were elected by a joint meeting of the Governor's council and assembly for eight Indian communities (or cluster of small enclaves): . . . Grafton and Dudley; . . . As a result, Dudley, Mashpee, and other Indian enclaves in the commonwealth suddenly found their land and fortunes controlled by outsiders (Mandell 1996, 144).	Neither rule nor precedent; included for informational purposes.	Under the 1746 bill, Grafton (Hassanamisco) and Dudley (Chaubunagunamaug) were paired. In subsequent years, however, the two groups came to have different guardians, although there is no record of a formal separation by legislative act. Further measures concerning the sale of Indian lands were passed in the spring of 1748. The 1746 measure was elaborated on June 12 and 13, 1758, by a bill providing that there be three guardians near every Indian plantation to allot lands to the Indians and guard against trespass; also, to regulate incomes and expenditures in behalf of the tribes; and that no sale or lease of Indian property was to be made except by consent of the guardians (*Mass. Archives* 33:64-66).	The existence of the legislation does not in itself meet (b) for the mid-18th century, but contributes to meeting (b) under (b)(1)(viii).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1746-1783	**(b)** *Acts & Resolves* XIV, 39; *Massachusetts Archives* 32, 350; 32, 453; 33, 76; *Journals of the House of Representatives of Massachusetts 1770-1771* 1978, 148; *Journals of the House of Representatives of Massachusetts 1773-1774*, 1981, 108. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	The records of the Massachusetts legislature provide a full record of the men who were chosen as guardians of the Dudley Indians between 1746 and the Revolution. If collections of the private papers of any of these individuals exist in manuscript repositories, it is possible that they might contain additional information on Chaubunagungamaug/Dudley in the mid-18th century.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	The appointments provide no data concerning internal conditions in the community, although they provide some data concerning the background of tribal continuity.	The appointments do not meet (b) but contribute to meeting (b) under (b)(1)(viii).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1757	(83.1), (b) Dresser 1900; Now and Then c. 1932.	Dudley, September 19, 1757. The last will and Testament of abigail quittocus of Dudley, . . . unto my Cousin Jonathan Pagan all my Real Estate hous and barn and improved land, . . . 4thly . . . the rest of my live stock to my two cousins hannah quittocus and Patience Pagan to be Equily divided between them; 5thly . . . unto my cousin hannah quittocus my calico gown, also my quilted potecots[petticoats] and best pare of stojs [stays] a long cloak, also my peat [great] cheast and Iron pots and 2 woollin blankets, silk hood and a white apron also my blue camblet Riding hood and frying pan. 6thly . . . to my cousin Patience pagan my silk gown my bead [bed] and beadstead cord and coverlid [coverlet] and two blankets and Iron Kettle; and my old pare of stojs and my old black silk hood and cotten handkerchief and an apron and Iron tongs; 7thly . . . to my cousin Patience, Sam Pagan's wife on of my gounds [gowns]; 8thly . . . unto my cousin Martha Pagan Joseph's wife one of my gounds. 9thly . . . unto my cosin hanna Pagan, Thomas pagans widow one of my gounds [gowns], . . . (Dresser 1900, 118-119; *Now and Then* c.1932, 67).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	It indicated household possessions and clothing that would be expected for almost any middle-class woman of the time and place. It was written in the standard English format of the period: "I being by the providence of god, layed upon a sic bead and in a languishing condition and thinking myself drawing naigh to the gates of the grave, and being of Sound Mind, I am clined and disposed to give away my temporal estate that god in his providence has been pleased to bless me with; and in the first place I commit my body to the Dust and my soul to god who gave it; first I appoint My Cousin Jonathan Pagan, executor . . . and order him to decently bury my body . . . ; and to pay all my just Depts, . . . 3dly I order so much of my liveing stock sold as to pay all my Depts,; . . . . " The document was witnessed by English neighbors, and provides no data about any Dudley Indians other than the testator's family. A 1761 probate for Mary Peagan, late of Leicester, Indian woman, mother of Joseph Pegan (NTAP Attachment F to Pegan file, Probate Papers, Worcester County, Massachusetts, Probate Papers), also had only family information.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1758	**(83.1)** *Massachusetts Archives* 33, 61-63; *Acts & Resolves 221.* **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	On June 12 and 14, 1758, on petition of Nanny Pagan and other Dudley Indians complaining of the unjust actions of their guardians and requesting the discharge of the said guardians and appointment of new men, the General Court passed an order for the investigation. Signers of the complaint were: Joseph Pagan, Samuel Pagan, Eleazer Pagan, Hannah Quitticus, Nanny Pagan, Mary Pagan, Esther Pagan, Deborah Pagan, Pashants Pagan, and Sarah Pagan (*Mass. Archives* 33:61; see also *Acts and Resolves* 221). The specific complaints were that their guardians had deprived them of many rights and overcharged them in a list of debts. A committee that heard the complaint advised an investigation and the Court appointed a committee to go to Dudley and investigate (*Mass. Archives* 33:61-63). **No record of report of the investigation at Dudley has been located.**	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The 1758 signers denied that they signed a prior 1757 petition (which is not in the record) and mentioned the guardian's "taking away grass & fruit of Jonathan Pagan's plantation anno 1756 at that time Joseph Pagan had Jonathan's power of attorney during his absence in his Majestie's service" (*Mass. Archives* 31:61). This power of attorney from one relative to another again implies that the Dudley Indians had long been accustomed to handling their legal affairs and real estate without guardianship. The petition indicates that there was sufficient cohesiveness in the group that it could come to a consensus and petition for redress.	On the basis of precedent, this material is sufficient to meet (b) for a tribe during the colonial period. Meets (b) for the Chaubunagungamaug Band for the 1750's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1765-1774	**(83.1), (b)** Benton 1905; The Number of Indians in Connecticut. From "An Account of the Number of Inhabitants" in that Colony, taken January 1, 1774, and Published by Order of the General Assembly, MHSC 10 (1809).	These records are the numerical summaries of the 1765 census of Massachusetts, which listed the male and female Indians of Worcester County by town (Benton 1905, 45), and the 1774 census of Connecticut, which listed the Indian males over 20, males under 20, females over 20, females under 20, of Windham County by town (MHSC 10 (1809):118).	"*Community*' must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	Neither petition #69, #69A, nor #69B included this census. Unfortunately, the published version located by the BIA researcher in 1998 (Benton 1905) omitted the Town of Dudley. The Dudley statistics supposedly exist in Mass Archives 58. Having the total number of Indian residents of the town would provide a better foundation for evaluating the data in the guardians' reports. Outside of Dudley, the census indicated only 11 Indian men and 14 Indian women in the county (with six of the men and eight of the women at Grafton/Hassanamisco). In 1774, the total number of Indians in Windham County, Connecticut, was 158. The number of Indians in the Town of Woodstock, immediately south of Chaubunagungamaug, was 38, considerably larger than the total number of Indians in Worcester County outside of Dudley reported nine years earlier. The census records in themselves provide no data about the nature of community.	Missing data does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1767	**(83.1), (b)** Mandell 1996. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	In May of 1767, "Ezra Stiles found 'now Ten families or less. Diminished three quarters in Memory. Mr. Gleason of Dudley says there are but Two Men, & inclusive of these but nine Souls Indians now living.'" (Mandell 1996, 168; citing Dexter, *Itineraries of Ezra Stiles* 228; Mandell 1996, 231 n. 22). "Like the other two inland communities, the Indians in Dudley held a diminishing amount of land. Stiles wrote that of 'a Mile square in the Center of Dudley reserved for Indians. . .about 25 Acres are lately sold by Permission of the General Assembly.'" (Mandell 1996, 168; citing Dexter, *Itineraries of Ezra Stiles*, 228).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	During the mid-18th century, the guardians' records also showed only a small population at Dudley. Mandell concluded that, "The Chabanakongkomuns, in Dudley, shared the demographic decline and some of the economic problems of their cousins in Natick and Hassanamisco. According to the enclave's guardians in 1763, the Indians 'are now mostly Females,' and more of their land needed to be sold in order to meet growing medical bills and other 'necessaries'" (Mandell 1996, 168; citing *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763; Mandell 1996, 231n21). For more information on the 1763 report, see the discussion of the sale of land by the Dudley heirs to Edward Davis. **The regulations do not specify any minimum size for the population of a historical community, nor require that the households in it have male heads.**	Meets (b) for the 1760's.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1768-1774	(b) *Massachusetts Archives* 33, 463; 33, 518-520; 33, 551-552; *Journals of the House of Representatives of Massachusetts 1771-1772* 1979, 147; *Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 179, 193; *Acts and Laws of the Commonwealth of Massachusetts* 1792-1793, 622, Resolves 1793--January Session, chapter 37A* [not printed in previous editions]; *Acts and Laws of the Commonwealth of Massachusetts* 1792-1793, 475; O'Brien 1990, O'Brien 1995, Mandell 1996). **(b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.**	These guardians' records reported on disbursements of Dudley funds and indicated the names of the beneficiaries. "The guardians' accounts reflect these small numbers, for one year after Stiles's visit six households obtained assistance, half headed by apparently unmarried women" (Mandell 1996, 168, 231n23). The names were: Samuel Pagon & family, Thomas Awonsamug, Mary Pagon/Pagan & son & daughter; John Ephraim & Mary [*sic*] his wife; Anna Pagon/Peagon; Patience Pagon/Pagan; Samuel Pagon; Samuel Pagon his garl; Thomas Awonsamug & Hannah his Wives acct; Awonsamug his funeral; Simon Peagon; Sam[ll] Peagon; Hannah Awansamog, Esther Peagon" (*Mass. Archives* 33:463, 518-520). The 1793 resolve on the petition of Thomas Pegan (*Massachusetts Resolves 1793*, 622) indicated that his lands had been "set off" to him approximately 1777, but that in the intervening years, he had not received any income from the guardians for their rent. BIA researchers found no record of any "setting off" of the Dudley lands to individuals during the period 1768-1785.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2). No precedent yet located for application of external descriptions of an Indian reservation to evaluation of 83.7(b) for the mid-18th century.	The Indians who resided in or near Dudley in this time period were interconnected, but not all were part of the Chaubunagungamaug settlement from the standpoint of the guardians. Actions relating to the settlement of Samuel Bowman never indicated that he was jurisdictionally a "Dudley Indian," but only that he was a Natick property holder whose extended family resided in various towns in Worcester County. He did not reside at Dudley, but at or near Worcester itself. However, the husband of one of his daughters was Joseph Pegan of Dudley. Elizabeth (Brooks) Lawrence Senah was a Natick Indian residing at Dudley, but never appeared in the records of the Dudley guardians (Mandell 1996, 170-171, 235n127). John Ephraim of Natick had married a Dudley woman (O'Brien 1990, 299-300; Mandell 1996, 166-167; O'Brien 1995, 214).	On the basis of precedent, this material is sufficient to meet (b) for the colonial period.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1775-1783	(b) *Massachusetts Soldiers and Sailors* 1901; Systematic History Fund 1908; NARA M-804).	Of the men who were identified on the accounts of the Dudley guardians between 1768 and 1774, at least three served in the army during the American Revolution. One of these, Joseph Pegan, survived until 1819 and collected a pension under the act of 1818, still a resident of Dudley. The other two, Samuel Pegan and Eleazer Pegan, apparently never returned to Dudley after the Revolution. The one Connecticut Indian described as a "Dudley" Indian for whom significant amounts of information was submitted was Mary (Pegan) Pollock Woodland, from a Revolutionary pension application in right of her first husband (NARA M-804).	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	These materials did not provide any information in regard to community among the Dudley/Webster Indians. Mary (Pegan) Pollock Woodland, at the time of her first marriage, resided in a non-Indian household as a servant, and both of her marriages were to non-Indians. In the post-Revolutionary period, her descendants resided in Rhode Island for some time before returning to Connecticut and Massachusetts in the 19th century. The three Pegan men did not serve in Indian units, nor did their enlistment records identify them as Indian. However, in 1817-1818, the Dudley guardians' accounts and a deposition in Joseph Pegan's pension application identified him as an Indian (Nipmuc Pet. #69A Suppl.) The death record of Joseph Pegan at Dudley identified him as a Revolutionary soldier, but did not provide data about the community of which he was a member.	Does not meet (b).
1784-1845	(b) Church records and vital statistics (Systematic History Fund 1908; *Vital Records of Sturbridge* 1906; Holbrook).	The alphabetized summaries of church records and civil vital records from Dudley, Webster, and Sturbridge for the late 18th and first half of the 19th centuries list numerous marriages and baptisms of individuals identified as Indian. The surnames appearing were Pegan, Jacobs, Senah, Primas, Sampson, Caesar, Jehizea [Jaha?], Ephraim, Nedson.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Major cultural changes were evident during the 1700's. After resisting Christianization in the 17th and early 18th centuries, a large body of the tribe was converted in the 1740's, . . ." (Narragansett PF 1982, 2).	The church and vital records do not describe an Indian community, whether at the Chaubunagungamaug settlement or extending more widely. These records provide data only on individuals. Taken together with other evidence such as the guardians' reports, they strengthen the other evidence indicating that a community continued to exist. They do not name a collective entity, so do not apply under 83.7(b)(1)(viii).	Does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1786-1849	(b) Dudley Guardians' Accounts (Nipmuc Pet. #69A Suppl.); Worcester County, Massachusetts, Probate Records; Nipmuc #69 Pet. Narr. 1984, 53, 78; *Acts and Resolves Passed by the General Court of Massachusetts* 148, 135; *Resolves of the General Court* 1838, 674; Briggs Report 1849, 44; *Acts and Resolves* 1849, Chap. 21. **(b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.**	Appointments of guardians and guardians' reports. From the date of the 1797 sale, and transfer of the location of the reservation (see the charts for criterion 83.7(c)), the Dudley guardians' accounts were examined by the selectmen of the town of Dudley until the establishment of Webster in 1832. The accounts after 1832 were reviewed by the Selectmen of Webster. Beginning in 1803, the accounts began to list the names of more individual beneficiaries. See pages 106-110 of the draft technical report for petition #69B (BAR) for year-by-year summaries.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2). "More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community" (83.7(b)(2)(i)). "In addition, since at least the mid-1750's, significant numbers of tribal members have been resident in neighboring towns to the east and west, . . ." (Narragansett PF 1982, 9); "Since at least 1807, a substantial portion of the Gay Head Indian descendants have not resided in Gay Head . . ." (Gay Head PF 1985, 2).	The overseers' reports were highly consistent in their listing of individuals associated with the reservation, allowing for variants in spelling. The names of the beneficiaries cannot be equated with a listing of the people who were residing on the 26 acres of the reservation for this time period, since some entries in the records clearly indicate that benefits were extended to and expenditures made on behalf of tribal members who lived elsewhere. They provide data both about residency, and about actual interaction (boarding, caring for the sick, transportation and moving expenses). Some families that had been off-reservation in the 18th century, such as the children of Esther (Pegan) Jaha and her husband (Worcester Probate Registry: Ser. A, Case #32910 1786), and Esther Humphrey, were reservation residents in the first half of the 19th century. Esther (Pegan?) Humphrey appeared on Dudley guardianship records for the first time in 1819 (see draft technical report, #69B, BAR 7/15/1998, 108n182).	Meets (b) for 1797-1849.
1828	**(b)** Nipmuc Pet. #69 Narr. 1984, 84-85; Speck 1943.	Speck (Speck 1943, 51) and the petition mentioned a passage in Jeremiah Spofford's *Gazetteer of Massachusetts* (Newburyport, MA: 1928), which referred to "half a dozen" Indians at Dudley.	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	The petitioner did not submit the actual passage from the *Gazetteer*. There is no way to tell from the brief mention in the petition narrative whether it named the entity or described the settlement -- the material quoted, if accurate, indicates that it did not.	Does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1835	**(b)** Tribal census (Dudley Guardians' Accounts 2/16/1835; Nipmuc Pet. #69A Suppl.). **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	In 1835, the selectmen of Webster provided a document, addressee unknown (to whom it may concern) listing all the individuals whom they considered to be members of the Dudley Tribe of Indians at that date. It apparently comprised the first known attempt at a census -- "a list of the names of those who compose the tribe of the Dudley Indians - 31 of which is over the age of twelve years" and including a total of 36 individual names. The surnames were Jaha, Pagan, Ephraim, Hull, Sprague, Humphrey, White, Henry, and Dudley.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2). "In addition, since at least the mid-1750's, significant numbers of tribal members have been resident in neighboring towns to the east and west, . . ." (Narragansett PF 1982, 9); "Since at least 1807, a substantial portion of the Gay Head Indian descendants have not resided in Gay Head . . ." (Gay Head PF 1985, 2).	The list in itself provided no information about residency or actual interaction, but clearly indicated the existence of a named, collective, Indian entity applicable to 83.7(b)(1)(viii). After the preparation of this 1835 census, no new family lines appeared on the guardians' disbursement records, and no new individuals who cannot be documented as members of the immediate family of prior beneficiaries, until the publication of the Briggs Report in 1849.	Meets (b) in combination with other evidence.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1840's	**(81.3), (b)** Bergner c.1990. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	One piece of hearsay evidence names two leaders on the Dudley/Webster reservation in the first half of the 19th century. In his reminiscences concerning the author George Washington Sears (1821-1890), who was born in the Oxford Gore near what would later be the Webster town boundary: "There was a remnant of the NIPMUCK tribe still in existence, about thirty-six, where they spent most of their time hunting, fishing, making baskets, setting snares for rabbits and grouse. Old Ja-ha was the head man of the tribe and he was past ninety years old. The best indian [*sic*] of the tribe was INJUN LEVI as the whites called him, but to his tribe he was known as NESSMUK. Their reservation was on Nipmuck-pond now owned by the 200 Sportsman Club. NESSMUK was probably twenty- twenty two years old and George Sears was about five years old . . . Those indians [*sic*] passed away. When George went back to look for Nessmuk's grave, no one knew the spot" (Bergner c.1990; Nipmuc Pet. #69B Suppl. 3/31/1997, 1890 folder).	"Both Dwight and Morse described a community which was clearly identifiable by outside observers" (Paucatuck Eastern Pequot PF 2000, 74). "More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community" (83.7(b)(2)(i)).	Both of the individuals named in this account could be verified from other records. "Old Ja-ha" was probably Luke Jaha, b. 1771, Shrewsbury, Massachusetts--d. 1841, Webster, Massachusetts (see Nipmuc GTKY file, BAR). The attribution of leadership status to him is somewhat verified by the 1840 Federal census, which apparently listed the entire population of the reservation, 11 males and 12 females, under his name as head of household (NARS M-704, Roll 201, 1840 U.S. Census, Worcester County, Massachusetts, Town of Webster, Frame 0069). "INJUN LEVI" was probably Levi Jaha, b. 1814, Dudley, Massachusetts--d. 1873, Dudley, Massachusetts (see Nipmuc GTKY file, BAR). These dates are compatible with the estimates provided by Bergner.	Meets (b) in combination with other evidence.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1849	(b) F.W. Bird, W. Gris-wold, and C. Weekes, "Report of the Commis-sioners Relating to the Condition of the Indians in Massachusetts," 1849 House Document 46," in *Mass. Legislative Reports of 1849*, Boston: Wright & Potter, 1850 (Briggs Report 1849); Doughton 1997; (Nipmuc #69 Pet. Suppl. 1987, Attachment 4); Plane and Button 1993 (cited as the "Bird Report"). The preface was signed by Massachu-setts Governor George N. Briggs on February 21, 1849, and it is ordinarily cited as the "Briggs Report." See also Mandell 1996. (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	The Briggs Report found a total of 48 individuals, about half of whom "live on the territory," which was described as about 30 acres in Webster. The commissioners were aware that the original land in the center of the town of Dudley had been sold "some years since" and "the present territory purchased for them" (Briggs Report 1849, 42-43). These comprised about 11 families: 22 males, 21 females, 2 unknown, 40 natives, 8 foreigners [non-Indian spouses]. The age distribution comprised: 6 under 5; 7 5-10; 8 10-21; 21 21-50; 5 50-70; 1 over 70, aged 74 (Briggs Report 1849, 43). It listed the amount of money that the state had provided toward the group's support since 1843, a total of $1805.50 which included $250.00 for five years' salary for the guardian (Briggs Report 1849, 43). **Mandell asserted that the report reflected the continuation of a traditional economy and lifestyle on the 26 acres of land in Webster and found that the above description constituted a condemnation of this practice (Mandell 1996, 169).**	"Both Dwight and Morse described a community which was clearly identifiable by outside observers. The gradual adoption of some aspects of non-Indian culture does not indicate either the dissolution of tribal relations or the cessation of the existence of community according to the precedents (Narragansett PF 1982, 10; Gay Head FD 1987, 3)" (Paucatuck Eastern Pequot PF 2000, 74). "Narragansett marriage to Non-Indians, black and white, became an issue in the 19th century . . . the issue of race was raised in the context of state recommendations to dissolve the tribe because of intermarriage with blacks. As a consequence, the group had to strongly defend its identity as Indian, ..." (Narragansett PF 1982, 3).	The #69 petition stated that the families living "on the reservation or near it in 1848" were Jaha, Humphrey, Freeman, Daily, Willard, Kile, Belden, and Sprague (Nipmuc Pet. #69 Narr. 1984, 84). Other evidence indicates that the Daily, Willard, Kile, and Belden families were certainly living elsewhere in Worcester County. The Briggs Report found the group to be in miserable condition: "This tribe have reached a lower deep than any other in the State. A few get an honest living by cultivating their land, and by going out to work. The rest subsist upon the bounty of the State, and by prostitution. They have no schools and no preaching, are ignorant, improvident, and degraded to the lowest degree" (Briggs 1849, 43). **There is no evidence in the record to support Mandell's assertion that the group was continuing a traditional economy and lifestyle. The "practice" condemned in the report was apparently that Rhoda Jaha, who usually resided on the reservation, had borne three children to three different white men of the locality, without benefit of wedlock.**	Meets (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1850	(b) NARA M-432, 1850 U.S. Census, Windham County, Connecticut; 1850 U.S. Census, Worcester County, Massachusetts.	The 1850 Federal census did not list the inhabitants of the 26-acre reservation in the Town of Webster, Worcester County, Massachusetts, but it did enumerate the Dudley Indians who were residing off the reservation. None of the off-reservation residents were identified as Indian.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	The omission of the reservation from the Federal census may be interpreted as an acknowledgment of its special status under Massachusetts supervision. However, there is no specific statement to this effect. The off-reservation families were living within traditional area, but the census provides no data concerning community or interaction.	Neither meets nor negates (b).
1855	(b) 1855 state census (Massachusetts State Archives, 1855 Census, Worcester County, #31, Southborough to Westborough). **(b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.**	The 1855 state census of Massachusetts listed "Dudley Indians, State Paupers" as a special category in the Town of Webster. The family names included were Jaha (Cady and Bowman), Sprague, White, Hull, Piggin [Pagan]. Others of the persons listed as Dudley Indians on the 1849 Briggs Report were listed elsewhere in the county — **the Belden family, for example, in the city of Worcester (Massachusetts State Census 1855, #31, City of Worcester, second numbering sequence).**	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	The classification of the Dudley Indians as a special category on the state census contributes to the continuing identification of the group under 83.7(b)(1)(viii).	Does not meet (b) in itself but contributes to meeting (b) in connection with other documentation.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1857	**(b)** *Resolves of 1857*, Ch. 80; Nipmuc Pet. #69 Narr. 1984, 88. **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	On May 29, 1857, the Massachusetts legislature passed a resolution to require all Indians claiming support of the Commonwealth, to reside upon the land set apart for their use, and under the guardian's immediate supervision (cite). On November 28, 1857, the following entry occurred: "please pay to the order of C.R. Ransome the sum of one hundred and twenty five and 11/100 dollars on account of appropriation for the building houses for the Dudley Indians per Resolves of 1857, Ch. 80" signed by Selectmen of Webster. In April 1857, the guardian reported that about 20 members of the tribe were living on the reservation and claiming support from the guardian; others lived in the neighborhood and were seeking assistance (Nipmuc #69 Pet. Narr. 1984, 88).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	This act and payment were in connection with a project whereby the portion of the Dudley Indians who were receiving public assistance (the "State Paupers") were moved from the 26-acre reservation to one acre "on the public highway, about half a mile from the principal village in Webster," and "more directly under the public eye, where a healthy public sentiment could have its sanitary influence, and where the civil authority could have a more direct supervision over them" (Earle Report 1861, 103). The new lot was described by Earle as only 1/4 mile from the 26 acres and "convenient of access to it" (Earle Report 1861, 103). The larger lot remained held in trust for the Indians by the state (Nipmuc Pet. Narr. 1984, 88-89).	Meets (b) for the 1850's.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1859-1860	**(b)** Nipmuc Pet. #69 Narr. 1984, 94-95; Massachusetts Public Document No. 41 and Massachusetts public Document No. 42, Nipmuc Pet. #69A Suppl. 4/21/1997). **(b)(1)(viii)** The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	On April 6, 1859, the legislature approved an expenditure of $400 for clearing and fencing of the land occupied by the Dudley Indians and for erecting woodsheds upon the same: administration by the selectmen of the town of Webster (Nipmuc Pet. Narr. 1984, 94-95; copy Nipmuc Pet. Suppl. 1994, Ex.). The report by guardian Asher Joslin, dated September 30, 1859, indicated that there were 80 persons belonging to the tribe of whom only 13 resided on the land in Webster. The remainder were living in different sections of Massachusetts, Connecticut and Rhode Island. In the past year, there had been one death and one birth. Joslin provided a fairly extensive report on the ages of those persons residing on the reservation, his expenditures, and the obligations of the guardian as he perceived them (Public Document No. 42; Nipmuc Pet. #67A Suppl. 4/21/97). Joslin's 1860 report , dated September 30, gave the "whole number of the tribe, living in different places, is 93 as far as can be ascertained" (Public Document No. 41), naming Jaha, Pegan, White, Sprague, Hull, Humphrey, Belden, and Kyle.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The legislation and subsequent actions do not in themselves meet (b), as they provide no specific information concerning community. They do, however, contribute to meeting (b) under (b)(1)(viii).	Contributes to meeting (b) in connection with other evidence.
1860	**(b)** 1860 U.S. Census (NARA M-653, Roll 530, 532, 533, 534).	The 1860 U.S. census provided listings of persons who had been identified as Dudley Indians in the Briggs Report, and would be identified as Dudley Indians in the Earle Report (see below). There was no consistency in the identification of their ethnicity, some being categorized as Indians and others not.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	The omission of the reservation from the Federal census may be interpreted as an acknowledgment of its special status under Massachusetts supervision. However, there is no specific statement to this effect. The off-reservation families were living within traditional area, but the census provides no data concerning community or interaction.	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861	(b) Earle Report 1861. (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	Earl identified the total number as 94 individuals, including "those, as well, who have gone out into the community, and by obtaining a legal settlement and exercising the rights of citizens, have abandoned the *legal* condition of Indians . . . ." (Earle Report 1861, 103). He wrote: "As will be inferred from what has already been stated, this tribe has no municipal, religious, or educational organization. The better portion of them, scattered in various towns, belong to ... municipal orgnizations, and have the benefits of religious and educational institutions, such as are common to those in their condition of life. Those who reside on the reservation, though subject to the legal disabilities of Indians, enjoy the benefits of the public schools of the town, and have the usual opportunities for religious worship and instruction, so far as they choose to avail themselves thereof" (Earle Report 1861, 105).	"Both Dwight and Morse described a community which was clearly identifiable by outside observers. The gradual adoption of some aspects of non-Indian culture does not indicate either the dissolution of tribal relations or the cessation of the existence of community according to the precedents (Narragansett PF 1982, 10; Gay Head FD 1987, 3)" (Paucatuck Eastern Pequot PF 2000, 74). "The tribe has not retained cultural traits from the traditional culture which distinguish it from the surrounding populations. Significant adoption of non-Indian culture was evident as early as 1730 and 1740. During this period formal schooling was introduced, English surnames became common, and Christianization became acceptable" (Narragansett PF 1982, 10); "It should be clear that the retention of aboriginal culture or language is irrelevant to the Acknowledgment criteria, except as it might reflect positively on . . . maintenance of a distinct community" (Gay Head FD 1987, 3).	Earle's recommendations were in favor of ending the trust relationship: "the number now residing there [on the reservation] is thirteen, a reduction of nearly one-half in eleven years. Of those remaining, seven vary from 40 years of age to 75, two of them being unmarried females between 40 and 50 years of age. There is but one young married couple, and but four children, two of whom are boys of 17 and 12 years of age. The former of these earns his own living and the latter will soon be able to learn his. Under these circumstances, no good reason can be perceived, why all who are now minors should not, as fast as they come of age, be placed on the same legal footing, as all other residents of the State, who are born upon its soil" (Earle Report 1861, 106-107). Earle identified and described the community. That he recommended dispersing it and ending its special legal status does not negate the identification.	Meets (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861	(b) Earle Report 1861; Mandell 1996. (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	"Two, only, of this tribe, claim to be of pure Indian blood, and of the validity of their claim, there is much reason to doubt. There are several others in whom the Indian blood is so strongly characterized as to indicate its predominance but far the larger portion are so mixed with foreign blood, that traces of the Indian race are slightly or not at all discernible. A few are nearly white, but most of them have the general appearance of Africans, either pure or with a greater or less admixture of white blood. In their personal characteristics, habits, manners, and modes of life, there is generally nothing to distinguish them from the mass of our colored population, with whom they are mostly commingled. A very few, in whom the native blood predominates, have the roving disposition and unsettled habits so characteristic of the race. This is remarkably prominent in one of the families (*Earle Report* 1861, 104-105).	"Narragansett marriage to Non-Indians, black and white, became an issue in the 19th century . . . the issue of race was raised in the context of state recommendations to dissolve the tribe because of intermarriage with blacks. As a consequence, the group had to strongly defend its identity as Indian, ..." (Narragansett PF 1982, 3). "Both Dwight and Morse described a community which was clearly identifiable by outside observers. The gradual adoption of some aspects of non-Indian culture does not indicate either the dissolution of tribal relations or the cessation of the existence of community according to the precedents (Narragansett PF 1982, 10; Gay Head FD 1987, 3)" (Paucatuck Eastern Pequot PF 2000, 74).	Earle devoted a significant portion of his analysis to describing the living conditions of the Dudley/Webster Indians (*Earle Report* 1861, 103) and critiquing the evaluation made by the *Briggs Report* in 1849 (*Earle Report* 1861, 106). For his recommendations in regard to ending the trust relationship with the State of Massachusetts, see the charts for criterion 83.7(c) (*Earle Report* 1861, 106-107). Mandell again argued that: "The similarly scornful language of the contemporary observers points to how the residents of the reserve (of all races) continued to support themselves through small-scale intensive agriculture, hunting, gathering, and occasional labor for neighboring whites" (Mandell 1996, 169; Mandell 1996, 231n28). The content of the Earle Report does not appear to support Mandell's analysis, nor is the maintenance of traditional culture a requirement under the acknowledgment regulations. Some limited evidence does exist that the Indians had maintained traditional practices. The grandmother of Angela Sprague made baskets and peddled them, carrying the infant Angela on her back (see below).	Meets (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861-1865	(b) Nipmuc #69 Pet. Narr. 1984, 95; Morton 1907; Nipmuc Pet. #69B suppl. 2/28/1997, folder 1920); Guardians' reports (Public Document No. 36, 1861, Nipmuc #69B Supplement 3/28/1997); Public Document No. 36, 1862; Public Document No. 35, 1863; Public Document No. 32, 1864; Public Document No. 32, 1865 (Nipmuc Pet. #69A 4/21/1997); Remnant of the Indians of Webster (American Antiquarian Society, Worcester, Massachusets, Nipmuc #69A pet. Suppl. 4/21/1997). **(b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.**	Between 1861 and 1865, five Dudley Indians served in the Union army: Hezekiah Dorus, William H.N. Cady, Theophilus D. Freeman, Joseph E. Beaumont/Bowman, and James N. Pegan (Nipmuc Pet. Narr. 1984, 95), but only Dorus served from Dudley (Morton 1907, 7). Freeman's enlistment records described him as a barber, resident of North Brookfield, who served in the 54th Regiment (cite). Doughton indicated that Anstis Dailey, "son" of Julia (Jaha) also served, but she had only a daughter: no son named Anstis or Augustus (see Nipmuc GTKY File, BAR, for details). The guardian's reports continued to be filed regularly throughout the war years, and are supplemented by a record book maintained by the Town of Webster for the "Remnant of the Indians of Webster."	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	In the September 30, 1865 report , the guardian, Asher Joslin, mentioned Paris Jaha, Betsey White, Edward Pegan, Matilda Hull, Rhoda Jaha, Mary Jaha, Israel Sprague, in Webster; Julia Dailey, Oxford; Lydia Henry, Sturbridge; Martha Fisk, Webster; Mercy H. Oliver, Webster. He stated that Edward Pegan had been sick nearly the whole year and commented: "Four have died; Israel Sprague, Joseph H.P. White, William H.N. Cady, and Hezekiah Dorus, the last two being victims to the inhuman treatment of Andersonville prison." (Public Document No. 32; Nipmuc Pet. #69A Suppl. 4/21/97).	This provides evidence which can be used in combination with other evidence to show that the historical Dudley/Webster Indians meet (b) in the 1860's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1865	(b) 1865 Massachusetts State Census (Massachusetts State Archives, 1865 State Census Massachusetts, Reel 33, Reel 34, Reel 35, Reel 36).	On the 1865 state census of Massachusetts, the "Dudley Indians" were not listed as a designated category in the Town of Webster as they had been in 1855 (1865 Massachusetts State Census Reel #36, Town of Webster, #77/111, /112, #77/113, /114). However, they were grouped together, apparently as either residents, or, possibly, potential residents (several of the persons included in this listing were also enumerated by census takers in other towns) of the group home that had been built for them on the one-acre plot. The family names were Pagan [Pegan], White, Sprague, Dorus, Jayhay [Jaha], Bowman, Hull, and Dafey [Daily]. Several of the families counted outside of the grouping in Webster were identified as Indian; others as non-Indian.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1).	The grouping in the Town of Webster did not, by any means, comprise the totality of the families who can be, through other documentation of the period, defined as Dudley Indians.	Does not meet (b) in itself, but contributes to meeting (b) in connection with other evidence.
1865-1870	(b) Guardians' reports (Public Document No, 31, 1867; Public Document No. 31, 1868; Public Document No. 31, 1869; Nipmuc Pet. #69A Suppl. 4/21/1997). (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	The guardians' reports for the period from the Civil War to 1870 continued to mention many of the same individuals, including their places of residence, and provided some specific data about births, deaths, and funerals.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	The overseers' reports were highly consistent in their listing of individuals associated with the reservation, allowing for variants in spelling.	Meets (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1869	**(83.1), (b)** State legislation; detribaliza-tion act; Nipmuc #69 Pet. Narr. 1984, 95-96; Massachusetts Statutes 1869, 780, Chapter 463, Section 5; Plane and Button 1993; handwritten copy of 1870 map with annotations (Leavens Papers n.d.; reprint in *Atlas of Worcester County* 1971). (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	For more extensive information on this act, see the charts for criterion 83.7(c). On June 23, 1869, as a delayed follow-up to the recommendations of the 1861 Earle Report, Indians were granted state citizenship in Massachusetts. The act provided that the state board of charities should take charge of both the house and all property associated with it in the town of Webster, formerly used by the Dudley Tribe of Indians. The act gave the board the option of either leasing the house and land to the tribe on terms similar to those upon which they had occupied it, or of selling both at public auction (Nipmuc Pet. Narr. 1984, 96; Massachusetts Statutes 1869, 780, Chapter 463, Section 5). In August 1870 [*sic*, 1869?), the multi-family tenement house in Webster was sold, pursuant to Section Five of the Act, to Thomas McQuaid [McQuade], for $1790.00. **The funds were paid into the state treasury and the remaining Indians, formerly inhabiting the premises, were moved to the town of Dudley and accommodated and supported at the state's expense until January 1, 1870 [*sic*] (Nipmuc Pet. Narr. 1984, 97).**	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers" (Mohegan PF 1989, 2).	After the 1869 enfranchisement act, Massachusetts retained limited continuing state responsibility for some of the former reservation populations: for example, in Worcester county, some members of the Hassanamisco Nipmuc continued as individuals to receive annuities into the early 20th century. The BIA researchers located no evidence that such annuities were provided to any of the Dudley Indians. The transfer of the group from the multi-family tenement would be subsequently reflected in the 1870 census enumeration. The 1870 atlas of Worcester County, Massachusetts, Town of Dudley, still showed "Nipmuc Indians" on the upper reaches of Freemans brook, separated from Chaubunagungamaug Pond by a hill (*Atlas of Worcester County* 1971 [1870], 92).	Meets (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1870	(83.1), (b)(2)(i) 1870 Federal Census (NARA M-593; State copy, American Antiquarian Society, Worcester, Massachusetts).	Four former residents of the reservation were grouped together at the end of the enumeration of the town of Webster: Rhoda Jaha, Matilda Hull, Mary J. White, and Joseph Bowman (State copy, American Antiquarian Society, Worcester, Massachusetts, 119-120, #618/944, #619/945, #620/946; #621/947). The household of Lemuel and Lydia A. (Sprague) Henries, although in Webster, was not grouped with the others (State copy, American Antiquarian Society, Worcester, Massachusetts, 55-56, #279/502). Angela Sprague, daughter of Israel Sprague Jr. and Sally White, was working as a servant in a non-Indian household in Sturbridge (NARA M-593, 46r, #391/415). Several close relatives were in Woodstock, Connecticut, or Thompson, Connecticut.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community" (83.7(b)(2)(i)). "Demonstration of community, showing sufficient social connections among members to meet the requirements of criterion b, does not require close kinship ties or a distinct territory occupied by a portion of the membership. It also does not require the demonstration of separate social institutions or the existence of significant cultural differences from non-Indians. **In their absence, community can alternatively be shown by demonstrating that significant informal social relationships exist throughout the membership. Informal relationships may be used to demonstrate community if a systematic description can be provided showing that such social relationships are broadly maintained among the membership and that social interaction occurs with significant frequency. Informal social contacts, such as friendships, are often ones of social intimacy and consistency. In contrast, casual contacts are incidental, do not hold significance for the individual, and can easily be replaced" (Miami FD 1992, 10).**	By the summer of 1870, only a small number of the Dudley Indians were living near the former reservation in Webster. The majority were living elsewhere in Worcester County, Massachusetts, or in Windham County, Connecticut. The data provided by this census is not sufficient to meet community under the standard of 83.7(b)(2)(i), that more than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community. This census provides valuable information concerning the situation of the historical group antecedent to petitioners #69A and #69B as of the date, but does not provide a showing of community. Taken in context of an analysis of the geographical relationship of off-reservation families to this portion of the population, however, it may be used to provide corroborating circumstantial evidence for community.	Does not meet (b) in itself, but contributes to the petitioner's meeting (b) at this date in combination with other evidence.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1870-1890	(b) Leavens Papers n.d. (Nipmuc #69B Suppl. 3/28/1997); Freeland 1894; Indians Lands 1888; obituary of Mary Jaha (Worcester Society of Antiquity 9, 1890). (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	One unidentified set of recollections or reminiscences, found in the papers of a former Webster town official, appear to have been discussing the period of the latter 19th century, probably between 1850 and 1880: "Some of the oldest and most picturesque of the Webster Indians, were Nildeo Hull a quiet and a peaceful body whose tears fell like rain when her house was torn down . . . There was blind Paris Jaha wandering in darkness for many years and her sister Mary Jaha, devoted Methodist . . . . But most picturesque and notorious of all was Rhoda Jaha savage and wicket [*sic*], a striking contrast to her sister Mary. un tamed by civilization she was the terror of the children and her solitary attack on the old Center School with stones and sundry missles is still remembered by many (Leavens papers; Nipmuc #69B Suppl. 3/28/97).	"Both Dwight and Morse described a community which was clearly identifiable by outside observers. The gradual adoption of some aspects of non-Indian culture does not indicate either the dissolution of tribal relations or the cessation of the existence of community according to the precedents (Narragansett PF 1982, 10; Gay Head FD 1987, 3)" (Paucatuck Eastern Pequot PF 2000, 74).	The local history coverage and obituary records of Rhoda Jaha's sisters Julia (Freeland 1894, 31-33) and Mary (Worcester Society of Antiquity 1890, 9:139-140) struck very different tones. Freeland indicated that Julia (Jaha) Dailey "was the last of the Nipmuck Indians in Oxford, her mother was of the Pegan tribe of Nipmuck Indians living on a reservation in Webster, Mass., and the father of Julia was a Mohegan" (Freeland 1894, 31), that after her mother's death, she had been removed from her home and "placed at service in the family of the late Major John Brown of Dudley, where she was taught all the nice arts of house-keeping" (Freeland 1894, 32), and that she had been a guest of honor on June 29, 1881, at a Memorial Day held in memory of the Huguenots of Oxford (Freeland 1894, 33; Leavens Papers n.d., 163). Mary Jaha was mentioned as the "only one of the original descendants . . . now living" in an 1888 article on the sale of the reservation lands (Indians Lands 1888), and her obituary identified her as "the last survivor of the once powerful tribe of Nipmuck Indians."	Does not meet (b) in itself, but provides evidence which contributes to showing that the historical Dudley/Webster Indians meet (b) from 1870-1890 when used in conjunction with other evidence.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1880	(b) 1880 Federal Census (NARA T-9).	Lemuel Henry [Henries] and his wife Lydia A., nee Sprague, were living in Webster, with numerous children and a granddaughter (NARS T-9, 337-337r #34/47). Esbon Dorus, divorced husband of Angenette White, was also in Webster with his unmarried daughter Edith, two married daughters, Betsey Arkless and Matilda A. Jackson, and their children (NARS T-9, 367 #96/161). Mary Jaha was also still in Webster, age 63, and identified as Indian (NARS T-9, 375 #182/316). Angela Sprague was still working in a non-Indian household in Sturbridge (NARS T-9, Roll 563, 582, #301/358), while her sister Mary had married William Mason in the same town (NARS T-9, Roll 563, 588 #352/477). Lydia Sprague's daughter Ida Shelley had married Peleg Brown Jr. and was living in Sturbridge as well (NARS T-9, Roll 563, 571r #93/102). **Samuel and Angenette Hazzard with their sons were in Woodstock (NARS T-9, 467 #84/87). Amanda Dorus, Angenette's daughter by her first marriage, was working as a servant in a boarding house in Dudley (NARS T-9, 191r, #195/246).**	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community" (83.7(b)(2)(i)). "Demonstration of community, showing sufficient social connections among members to meet the requirements of criterion b, does not require close kinship ties or a distinct territory occupied by a portion of the membership. It also does not require the demonstration of separate social institutions or the existence of significant cultural differences from non-Indians. **In their absence, community can alternatively be shown by demonstrating that significant informal social relationships exist throughout the membership. Informal relationships may be used to demonstrate community if a systematic description can be provided showing that such social relationships are broadly maintained among the membership and that social interaction occurs with significant frequency. Informal social contacts, such as friendships, are often ones of social intimacy and consistency. In contrast, casual contacts are incidental, do not hold significance for the individual, and can easily be replaced" (Miami FD 1992, 10).**	The 1880 population distribution was very similar to that found in 1870. The BIA researcher located only a small proportion of the persons listed as Dudley Indians on the Earle Report in 1861. Those located did include the direct and many collateal ancestors of the current members of petitioner #69B. The data provided by this census is not sufficient to meet community under the standard of 83.7(b)(2)(i), that more than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community. Taken in context of an analysis of the geographical relationship of off-reservation families to this portion of the population, however, it may be used to provide corroborating circumstantial evidence for community.	Neither meets nor disproves (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1886-1891	(b) Disbursement Records, 1886-1891; Sale of Indian Land at Webster 1887; Brief c.1890; Lynch 1891. (b)(1)(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.	The largest body of documentation concerning the Dudley Indians between the Civil War and the 20th century was generated by the various court suits aimed at obtaining a per capita disbursement of any remaining property or trust funds held on their behalf by the Commonwealth of Massachusetts. For further data, see the charts for criteria 83.7(c) and 83.7(e). Possibly as a result of the interest generated by this series of lawsuits, John E. Lynch published a monographic study, "The Dudley, or Pegan Indians," in 1891 in the *Collections of the Worcester Society of Antiquities* Volume 9, Number 35 (Lynch 1891). For the Dudley Indians, the intense study generated by this series of lawsuits more than adequately compensates for the missing 1890 Federal census records and provides an excellent study of the group and its geographical distribution as of 1890 (the 1891 final list did not include residency). After the completion of the distribution of the funds which Massachusetts had held in trust on behalf of the Dudley Indians, documentation levels dropped off sharply in succeeding years.	"To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membersship. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	In particular, the Sprague descendents challenged some other families who applied to participate in the distribution. Their attorney wrote: "They inform me that parties of the names of Freeman, Beaumont, Belden and others ought not to be included as distributees and that they can show this if they have an opportunity. They claim that some at least of the above names are of wholly African and not Indian blood. . . ." (Letter, Edgar M. Warner, Putnam, Connecticut, Counsel for Ida and Emma Shelley and others, to to Hon. W.T. Forbes, Judge, Probate Court, Worcester, Massachusetts, December 15, 1888; Worcester Probate Register, Case 6045). The challenged families were not removed from the final distribution list, but the letter indicates that their was a certain sense of community at the time among the Sprague descendants, the ancestors of the majority of the members of petitioner #69B, in addition to the continuing external awareness of a Dudley/Webster Indian entity.	Meets (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1890	(b) List of Dudley Indians prepared by Charles T. Stevens and Thomas Harington, State Indian Commissioners, October 27, 1890 (Worcester Probate Registry, Vol. 474, p. 242; New Series; Nipmuc #69 Pet. Suppl. 1987, Attachment 10).	In 1890, the geographical distribution of the 43 living adults was as follows: Webster, MA 12 Worcester, MA 7 Boston, MA 6 Cambridgeport, MA 3 Spencer, MA 2 Woodstock, CT 2 Providence, RI 2 Dudley, MA 1 Gardner, MA 1 Lynn, MA 1 Marlborough, MA 1 So. Abington, MA 1 Sturbridge, MA 1 Thompson, CT 1 Albany, NY 1 Total 43	"More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community" (83.7(b)(2)(i)).	The data provided by this list is not sufficient to meet community under the standard of 83.7(b)(2)(i), that more than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent interaction with some members of the community. However, it may be used to provide corroborating circum-stantial evidence for community. The residents of Webster and Dudley in 1890 represented the Sprague, Pegan, and Jaha family lines. Additional members of these three family lines also resided nearby in Sturbridge, Massachusetts; Thompson, Connecticut; and Woodstock, Connecticut, as well as single individuals in more distant locations **(Marlborough, Massachusetts; Providence, Rhode Island; Albany, New York). Most of the Belden descendants were in Boston, while the Humphrey descendants were more scattered.**	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1900	(b) 1900 U.S. Census, Worcester County, Massachusetts (NARA T-625, Roll 623, Roll 691, Roll 692, Roll 695, Roll 1511).	Three children of Lydia A. Sprague, one by each of her marriages, were living in Dudley, Massachusetts: Walter Henries with his wife and children (NARA T-623, Roll 691, ED 1604, Sheet 11A #106/200) and next door, his sister Matilda (Nichols) Henries with her daughter (NARA T-623, Roll 692, ED 1604, Sheet 11A, #107/201), and Ida A. Shelley, who had by this time separated from Peleg Brown and was no longer using his name (NARA T-623, Roll 691, ED 1104, Sheet 11B #110/212). George M. Wilson (formerly Pegan) and his family were in Webster on the regular population schedules (NARA T-623, Roll 695, 62A, ED 1698, Sheet 15 #228/361), while in the same town the enumerator placed the Henries descendants of Lydia A. Sprague on the special Indian Population schedules as "Nipmuck" (NARA T-623, Roll 695, 65A, ED 1698, Sheet 1 #13/14).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	The 1900 and 1910 Federal censuses were unique in that they contained special schedules on which enumerators could record Indian population. These were used to a limited extent for the descendants of the Dudley Indians, but not as a general pattern. The 1900 data indicated that not all of the petitioner's direct and collateral ancestors were included on the special schedules, nor were they listed as a group. The special Indian Population schedules did not provide sufficient evidence for community under 83.7(b)(2)(i), but may be used as corroborative evidence for community as of 1900 in combination with other material. Further analysis of residential patterns would be necessary in order to use the data from this census as direct evidence for 83.7(b). The petitioner may wish to consider using this evidence in conjunction with an analysis of the level of kinship within the descendants of the historical Dudley/Webster Indians as of 1900 as a way to demonstrate the existence of community.	Does not meet (b) for the historical Dudley/Webster Indians in 1900, but provides evidence which can be used in conjunction with other evidence to demonstrate (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1900	(b) 1900 U.S. Census, Windham County, Connecticut (NARA T-623, Roll 151, Roll 152); Providence County, Rhode Island (NARA T-623, Roll 1511).	The 1900 census of the town of Killingly, Windham County, Connecticut, showed that at least two of the Dudley family lines were still in contact with one another. Lydia (Blackstone) Malbone, a Jaha descendant, was head of a household of cotton mill spinners that included one of the sons of Lemuel and Lydia A. (Sprague) Henries (NARA T-623, Roll 151, ED516, Sheet 16, #290/355 overwritten #287/369). Two of Winfred Henries' children were living with their non-Indian mother and grandmother in Woodstock (NARA T-623, Roll 152, 230B, ED533, Sheet 3B, #65/70). Also in Woodstock, Betsey (Dorus) Arkless Noyes was living with her daughter (who would shortly become the second Mrs. Winfred Henries) and granddaughter (NARA N-623, Roll 152, 231A, ED533, Sheet 4A, #80/85), and Edgar Brown, grandson of Lydia A. (Sprague) Nichols Shelley Henries and his wife were living with her parents (NARA T-623, Roll 152, 247A, ED534, Sheet 7, #149/155 and #149/156).	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	The 1900 and 1910 Federal censuses were unique in that they contained special schedules on which enumerators could record Indian population. These were used to a limited extent for the descendants of the Dudley Indians, but not as a general pattern. The 1900 data indicated that not all of the petitioner's direct and collateral ancestors were included on the special schedules, nor were they listed as a group. The special Indian Population schedules did not provide sufficient evidence for community under 83.7(b)(2)(i), but may be used as corroborative evidence for community as of 1900 in combination with other material. Further analysis of residential patterns would be necessary in order to use the data from this census as direct evidence for 83.7(b). The petitioner may wish to consider using this evidence in conjunction with an analysis of the level of kinship within the descendants of the historical Dudley/Webster Indians as of 1900 as a way to demonstrate the existence of community.	Does not meet (b) for the historical Dudley/Webster Indians in 1900, but provides evidence which can be used in conjunction with other evidence to demonstrate (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1910	(b) 1910 U.S. Census (NARA T-624, Roll 144, Roll 630).	Several Dudley/Webster Indian families were still within the region around Webster, Massachusetts. The family of George M. Wilson (formerly) Pegan, was still in Webster itself, identified as Indian (NARA T-624, Roll 630, ED 1834, Sheet 22A #289/259). No descendants of the relevant families were found in the town of Dudley. In Connecticut, Walter S. Henries and his family were in Woodstock, Connecticut, sharing a household with a married daughter and her husband (NARA T-624, Roll 144, ED 598, Sheet 2A #29/29, #29/30). Edgar P. Brown and his wife included a married daughter and a grandson in their household (NARA T-624, Roll 144, ED 598, Sheet 2B #35/36). Vital records indicate that by 1910, Winfred Henries and his wife Angenette (nee Arkless), ancestral to the majority of the current membership of petitioner #69B, were living in Providence, Rhode Island (see charts for criterion 83.7(e)). No census record was located for them in that year.	"*Community* must be understood in the context of the history, geography, culture and social organization of the group" (25 CFR 83.1). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membersship. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	Neither petition #69, #69A, nor #69B submitted extensive copies of records, or analysis of, the 1910 census. BIA researchers were able to make only limited use of the 1910 Federal census because the absence of Soundex indexes for Massachusetts and Rhode Island, combined with the large population of the urban areas, made a detailed search an inefficient use of limited research time. The BIA genealogist read manually the core-area towns of Worcester County, Massachusetts, and Windham County, Connecticut, but made no effort to locate descendants living away from those areas. The data indicated that not all of the petitioner's ancestors who were residing in the town were included on the special schedules. A significant proportion were residing in neighboring towns as well. The special Indian Population schedules did not provide sufficient evidence for community under 83.7(b)(2)(i), but may be used as corroborative evidence for community as of 1910 in combination with other material. Further analysis of residen-tial patterns would be necessary in order to use the data from this census as direct evidence for 83.7(b).	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1914	(a)(5) Last Survivor of the Nipmucs, *Boston Sunday Herald*, September 6, 1914.	This was an article concerning Angela (Sprague) Leach. Her immediate recollections were vague, because of the early deaths of her parents. She had been bound out, and then married a local white farmer.	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	Most of Angela (Sprague) Leach's narrative apparently came from general narratives of colonial history. Nothing in the article indicated the existence of a continuing Indian entity. Nothing in the article indicated the continuing existence of an Indian community of which she was a part. In the 1930's, after interviewing her surviving, non-Indian, husband, Helen G. Holley wrote: Though the old grandmother told her many old legends of her people, white folks in general were not interested and Angie was not talkative" (Holley c. 1937; Nipmuc Pet. #69B suppl. 2/28/1997, folder 1910). The other data submitted concerning this woman also indicated that if a community continued to exist, she had little contact with it (Nipmuc Pet. #69 Response 1994, Ex.).	Does not meet (b).
1916-1917	(b) Nipmuc #69 Pet. Narr 1984, 131; Now and Then c. 1932; Kowal 1983.	The petitioner indicated that in 1916 and 1917, the Dudley Indians supposedly held powwows on Lake Chaubunagungamaug. The petitioner indicated that these were mentioned in a 1983 newspaper article (citing Kowal 1983, "Nipmucks Readying"; no original documentation submitted).	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	A section in a pamphlet published about 1932 by the Webster Woman's Club indicated that these "powwows" were not tribal, or even Indian, events. They were sponsored by the Chambers of Commerce along the valley of the old Mohegan River, as joint entertainment, by Putnam, Connecticut, and Webster, Massachusetts, on July 13, 1916, repeated June 11. 1917 (Now and Then c.1932, 61-63). The petition also stated that in August 1920, two Nipmuc bands participated in a regional gathering of Worcester County and New Hampshire Indians at Lake Dennison (Nipmuc #69 Pet. Narr. 1984, 131). The petitioner submitted no documentation to substantiate this.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1920	(b) 1920 Federal Census (NARA T-625, Roll 198, Roll 745); Soundex Index, Massachusetts (NARA II-562).	Edith L. Henries [*sic*, actually Edith L. Goins, daughter of Angenette (Arkless) Goins Henries by her first marriage] was working as a servant in Boxborough, Norfolk County, Massachusetts (NARA II-562, 1920 Soundex, MA). Lydia M. Malbone was living in the town of Dudley with her daughter Matilda Henrys (NARS T-625, Roll 745, ED32, Sheet 10B #99/186), as were Prescott S. Coates and his wife Effie [daughter of Matilda (Malbone) Henries], who was identified as Indian by the enumerator (NARA T-625, Roll 745, ED32, Sheet 3B #35/59). Edgar P. Brown, wife and children, a married daughter, and two grandchildren were sharing a household in Woodstock, Connecticut (NARA T-625, Roll 198, ED 369, Sheet 9A #199/206).	"To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membersship. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	More of the families were located in 1920 than in 1910. In regard to the direct and collateral ancestors of petitioner #69B, two of the children of the late Winfred Henries and Angenette Arkless were located on the 1920 census of Rhode Island. Edward [Edwin], age 14, was an inmate of the State Home and School (NARS T-625, ED 310, Sheet 2, Line 86), while his sister Elsie, age 9, was a patient at the State Sanatorium (tuberculosis hospital) (NARS T-625, ED70, Sheet 77, Line 77). Angenette herself was not located under the names of Arkless, Goins, or Henries in Massachusetts, Connecticut, or Rhode Island Soundex. Elizabeth (Henries) Morse, ancestress of the majority of the members of the #69B petitioner, was not located on the 1920 census. The petitioner's records indicate that she had married in 1918 at Wayland, Massachusetts. **The census data is not sufficient to show that the petitioner meets 83.7(b). In connection with other documentation, particularly in regard to the close level of kinship that still existed in 1920, it can be used as corroborative evidence.**	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1920-1950	(b) Absence of evidence.	From 1920 through 1950, the petitions for #69, #69A, and #69B have submitted no evidence pertaining to existence of community among the ancestors of petitioner #69B, or between the ancestors of petitioner #69B and other Dudley/Webster descendants living during this thirty-year time period. There is some evidence in the record for this period concerning interaction between descendants of other Dudley/Webster family lines and the Cisco family at Hassanamisco (Grafton). This material will be analyzed in connection with petition #69A.	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membersship. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but **across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).**	The limited data submitted did not pertain to community and referenced members of other Dudley/Webster family lines, including those branches of Henries descendants now members only of petitioner #69A.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1940's - early 1970's	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse was asked what, if any, interaction he had had with other Nipmucks during the period from the 1940's to the early 1970's. Mr. Morse said that during that period, it was difficult to remember the Nipmucks with whom he might have interacted at gatherings and parties for the following reason: Excerpt from Transcript: Mr. Morse: "because back then, I wasn't interested in that [Nipmuck stuff], so I never paid much attention [to who was or was not a Nipmuck]. If I did back then, I coulda gave you a book and you woulda been able to read it and have anything you want. But I wasn't interested in that. Just like Mr. Henries – Crow Henries – when I first met Walter . . . He wasn't doing nothin' as far as Native American people are concerned. I don't know what he told you, but he did a lot of reading . . . just like I did. I did a lot of reading because I had to. So that's why I know what's going on. If it wasn't for books, [unintelligible] be no place."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name" (b) (1) (*viii*).	In this statement, as elsewhere during the audiotaped BAR interview, Mr. Morse strongly suggested that, during the period from the 1940's to the early 1970's, he and other future members of #69B with whom he was acquainted during these decades did not identify as Nipmucks (though many were aware that they were descended from Nipmucks), and did not constitute a group. By his own account, then, Mr. Morse was not part of a Nipmuck community during at least the period before 1977, if such a community existed at all during the early to mid-20th century.	Negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1950's at the earliest	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse was asked whether he had had any interaction with Mr. Henries, the leader of #69A and Mr. Morse's first cousin, when Mr. Morse was living in Worcester, which was between c. 1940 and 1971. **Excerpt from Transcript:** "I met him – and his brother, I think it was, I think it was, his kids, one of his kids – but I was grown then, and that was the first time I ever met him."	"To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5). **"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).**	Mr. Morse claims that he did not even meet Mr. Henries until he (Mr. Morse) was an adult. As Mr. Henries was the leader of the Nipmuck group which Mr. Morse joined in the 1970's (#69A), it is highly likely that Mr. Morse had little or no social connection or interaction with members of an organized Nipmuck group until he was in his 40's, which was when Mr. Morse joined the group.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1950-1978	(b) Absence of evidence.	From 1950 through 1978, the petitions for #69, #69A, and #69B have submitted no evidence pertaining to existence of community among the ancestors of petitioner #69B, or between the ancestors of petitioner #69B and other Dudley/Webster descendants living during this thirty-year time period. There is some evidence in the record for this period concerning interaction between descendants of other Dudley/Webster family lines and the Cisco family at Hassanamisco (Grafton). This material will be analyzed in connection with petition #69A.	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membersship. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	When the group antecedent to petitioner #69B reappears in the records in 1978-1980, it consists of an organization comprising the descendants of one woman, Elizabeth (Henries) Morse (see charts for criteria 83.7(c), 83.7(d) and 83.7(e)). There is no indication that #69B's antecedent organization included more than this single family line from 1978 through its separation from petitioner #69A in May 1995. Data obtained at the offices of petitioner #69A showed one inclusion of Elizabeth (Henries) Morse on a Hassanamisco powwow program in 1950 (Pow-Wow, Grafton, Mass. 7/4/1950). This single mention provided no data concerning community within the current petitioner.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977 - 1997	Table of Nipmuc Gatherings and Fairs Held at Hassanamesit.	Table Six of this document covered the years from 1936 to 1997. In addition to other information that is not relevant to this discussion, the chart lists in chronological order 30 gatherings that took place from 1977 to 1997. Because at least Mr. Edwin Morse and some members of his extended family participated in affairs of the #69 joint petitioner from 1977 until the mid-1990's, the 30 gatherings in the chart that span this 18 or 20 year period are relevant to #69B. At least formally, these 30 gatherings were organized by both the Hassanamisco and Chaubunagungamaug Bands, which were cooperating at the time.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii) and "shared sacred or secular ritual activity encompassing most of the group" (b)(1)(vi).	Nearly all of the gatherings listed in the above document appear to be annual fairs. For example, each year from 1990 to 1997, only one event – "Annual Native American Indian Fair" – is listed. There is no evidence that such events, which were open to the public and attended by many non-Nipmucs, were events during which Nipmucks socialized with one another. Only four of the gatherings during this period may have been essentially Nipmuck events. These events took place during the period from 1979 to 1982 and are labeled, "Tribal Meeting - closed to the public," "constitution and by-laws signed by council chiefs," "Annual Meeting," and "meeting/election." If the petitioner were to provide additional evidence, such as lists of members of #69B who participated in or even attended these gatherings, the petitioner might be able to demonstrate that the relationships connecting individual members, if such relationships existed at all, were significant, that there was informal social interaction among group members which existed broadly; and perhaps even that these gatherings show the existence of shared sacred or secular ritual activity that encompassed most of the group.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977	Minutes of "Joint Meeting: Legal Heirs of Hassanamisco, and the Nipmucs," dated 5/14/77.	This document contains a list of 19 people who attended the meeting, which was organized by Zara CiscoBrough. Attendees were Joseph (Walter) Vickers Jr.; Anna Mays; Sheila Cisco; Samuel Cisco; Charlie Richardson, Carol Palavra; Robin Palavra; Brent Palavra; Walter Vickers Sr.; Emma White; Marylou Willoughby; Lois Ann Wilcox; Horace Cisco; Lillian Wells; Charlie Hamilton; Carol Vickers; Robin Vickers; Pam Vickers; and Michelle Vickers. The document alludes to efforts to obtain Grafton State Hospital land, organize a fair, establish an Indian Center in Worcester "for all the natives in the Worcester area," and respond to a recent article in a newspaper that was said to have stated that all Nipmucs were dead.	No rule or precedent; included for informational purposes only.	Neither Mr. Morse nor any member of his extended family appears on the attendance list of this meeting. It is likely that, by the Spring of 1977, Mr. Morse had not yet joined the Nipmuck group that later became #69.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse claims that it was around 1977, which was when he was 49, that he "started to push forward as Chaubunagungamaug." Excerpt from transcript: Mr. Morse: "Back then [in the 1920's and 1930's when he was a child], we knew we was Chaubunagungamaug. We knew we came from South Woodstock, CT. We knew that was in Dudley. So, uh, but we had nobody to do anything. And then when we got older we found out everything we had to know. About 21 years ago. That's when we started to push forward as Chaubunagungamaug. But we didn't know uh. And then, as far as joining anything we – Zara's sister – she was giving out, I think it was $175 for clothing, $125 for food to all Nipmucks. You go down there, and you sign your name on the dotted line, and you were automatically on the tribal roll" (emphasis ours). BIA: "So she was just signing up anybody who came by?" Mr. Morse: "Anybody that came by. Said they was a Nipmuck." BIA: "And they got the food and clothing and also were just signed up?" Mr. Morse: "Yep."	To meet criterion (b), a petitioner must demonstrate that its members comprise a "distinct community." As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state, among other things, "The persistence of a *named, collective Indian identity* continuously over a period of more than 50 years, notwithstanding changes in name" (b) (1) (viii) (emphasis mine). Under (b)(2), "a petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided to demonstrate" that "There are distinct community social institutions encompassing most of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations" (b)(2)(iv).	This statement culminates in the event of his joining this group, which Mr. Morse said was in 1977 when he was 49 years old. In the statement, Mr. Morse strongly suggested that, during the half-century from the early 1930's to 1977, there was no Nipmuck organization or association of which he and most future members of #69B were a part, and there were no Nipmuck activities or expressions of a collective Nipmuck identity of which he and most future members of #69B were a part. Mr. Morse seemed to suggest, in short, that during these decades there was no distinct Nipmuck community, or at least one that included him and most future members of his group. This statement followed his brief description of his childhood in which he implied that, to the best of his knowledge, did not involve Nipmucks beyond members of his extended family. The point should also be made that, in the statement quoted here, Mr. Morse mentioned "Zara's sister." According to #69A genealogies, Zara CiscoBrough was an only child.	Negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977	Letter to Mrs. Mitchell from Zara CiscoBrough, Chairman, dated 9/6/77, with enclosures; enclosures include a petition.	The letter requested a date to present the petition to Governor Dukakis or Mrs. Mitchell herself. The enclosed petition was said to contain the names of a number of Nipmucks "who are vitally interested in Nipmuc New Town Creation." This project involved a proposed transfer of land not in use by the state of Massachusetts to the Nipmucks for settlement. The project was spearheaded by Zara CiscoBrough. The petition contained the names of 37 individuals. One of these individuals was Edwin Morse.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	This document provides the earliest evidence of the involvement of Mr. Morse, who later became "chief for life" of #69B, in Nipmuck matters. It also provides the earliest evidence of the social interaction of Mr. Morse with a Nipmuck from another family line. This said, it should be pointed out that, although this document suggests that Mr. Morse participated politically in a Nipmuc group and that he may have enjoyed informal social interaction with members of an organized Nipmuc group, it does not demonstrate that such political participation or social interaction existed broadly among members of the petitioning group.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1978	Roster of attendees at meeting on 6/8/78.	This document gave no indication of the nature of the meeting. It did indicate that 49 people were present. Zara CiscoBrough, then leader of what later became #69, is on the list of attendees, as is Edwin Morse Jr., Edwin Morse Sr., and other Morses.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	This document shows that, by 1978, there was at least some social interaction of at least some Morse family members with at least some Nipmucks of different family lines. As such, the document provides some very weak positive evidence of (b) for the late 1970's. To strengthen its case that it meets (b) for the late 1970's, the petitioner should provide additional information or documentation about this meeting.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1979 - 1980	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Glen Heath said that it was not until after he got married, which he said was when he was about 40 years old, that he met Mr. Morse. **Excerpt from Transcript**: "Then, I got married. I had some friends that knew Chief Wise Owl. That's how I met him. That was '79 or '80 . . . [When I met him, I said,] "I would like to, uh, join the uh, join his tribe." [Then Wise Owl said,] "The first thing is that [you need to] get whatever you [can] get saying that you are who you say you are." Within at most a few years of the above conversation, Glen Heath and many of his family (through Glen's submission of their paperwork) were enrolled in #69B. By 1991, Glen was serving on the tribal council.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	This statement suggests that it is likely that Mr. Heath and his family members had little to no significant social relationships with other future #69B group members until 1979 at the earliest. As the Heath family is one of only three extended families that comprise the #69B group other than the extended family of Mr. Morse and is thus a significant part of the petitioning group, this statement of Mr. Heath's provides some negative evidence for the period before the late 1970's. Two additional points should be made about this quote from Mr. Heath. First, Mr. Heath married in 1964, much earlier than is implied in his statement. Second, other evidence in the record indicates that Mr. Heath's name did not appear on any #69 membership lists prior to 1995.	Negates (b).
1979 - early 1980's	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse claimed that, when the council meetings of the Chaubunagungamaug Nipmuck Council (the organization antecedent to petitioner #69B) first "started," as he put it, in 1979, they were attended by 50 to 60 members.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	A community must be more than an extended family with close kinship ties. The petitioner as then defined was not the same group as the membership of the current petitioner #69B.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980's	Interview with Kenneth Leroy White, 7/25/98.	Mr. White stated that he did not meet Mr. Morse until the 1980's.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	If Mr. White did not meet Mr. Morse until the 1980's, Mr. White did not meet Mr. Morse until the decade during which he (Mr. White) was in his late 30's and early 40's. In light of this statement by Mr. White, as well as the similar statement by Mr. Heath (see above), if there exists evidence that members of the Heath family and/or the White family were indeed interacting with future members of #69B other than Mr. Morse and members of his extended family during this period, the petitioner should submit this evidence.	Negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980 - 1998	Interview with Edwin Morse, Jr., 7/22/98.	When asked about "the most important issues that the council has dealt with," Mr. Morse, Jr. said: ". . . discussing how many kids needed toys for Christmas or how many families needed Christmas dinners. That's what we've been doing for 20 years [which would have been from about 1978 (but see below) to 1998]. Before we did it, my aunt [Edith E. Hopewell] did it . . . for about 10 years [which would have been from about 1968 to 1978]." At that point in the interview, Mr. Edwin Morse, Sr., who was interviewed at the same sitting as Mr. Edwin Morse, Jr., clarified that it was in 1980, not 1978, that he started making food and toy distributions at Christmas time.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	It is possible that these distributions can provide evidence of community for all or part of the period since the late 1960's, which is when it is alleged that Ms. Hopewell began the distributions. As it now stands, however, for the period prior to the 1980's, there is almost no evidence in the record that these distributions were even done in the context of being Nipmuck. If the petitioner wishes to use these distributions to help show that it meets (b) for all or part of the period from the late 1960's to the late 1990's, the petitioner should submit additional documentation of these activities. This documentation might include documentation of the number of group members who helped make the distributions and documentation of how funds were raised, particularly if these funds came from group members. If appropriate, the petitioner might orient its submission toward trying to show that these annual distributions expressed significant social relationships and/or informal social interaction that existed broadly among members of the group.	Does not meet (b).
1980's	Various newspaper articles submitted by Ron Little Crow Henries in 1995; articles appeared in *The Worcester Telegram*, *The Patriot*, and *The Webster Times*, among other newspapers.	The articles document activities and events organized by #69B or in which members of #69B participated, including powwows, food distributions, a film showing, and a parade.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	Though these newspaper articles do not demonstrate that the recorded activities encompassed most of the group, they do show that, during the 1980's, there existed activities that encompassed at least a portion of the group. To demonstrate that it meets (b) for the 1980's, the petitioner might submit evidence that shows that a predominant portion of the group was involved in these activities during the 1980's.	Does not meet (b) in itself, but provides evidence which can be used in combination with other evidence to demonstrate (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980's	Interview with Kenneth Leroy White, 7/25/98.	Mr. White, who has served on the governing body of the petitioning group, was asked when he first came into contact with Mr. Edwin Morse, Sr. Mr. White responded that it was when he was "very young" by which he meant that it was when he was in his late 30's and early 40's. Mr. White explained that, during the decade that he met Mr. Morse, which, he said, was the decade of the 1980's, his brother and father used to go over to Mr. Morse's house for the purpose of visiting not simply the Morse family but Mr. Edwin Morse himself.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is **significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).**	This statement by Mr. White is significant both negatively and positively. Although it provides evidence that Mr. White did not even meet Mr. Morse, Sr. until the 1980's when he was in his late 30's and early 40's, it also provides evidence that, during the 1980's, there was at least some informal social interaction among group members, and that such interaction and social relationships were not just within immediate families or among close kinsmen, but across kin group lines. To strengthen its case that it meets (b) for the 1980's, the petitioner should submit material and documentation to show that the social interactions that connected individual members during this decade were broadly distributed among the membership and that the social relationships that existed within the group were relationships that were significant.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981	Letter to Zara CiscoBrough from Edith Hopewell at Oxford, n.d.	This letter was not dated but from its contents it seems to have been written in 1981. Among other things, this document states, "Enclosed find papers I tried to call you about. They are very defamitory [*sic*] to you and all our kind. They are holding a meeting 7/23/81 at their father's house in Dudley to form their own committees and chief, etc. which I know they haven't the power to do, and she should be told by you or someone in authority she is not a "Princess," her father or anyone close to was never a chief as in my case." "All these people who are forming their own clan as they say needn't ever come to me again for help. I've helped them every year for 6 years now . . . They have only admitted to being Indian after they got $250.00 from the Indian fund . . ."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii). "To meet the requirements of the regulations, the petitioner must be more than a group of descendants with common tribal ancestry who have little or no social connection with each other. Sustained interaction and significant social relationships must exist among the members of the group. Interaction must be shown to have been occurring on a regular basis, over a long period of time. Interaction should be broadly distributed among the membership. Thus a petitioner should show that there is significant interaction and/or social relationships not just within immediate families or among close kinsmen, but across kin group lines and other social subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that members of the group as a whole are significantly connected with each other" (Miami FD 1992, 5).	This document is important for several reasons. First, it provides some documentation of the event of the creation of the petitioning group in the early 1980's, documentation that accompanies other evidence of this event, including evidence from interviews conducted with #69B group members. Second, the letter from Ms. Hopewell suggests that there may have existed informal social interaction between group members and significant social relationships connecting individual members during the 1980's and possibly even during the late 1970's. The document also suggests, with the following excerpt, that such interaction may have been broadly distributed among the group: "*All these people* who are forming their own clan as they say needn't ever come to me again for help. I've helped them every year for 6 years now." [emphasis added]. The letter does not suggest that anyone other than members of Mr. Morse's extended family made up "all these people who are forming their own clan."	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981-1982	Interview with Edwin W. Morse Sr., 7/22/98.	When asked whether any other Nipmucks participated with Mr. Morse in parades, Mr. Morse replied as follows: Excerpt from Transcript: Mr. Morse: "Oh, there was our council. He had a girlfriend at the time - Wayno (?). She had about 8 sisters there with her, and then we had Spotted Eagle, Wildcat, Three Bears . . . There were some girls. There was Eagle Hawk from Rhode Island. He marched with his daughter. A guy named Tall Oak, his wife and kids used to be with us. There much have been at least 40 different people. When we walked there was this guy – sagamore from Sioux – Fire Hawk. He used to walk with us all the time. Some of 'em were Nipmuck. The biggest part of 'em were Nipmuck."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	This statement of Mr. Morse, Sr. shows that, during the early 1980's, there existed 1) shared activity in the form of parades that encompassed what may have been most of the group; and 2) informal social interaction which can be presumed to have taken place during these activities and which may have existed rather broadly among Chaubunagungamaug Nipmucks. If the petitioner were to submit material to show that most of the group participated in these activities, and that such activities were not intertribal in nature, it would strengthen its case.	Does not meet (b).
1984	Nipmuc #69 Pet. Narr. 1984, 191-192.	The petition researcher asserted that "[s]ince 1978, there has been a dramatic increase of tribal activity generally, and most notably at Dudley-Webster, among the Chabunagungamaug clan." He continued: "Within the past five years, this band (Chabunagunagmaug) has been particularly at pains to stress its unique clan identity . . . In 1978, the band formed its own band council, and in 1982, that council formally incorporated under the laws of the Commonwealth of Massachusetts."	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000).	There is evidence in the record which shows that, since at least 1981, Dudley-Webster has been a center of activity for the leaders of #69B, for many of the members of this group, and even for New England Indians more broadly. From the evidence, it is clear that a major factor in bringing this about was the formation of a Nipmuck tribal council in the Dudley-Webster area in the late 1970's, or the early 1980's at the latest, by Mr. Edwin Morse. Mr. Morse's decision formally to incorporate this organization under the laws of the Commonwealth of Massachusetts in 1982 merely reflected his and his family's desire to create a durable group.	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1984	Nipmuc #69 Pet. Narr. 1984, 191-192.	The petition researcher asserted that there has been a "broadening of the base of tribal participation."	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000).	There has indeed been an increase in the number of Nipmucks participating in #69B from the time the group was formed in the late 1970's or early 1980's to the year 1998. The group seems to have begun with a membership that included only the extended family of Mr. Morse. The most current membership list (1997), on the other hand, reflects the successful recruitment on the part of Mr. Morse of individuals from several other Nipmuck families, many of whom Mr. Morse did not even meet until at least the late 1970's.	Neither meets nor negates (b).
1984	Videotape: "Nipmuck Indians," Worcester Cable Television.	This document presents Nipmuck history and, to a lesser extent, Nipmuck contemporary life to a general audience. There is footage of the land that was donated to the group in 1982, short interviews with members of the group, and group events and activities.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1)(iii) and "shared sacred or secular ritual activity encompassing most of the group" (b)(1)(vi).	The tape shows informal social interaction, and it may show shared sacred or secular ritual activity. As such, it might provide some evidence that the petitioner meets (b) for the mid-1980's. However, there are several problems in regard to the evidentiary value of the videotape. First, not all persons who appear on the tape are identified, and thus cannot be confirmed as members of the petitioning group. Second, the tape does not demonstrate that the social interaction that it documents existed broadly among the members of the group and that the activity that is also documented on the tape, particularly the activity that may constitute shared sacred or secular ritual activity, encompassed most of the group.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1987	Nipmuc #69 Pet. Supplement 1987, 6.	In his very brief discussion of Nipmuck social and political activity during the modern period, the petition researcher asserted that, in 1981, the group at Dudley-Webster held its "first activity," a powwow. The next year, in 1982, he continued, "a benefactor donated a small piece of land in Thompson, CT [*sic*] to the band." The group at Dudley-Webster, he continued, now has a "Nipmuc school." "As many as 20 gather at times on the weekends to hear lectures."	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000). As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "There are distinct community social institutions encompassing most of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations" (b)(2)(iv).	Through the site visit and other documents submitted by the petitioner, the petition researcher's statements of fact regarding the organization of a powow in 1981, the donation of land to the group in 1982, and the creation of a school by members of #69B were confirmed. Had the petitioner submitted any additional material about the Nipmuck school, such as lists of attendance, a list of classes, or a school budget, if any, it might have been possible to confirm the petition researcher's claim about the number of Nipmucks who attend classes on weekends.	Neither meets nor negates (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1987	Nipmuc #69 Pet. Supplement 1987, 7.	The petition researcher asserted that there is an "annual August meeting at the reservation on Brigham Hill in Grafton." This meeting, he continued, "involves both bands." The first day, attendance is restricted to Nipmucs; the second day, the meeting is "open to the public."	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000).	The petitioner submitted very little evidence about the annual August meeting that takes place in Grafton (see the proposed finding for petitioner #69A for additional information) and even less evidence that both bands attended these meetings. Through a site visit, which occurred after the two bands had split, it was confirmed that there were annual meetings for #69B that took place for the period from 1991 to 1996 in the Dudley-Webster area and that at least one of these meetings – the meeting in 1996 – was attended by some members of both bands. Without additional information or documentation from the petitioner, however, this aspect of the petitioner's arguments cannot be adequately evaluated, nor can the extent to which these meetings encompassed most of the group be determined. **To establish that these meetings took place before 1991 and after 1996, that they involved both bands, and that they encompassed most of the petitioning group, the petitioner should submit additional evidence and documentation of these gatherings, such as lists of group members who have volunteered their services for these events and/or lists of members who attended these gatherings.**	Neither meets nor negates (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1987	Nipmuc #69 Pet. Supplement 1987, 7, 10.	The petition researcher claimed that the annual August meeting in Grafton is "supplemented by more informal gatherings" (p. 7). Later, under the heading of present-day Nipmucks and the group as a whole, he referred to meetings in general. Here he argued that the group's meetings are "frequent and well-attended" (p. 10).	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000).	The petitioner submitted almost no documentation of these more informal gatherings. Therefore, the claim of the petition researcher that such meetings are frequent and well-attended could not be assessed. The petitioner should submit evidence of these gatherings and meetings to show that it meets (b) for the period during which these events are alleged to have taken place.	Neither meets nor negates (b).
1988	Videotape: "Wedding Chief Red Fox: Sept 19, 1988."	This document provides footage of a Nipmuck gathering in 1988 that included a powwow that culminated in the wedding of Edwin Morse, Jr., then a #69B council member and now an officer of #69B.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	From the tape, it is impossible to identify which individuals are the leaders of #69B, with the exception of Edwin Morse, Jr., or even which are members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson, 7/22/98), this **submission provides no evidence as to whether petitioner #69B meets criterion (b). If the petitioner wishes to use this tape as evidence that it meets (b), it needs to provide a written narrative and analysis of the gathering that, at a minimum, identifies the individuals who appear on the tape.**	Does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1991	Notes documenting "Annual Nipmuk [*sic*] business meeting" at Friendly House, Worcester, Massachusetts.	This document indicated that the meeting took place on November 24, 1991 and that it was attended by 300 people.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	It is highly probable that this meeting cannot be considered a meeting of the current petitioner. Rather, it appears to be a meeting of another group, a larger Nipmuc group called the Nipmuc Tribal Acknowledgment Project (NTAP). The evidence suggests that the Chaubunagungamaug Band, as it existed in 1991, had close associations with NTAP within the broader context of petitioner #69. There is evidence that NTAP was an organization formed by #69 to work on the petition for Federal acknowledgment; there is also a written claim from a #69B leader that NTAP is, or at certain dates has been, a faction of the larger Nipmuc group (Swenson and Magos to BIA 3/10/94).	Does not meet (b).
1995	Copy of *Nipmucspohke*.	The editor is identified as Cheryl Magos, and the city from which the newsletter is sent out is identified as Branchburg, New Jersey.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	The editor noted that the newsletter is not affiliated with #69B (or #69A, or, for that matter, #69). Even so, the newsletter probably is sent to more than a few members of #69B and therefore may serve to help connect members of the group with one another. In the absence of additional information, such as mailing lists, lists of group members who have made submissions to the newsletter (such as letters to the editor), and other data that indicate that the newsletter provides a vehicle through which the recipients act as a community, the newsletter does not provide evidence that the petitioner meets (b) for the mid-1990's. The petitioner is invited to submit additional information and documentation about the newsletter if it believes that the newsletter can provide evidence, which is unlikely, that it meets (b) for the mid-1990's.	Does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1995	Information provided by Ron Little Crow Henries, 1995.	The information was about *Nipmucspohke,* as well as other topics.	No rule or precedent; included for informational purposes only.	This information sheds some additional light on the newsletter, indicating that, 1) the newsletter was started as late as 1994 and thus cannot provide evidence of whether the petitioner meets (b) for a very long period of time; 2) if the mailing list even includes members of the petitioning group, the mailing list extends far beyond the boundaries of the petitioning group and thus the newsletter is of dubious value for evaluating the petitioner; and 3) the newsletter is not an instrument of the petitioning group or even of a petitioning group member.	Neither meets nor negates (b).
1996	Interview with Edwin W. Morse Sr., 7/22/98.	According to Mr. Morse, about 3,000 people attended the Nipmuck gathering during which Ricky Swenson got married.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "shared sacred or secular ritual activity encompassing most of the group" (b)(1)(vi) and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1)(iii).	Mr. Morse did not indicate how many of these participants were from the 212 members of #69B, nor did the petitioner submit any information or documentation to support the total number of attendees. Accordingly, the statement does not demonstrate that the wedding was a shared sacred or secular ritual activity encompassing most of the group, or that it shows significant rates of informal social interaction among group members.	Does not meet (b).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1997	Videotape labeled "Homecoming 9/13-14/97. Nipmuc Nation - Grafton, MA."	This document presents footage of a gathering that took place in September of 1997. The gathering was sponsored by the other Nipmuc petitioner, the Nipmuc Nation, #69A. The tape documents the various activities that were organized for the children and the fact that an outdoor exhibit of photographs was set up alongside the circular clearing that served as a dancing ground during the event. Also presented in the tape is a woman weaving, children and adults dancing, and dozens of people laughing, talking and eating.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1)(iii).	From the tape, it is impossible to identify which individuals are the leaders of #69B or even which are members of the group. Particularly since Nipmuck leaders have elsewhere described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson, 7/22/98), it could not be determined whether this was a tribal activity. Since the separation between petitioner #69A and #69B had taken place in May of 1996, it did not appear that a #69A homecoming held on the Hassanamisco Reservation provided evidence pertinent to the issue of whether #69B meets criterion (b).	Does not meet (b).
late 1990's	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Heath said that approximately 100 people come to Nikkomo, one of the larger gatherings hosted by #69B. When asked whether the attendees are "coming from all tribes," Mr. Heath said: "There's all tribes. It's an intertribal thing . . . We've had people from all the way from Arizona [and] Idaho." He said that they have had as many as 200 people at some events.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "shared sacred or secular ritual activity encompassing most of the group" (b)(1)(vi); "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1)(iii).	It is possible, though unlikely, that Nikkomo ceremonies constitute shared sacred or secular ritual activity. If so, the petitioner should submit additional material clearly to demonstrate this and to show that such ceremonies encompass most of the group. Mr. Heath's statement that Nikkomo ceremonies are intertribal raises questions about the extent to which these ceremonies connect individual members with one another as opposed to simply connecting some group members with outsiders. During the response period, the petitioner may wish specifically to address these questions.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Heath briefly discussed "naming ceremonies" that, he said, currently take place during some of the large gatherings that are hosted by #69B. He said, "Some of the people – the natives – that have been named there are not Nipmuck, but they requested that they be named, their native name."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "shared sacred or secular ritual activity encompassing most of the group" (b)(1)(vi); "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1)(iii).	It is possible, though unlikely, that these naming ceremonies are shared sacred or secular ritual activities. If so, they do not appear to encompass most of the group, and they may even be activities that are oriented toward outsiders. The petitioner is strongly encouraged to submit additional information and documentation about these ceremonies if the petitioner believes that they might help show that it meets (b) for the 1990's.	Does not meet (b).
late 1990's	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Heath said that during some of the gatherings hosted by #69B, the "young people" are instructed about, for example, how to tend the fire and what that means. He explained: Excerpt from Transcript: "It's a cultural thing . . . But again, it's intertribal because it's more than just Nipmuck. There are certain people that are friends of Wise Owl and Loving One. They're friends of the band. They're there and they'll always be welcome there. Federal recognition or whatever is not going to change their ability to come and set with us. That'll be there . . . We just don't work that way [excluding people]."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii), and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	This brief description of #69B gatherings suggests that there may have existed social relationships connecting individual members and informal social interaction between members during the late 1990's. Mr. Heath's statement that these gatherings were "intertribal" raises serious questions about the extent to which the activity described connected members of the group with one another as opposed to simply connecting some members of the group with non-members.	Does not meet (b).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(b)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Lucyann Swenson, 7/22/98.	When Ms. Swenson was asked about "the powwow that you have in September" and asked her how she would "characterize it," she replied, "It's an intertribal thing, and there are Indians from all over invited." She then added, "But it's also like a family gathering 'cause that's how we used to have it." When asked, Ms. Swenson said that 2,000 people attend these gatherings, 50 of whom are Nipmuck.	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii), and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	This brief description of a #69B gathering suggests that there may have existed social relationships connecting individual members and informal social interaction between members during the late 1990's. Ms. Swenson's statement that these gatherings were "intertribal," however, raises serious questions, questions that are mentioned above, about the extent to which these gatherings served to connect members of the group with one another rather than simply connecting some members of the group with non-members.	Does not meet (b).
late 1990's	Interview with Kenneth Leroy White, 7/25/98.	Mr. White claimed that 50 to 75 people on average come to "the ceremonies." When asked, he claimed that attendees at these gatherings are "mostly Nipmuck." "There are some non-Indians that come just to see what it's about," he continued. "[But it's] Mostly Nipmuck."	As evidence that the petitioner meets the definition of community set forth in 83.1, the regulations state: "significant social relationships connecting individual members" (b)(1)(ii); and "significant rates of informal social interaction which exist broadly among the members of a group" (b)(1) (iii).	Unlike at least two other #69B leaders who were interviewed, Mr. White suggested that outsiders were not the majority of attendees at large #69B gatherings and were not a focus of these events. If the petitioner were to submit evidence to resolve the conflicting evidence, evidence of members of the group who attend these gatherings (e.g. attendance lists), it might be able to show that these gatherings encompass most of the group, involve significant social relationships connecting individual members, and involve informal social interaction which exists broadly among members of the group.	Does not meet (b).

Recommendation: The petitioner has not demonstrated the existence of community from historical times to the present; specifically, from 1891 to the present. The petitioner therefore does not meet the requirements of criterion 83.7(b).

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CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

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

Summary of the Evidence: The petitioner, #69B, asserts continuity from the historical tribe of the Chaubunagungamaug Band of Nipmuck Indians (also known as the Dudley/Webster Indians, or the Pegan Indians). Petitioner #69B was originally part of a joint petition submitted by a broader group of Massachusetts Nipmucs, which was assigned #69. The current petitioner broke with the broader group in May 1996 and prefers to use the spelling "Nipmuck." The other Nipmuc petitioner, the Nipmuc Nation, now #69A, asserts continuity not only with the Chaubunagungamaug Band which was located on a reservation property in the Town of Dudley, later the Town of Webster, in Worcester County, Massachusetts, but also with the Hassanamisco Band of Grafton, Massachusetts, and with descendants of other bands and "praying towns" that existed in the 17th century but subsequently ceased to exist as organized entities. To the extent that petitioner #69A also asserts continuity from the historical Chaubunagungamaug Band, the charts prepared for evaluation of petition #69B will also be relevant for evaluating #69A. They will not be prepared in duplicate for #69A, but will be appended to evaluation of that petition.

The regulations provide that political process "is to be understood in the context of the history, culture, and social organization of the group" (25 CFR 83.1, 59 FR 9293). The precedents in prior positive Federal acknowledgment decisions pertaining to New England tribes indicated that for the time span from the colonial period to the 19th century, evaluation of political influence or authority had not been tied to the specific forms of evidence listed in 83.7(c), but rather was evaluated much more briefly, and generally, under the provisions of the definition of political influence or authority in 83.1. The relevant language in 83.6 follows:

> Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. The limitations inherent in demonstrating the historical existence of community and political influence or authority shall also be taken into account. Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time . . . " (83.6(e)).

The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000). Petitioner #69B has not presented any specific arguments pertaining to how it meets criterion 83.7(c). The following analysis, therefore, reviews the pertinent evidence in the record created by petitions #69, #69A, and #69B as it pertains to the historical Nipmuc tribe in the early contact period, the historical Chaubunagungamaug or Dudley/Webster Band, for the period from 1682 through 1891, and the petitioner's immediate antecedents from 1891 to the present, for the purpose of determining whether petitioner #69B meets criterion 83.7(c).

For the earlier period, it did not make sense to divide the documentation by decade, but rather by much broader developmental stages. The isolated political documents must also be interpreted in light of the general continuity of the band's population as shown by a wide variety of other documents (see draft technical report).[1]

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[1] Throughout the chart for criterion 83.7(c), the boldface listing, for example (c)(1)(ii), in the column "form of evidence" does not indicate that the item of evidence under analysis met the criterion under that form of evidence. Rather, it indicates the BIA researcher's determination of the category or type of evidence into which the document discussed could best be construed to fall. Technical problems associated with the table format of the charts do not permit the repetition of this footnote on every page of the charts.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1630-1675	(83.1) Salwen 1978, Russell 1980, Mandell 1996, Bragdon 1996; Johnson 1995; Humes 1952, Reese c1980; Connole 1976; Dacey 1995; Savage 1996 *Massachusetts Archives, Colonial Records of Massachusetts*; Gookin 1836, Gookin 1972; Hoadley 1868, Hoadley 1870, Hoadly 1873; O'Callaghan 1854.	Original documents generated by Massachusetts colonial authorities representatives of the Society for the Propagation of the Gospel in New England; historical narratives, mainly by modern anthropologists, pertaining to colonial contact and giving limited information, only from an external viewpoint, concerning the aboriginal political structure. The most extended series of relevant records is that generated by Massachusetts, consisting of the microfilmed records in the Massachusetts Archives and the published series of Massachusetts Colonial Records. Some relevant material is also to be found in the published Connecticut colonial records and the New York colonial documents.	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Aboriginal Mohegan leadership was provided by a chief sachem who made decisions in consultation with a council consisting of influential tribal members of similar social rank" (Mohegan PF 1989, 5); "The political structure was organized around sachems, leaders drawn from high-ranked families" (Narragansett PF 1982, 11); "Aboriginal Wampanoag leadership was provided by an hereditary chief or sachem who made decisions in consultation with a council of male elders, war captains . . ., and spiritual advisors . . ." (Gay Head PF 1987, 10); "In the early contact period, i.e., the 1600's, the Miamis consisted of a series of independent tribes of related peoples . . . The tribe consisted of a series of village-based bands led by distinct village chiefs" (Miami PF 1990, 7).	The comments tend to be general, as in Salwen's statement: "The native groups that lived west of the fringes of European settlement, in northern Connecticut and Rhode Island, central Massachusetts, and southern Vermont and New Hampshire, are the least known of any of the southern New England Indian societies. The local groups of the Connecticut River valley in Massachusetts and the so-called Nipmuck people of Massachusetts and northern Connecticut and Rhode Island appear to have spoken a southern New England language that the French called Loup . . . This classification would probably cover most of the local groups listed as Nipmuck and Pocumtuck by Swanton . . " (Salwen 1978, 173-174). Precedent does not required detailed information concerning the internal political processes of the historic tribes which were predecessors of petitioners in the early contact periods.	This meets (c) for the undifferentiated Nipmuc historic tribe as a whole, predecessor group to the later Chaubunagungamaug or Dudley/Webster Band, for the period prior to 1637.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1630-1675	(83.1) Leach 1958, Salwen 1978, Russell 1980, Bourne 1990, Johnson 1995, Mandell 1996.	"There were other units, in the interior and on the western Connecticut coast, that seem to have normally functioned as almost completely independent local communities, without lasting political ties to any of their neighbors. Names like Nipmuck . . . sometimes appear in the literature as designations for large "tribes" or "confederacies" (Speck 1928a:pl. 20; Swanton 1952), but this usage does not seem to fit the seventeenth-century situation. At best, some of these names may reflect linguistic or cultural homogeneity, but the scarcity of evidence makes even linguistic identification difficult in most cases (Day 1962, 1969)" (Salwen 1978, 173). ". . . the Nipmucks were a loosely organized people residing in scattered villages, each separate group having its own sachem. Although these various rulers might confer on important matters from time to time, there seems to have been no single, clearly defined, over-all structure of government for the entire tribe" (Leach 1958, 73).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Aboriginal Mohegan leadership was provided by a chief sachem who made decisions in consultation with a council consisting of influential tribal members of similar social rank" (Mohegan PF 1989, 5); "The political structure was organized around sachems, leaders drawn from high-ranked families" (Narragansett PF 1982, 11); "Aboriginal Wampanoag leadership was provided by an hereditary chief or sachem who made decisions in consultation with a council of male elders, war captains . . ., and spiritual advisors . . ." (Gay Head PF 1987, 10); "In the early contact period, i.e., the 1600's, the Miamis consisted of a series of independent tribes of related peoples . . . The tribe consisted of a series of village-based bands led by distinct village chiefs" (Miami PF 1990, 7).	Politically, the Nipmuc at the time of early contact did not have a tightly-structured governmental system. Scholars have provided varying descriptions of the political organization of the prehistoric and early historic Nipmuc. One modern scholar has stated that, ". . . the Nipmucks . . . added up to not much more than the changing sum of whichever interior villages chose to work together at a given time" (Bourne 1990, 126). The Federal acknowledgment regulations do not require that a historical tribe at the time of first contact have had a formal centralized governmental structure above the band or village level. The precedents clearly indicate that the acknowledgment process allows for the combination and division of tribal subgroups and bands during the colonial period.	This meets (c) for the undifferentiated Nipmuc historic tribe as a whole, predecessor group to the later Chaubunagungamaug or Dudley/Webster Band, for the period prior to 1675.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1630-1675	(c) Gookin 1836, Gookin 1972; Eliot n.d. in *Massachusetts Historical Society Collections*, 3rd series, vol. 4; Larned 1874, 1:4; Bragdon 1996, 25; Russell 1980, 187.	Historians and anthropologists have made a number of general statements indicating that the 17th-century Nipmuc were not wholly independent, such as Johnson's comment that, "Apparently, the Nipmucks had lost some of their tribal autonomy when certain of their villages began paying tribute to the Pequot, Narragansett, Massachusett and Pennacook" (Johnson 1995, 28). For example, Larned's comment that in the 17th century, the Wabbaquassets in what is now Woodstock, Windham County, Connecticut, owed a varying allegiance to the Pequots, to Uncas of the Mohegans, or to the Narragansetts, depending on who was in power (Larned 1874, 1:4) or Bragdon's statement that "the Pequots did have influence among . . . the Nipmuck as far as Quinabaag (near Dudley, Massachusetts)" (Bragdon 1996, 25). "Apparently, even a few Nipmuck sagamores paid allegiance to the Wampanoag sachem" (Johnson 1995, 9). From another perspective, Russell commented that, "the power of the Mohawks by no means ended at the Connecticut River. Their emissaries collected tribute among the scattered Nipmuck villages of central Massachusetts, . . . (Russell 1980, 187).	"The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present" (83.7(c)). "First, the CTAG argued that the Mohegan had once been subject to the Pequot Indians for a few years in the first half of the 17th century; . . . [and therefore] the MT did not meet the 'autonomous entity' requirement of Criterion c. . . . [T]he time period during which the Mohegan lived with the Pequot is so brief as to be inconsequential" (Mohegan PF 1989, 26-27); "Evidence indicates that the Narragansett community and its predecessors have existed autonomously since first contact, despite undergoing many modifications" (Narragansett FD, 48 Federal Register 29 2/10/1983, 6177); in discussing the defeat of the Narragansett in King Philip's War, 1675-1676, "A substantial number of the survivors combined with the Niantics . . ." (Narragansett PF 1982, 2).	The issue for this report is whether the subjugation of Nipmuc bands in the 17th century to various other New England Algonquian tribes has significant impact for Federal acknowledgment. That is, does it matter whether, in the first half of the 17th century, some or all of the Indians of the Nipmuc country may have owed some kind or allegiance to the Narragansett, the Mohegan, or the Wampanoag. The question of "autonomy" from other tribes in the colonial period was addressed by the AS-IA in the Mohegan final determination (which was issued under the 1978 25 CFR Part 83 regulations and quotes from that version). Evidence indicates that the Nipmucs whose status was controverted among the Narragansett, Mohegan, and Pequot from the 1650's through the 1670's were mainly the Wabaquasset, those in the region of Quinebaug in modern Connecticut (Larned 1874, 1:4, 6; Hoadly 1868, 305; Hoadly 1870, 10, 101-102, 395-396).	This meets the "autonomous entity" requirement of (c) for the undifferentiated Nipmuc historic tribe as a whole, predecessor group to the later Chaubunagungamaug or Dudley/Webster Band.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1668-1869	**(83.1)** Almost the entire body of historical data submitted in connection with petitions #69, #69A, and #69B is in some way relevant to this topic. See particularly Gookin 1836, Gookin 1972; Hoadly 1873, Larned 1874, 1; Leavens Papers n.d., Daniels 1892; Metcalf 1880, Humes 1952, Leach 1958, Bourne 1990, Johnson 1995; Place of Small Stones (Nipmuc #69A Pet.).	Historical records and narratives indicating that the Nipmuc leaders, including the sagamore of Chaubunagungamaug, executed a formal act of submission to the English in May 1668 (*Mass. Archives* 30:146; Place of Small Stones, 5-6), and that after King Philip's War, the Chaubunagungamaug reservation was under the direct administration of Massachusetts, first as a British colony and then, after the American Revolution, until the 1869 Act of Enfranchisement, as a state. The discussions of the establishment of the "praying towns" by missionary John Eliot also fall generally under this topic.	"The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present" (83.7(c)). The CTAG argued that, "second the Mohegan had their affairs governed by a group of overseers appointed by the State of Connecticut , . . . [and therefore] the MT did not meet the 'autonomous entity' requirement of Criterion c. . . . , [T]he autonomy requirement is solely concerned with autonomy from other Indian tribes, not non-Indian systems of government that were imposed on the Mohegan by the state of Connecticut . . . " (Mohegan PF 1989, 26-27). "The General Assembly appointed a special committee to serve as guardians of Mohegan tribal lands beginning in 1719" (Mohegan PF 1989, 5). "Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "Some degree of external control was increasingly exercised by the Colony of Rhode Island during the 17th century. In 1644, the tribes formally accepted the authority of the English crown, and confirmed this again in 1663" (Narragansett PF 1982, 11); "Rhode Island's role after 1675 was essentially that of a trustee. The tribe remained essentially self-governing, but its external affairs were restricted and it became generally subject to the protection as well as the supervision of the colony" (Narragansett PF 1982, 2). "The State of Massachusetts imposed a guardian system over the Gay Head Indians between 1781 and 1814, . . . In 1862 the State imposed greater jurisdictional control over Gay Head . . . " (Gay Head PF 1987, 4).	This very succinct summary is the result of detailed analysis of the material by the BIA research staff (see draft technical report). On the basis of a study of the historical records, there is no essential difference in historical status, in regard to "autonomy," under criterion 83.7(c) between the situation in which east coast tribes have lived on colonial and/or state reservations under the supervision of state agents while other tribes have lived on Federal reservations under the supervision of Federal agents. Assignment to a reservation does not negate a tribe's autonomy.	This meets the "autonomous entity" requirement of (c) for the historic tribe and for the undifferentiated historical Nipmuc tribe as a whole and for the Dudley/ Webster Indians from the establishment of the reservation through 1869.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1646-1682	(83.1) Johnson 1995; Place of Small Stones (Nipmuc Pet. #69A); Humes 1952, Reese c1980; Mandell 1996, Leavens Papers n.d.; Gookin 1836, Gookin 1972, Earle Report 1861, Larned 1874, 1.	During this period, missionary John Eliot established Indian "praying towns" in Massachusetts, with Christian leaders whom he chose and appointed. The praying towns in the region of modern Worcester County, Massachusetts, and Windham County, Connecticut, were not begun until 1671 (Humes 1952, 8), but in the next four years totaled seven (Place of Small Stones, 6). One of these was at the foot of Lake Chaubunagungamaug, or Webster Lake. Gookin specified that Chaubunagungamaug, established in 1672 at the head of the lake, was a "new plantation," i.e. not the site of a prior Indian village, and "well accommodated with upland and meadows" (The Great Trail of the Indians n.d., 5; Leavens Papers). Gookin described it in 1674 as occupied by Black James, and consisting of about nine families, constituting 45 individuals. He described the sagamore's wigwam as spacious, about 60 feet in length and 20 feet in width.	"Leadership exercised through a church, by indigenous ministers, can provide evidence under several categories mentioned in criterion 83.7(c), such as . . . under 83.7(c)(2)(iii) to show that 'group leaders and/or other mechanisms exist or existed which . . . exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior" (MBPI FD 1999, 15; "The 25 CFR Part 83 regulations do not make any requirement that a petitioner have a 'secular government' . . . but rather . . . that the leadership of a petitioner have political influence or authority over the group's members in a bilateral relationship" (MBPI FD 1999, 16).	Black James was not only the sagamore at Chaubunagungamaug, but was also appointed by Eliot as constable of all the praying towns of the Nipmuc region (Larned 1874, 7). As of 1674, these towns had a population of just under 400 persons (Larned 1874, 6-8). The settlement also had a teacher, Joseph from Hassanamessit, and the leadership enforced the norms accepted by the towns (Gookin, 80). While the specific site of Black James' village may have been a "new plantation," a sagamore from "Chapnocunco" had transferred land to Governor Winthrop as early as 1642, according to testimony that was taken much later, in 1684 (Leavens Papers n.d., 82-A).	On the basis of precedent, this material is adequate to meet (c) for a tribe during the colonial period. Meets (c) for the Chaubunagunga-maug Band for the 1670's.
1675-1676	(83.1) *Massachusetts Archives* 30; Humes 1952; Place of Small Stones (Nipmuc Pet. #69A).	In regard to King Philip's War, during the summer of 1675, several Nipmuc sachems provided written assurances to the General Court at Boston not to assist Philip (*Massachusetts Archives* 30:169). During the course of the war, some maintained this agreement, while others violated it. Among the signers, and violators, was Black James, the constable of the Chaubunagungamaug praying town (Humes 1952, 14; Place of Small Stones, 9).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1).	During King Philip's War, several actions by Black James indicated that he was capable of acting independently of the status he had as Eliot's appointee, and that the members of his band followed his initiatives.	On the basis of precedent, this material is adequate to meet (c) for a tribe during the colonial period. Meets (c) for the Chaubunagunga-maug Band for the 1670's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1681	(83.1), (c)(1)(i) *Records of the Colony of Massachusetts Bay* 5; *Massachusetts Archives* 30; Mandel 1996; Daniels 1880; Freeland 1894.	On May 11, 1681, the General Court of Massachusetts Bay Colony authorized William Stoughton and Joseph Dudley to investigate land titles in Nipmug country (Records of the Colony of Massachusetts Bay 5:315). In June of 1681, Stoughton and Dudley hosted a general meeting of the Indians at Cambridge, Massachusetts, reporting back that they found them "willing enough to make claym to the whole [Nipmuc] Country but Litigious & Doubtfull amngst themselves" (Mandell 1996, 44). The investigation continued into the autumn, with the commissioners file a report to the General Court on October 17. They reported that of the Nipmuc Country, the southern part was claimed by Black James and company; . . . (Records of the Colony of Massachusetts Bay 5:328-329). As can be seen from the specific provisions of the deeds, the "southern part" being claimed by "Black James and company" included the Nipmuc territory lying in what is now Windham County, Connecticut.	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25).	The documents show the existence of a group, with an acknowledged leader, in a position to negotiate with appointed representatives of the colonial authorities of Massachusetts, with the authority to cede and hold land.	On the basis of precedent, this material is adequate to meet (c) for a tribe during the colonial period. Meets (c) for the Chaubunagunga-maug Band for the 1680's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1682-1686	**(83.1), (c)(1)(i)** Larned 1874, 1; Reese c1980; Mandell 1996.	Mandell asserted that about 1682, Black James led an emigration out of Natick to resettle Chaubunagunga-maug (Mandell 1996, 30, citing Rawson and Danforth 1809, 134; *Mass. Archives* 30:279a, 265). No specific evidence confirms a resettlement from Natick at this date, though several deeds associated with the title investigation identified Black James by name. A 1684 letter of John Eliot's letter did indicate that there were Nipmuc residents at Chaubunagungamaug (Mandell 1996, 36; citing Eliot to Boyle 185, Mandell 1996, 212n48). However, neither petition #69, #69A, nor #69B submitted copy of the original letter, and no other document indicates that Chaubunagungamaug was, in Mandell's words, a "stated reserve" in 1684 in addition to the three regularly mentioned in documents of the General Court.	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25).	An unsupported statement in a secondary source does not constitute sufficient evidence. Mandell's further assertion that "Chabanakongkomun [was] far from English settlements, and the village did not reappear in colonial records until the 1720s" (Mandell 1996, 36) is certainly invalid, as can be seen from documents cited below from the records of the town of Oxford, Massachusetts, and from Connecticut records. Black James himself may have died by 1686, as a deed in that year was signed by his "heirs." However, a man bearing this name continued to be cited in the records until at least 1707. Overall, the greatest deficiency in all currently published studies of the early history of the Nipmuc has been an insufficient use of the records of other colonies than Massachusetts Bay. In particular, the Connecticut records have been insufficiently utilized. Because of the involvement of the Mohegan in the affairs of the Nipmuc resident in what is now Windham County, Connecticut, there is considerable information available from that source.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1682-1686	**(83.1), (c)(1)(i)** Shurtleff 1854, Daniels 1880; Daniels 1892; *Records of the Colony of Massachusetts Bay,* Series 1, Vol. 5; *Massachusetts Archives* 30; Freeland 1894; A Place of Small Stones (Nipmuc Pet. #69A).	During the 1680's, Black James participated in a sequence of deed transactions which led to the later establishment of the Chaubunagungamaug or Dudley/Webster reservation as it existed from the 1730's through the 1870's. The two sale deeds, dated February 10, 1681/82, were formally delivered May 19, 1682, at Natick (Daniels 1880, 36; Freeland 1894, 124; Freeland 1894, 128; Shurtleff 1854, 5:365-368). Black James and Company reserved from the sale "a certain tract of five miles square in two parcels" (Place of Small Stones 21-23; *Records of the Colony of Massachusetts Bay* 5:341-343). The first parcel was on the Quinebaug river at Maanexit, three or four miles south of Chaubunagungamaug, and thus within the bounds of modern Connecticut. The other tract of land, at Quinnatisset, was four or five miles southeast of Maanexit, in the present town of Thompson, Connecticut (Nipmuc #69 Pet. Narr. 1984, 50).	On the Federal level, under the Cohen criteria, assignment of a tribe or band to a reservation creates a legal presumption that such a tribe or band existed at the time of the action. The Mohegan, Narragansett, and Gay Head tribes also retained certain portions of aboriginal territory. ". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1).	These materials regularly name the leaders whom the colonial authorities had appointed and with whom the colonial authorities were dealing, though providing only minimal information about internal political processes. For explanatory analysis of the border dispute between Massachusetts and Connecticut in this region which led to Massachusetts' purchasing and granting lands which are now comprised within the boundaries of Connecticut, see the draft technical report for petition #69B. The lands purchased by Stoughton and Dudley were soon regranted by them to other speculators and to settlers. For this process, see also the draft technical report for petition #69B. On the basis of precedent, this material is adequate to meet 83.7(c) for a tribe during the colonial period.	Meets (c) for the Chaubunagungamaug Band for the 1680's.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1682-1686	(83.1), (c)(1)(i) Shurtleff 1854, Daniels 1880; Daniels 1892; Larned 1874, 1; Temple, *Records of* Oxford; Records *of the Colony of Massachusetts Bay,* Series 1, Vol. 5; *Massachusetts Archives* 30; *Suffolk Deeds Liber XII* 1902, Freeland 1894; A Place of Small Stones (Nipmuc Pet. #69A).	The best description of the exact dimensions and locations of the territories reserved for Black James and Company was provided by the legal survey of the land. Although the survey was made in October 1684, after the sale of part of the territory, it was nonetheless made in the name of the original grantee: "Chaubunagungamaug, surveyed in October 1684, to Black James and others. It extended west from Chaubunagungamaug pond (from which the Indian town here took its name), over Maanexit river (French river). Nearly all this tract, with other lands between the towns of Oxford and Woodstock, became the property of Joseph Dudley, and afterwards fell to his sons, the Hon. Paul and William Dudley. Part of this Indian land is now within the limits of Thompson, Ct., and part in Dudley" (Freeland 1894, 128). The survey showed a: "Plat of five miles square; one running from the west side of Chaubungagung-amaug Pond over Mayanexit River containing 11,000 acres; complement of the other plat of five thousand to sixteen thousand, surveyed by John Gore, one at Quinnatisset and the other at Mayanexit" (Daniels 1892, 5-6n6; citing *Mass. Col. Rec.* 5:488). A substantial portion of this reserved territory fell within the modern Connecticut boundaries (Larned 1874, 1:14). These reserved tracts were later confirmed to Black James and Company by the General Court on June 20, 1685 (Daniels 1892, 5-6n6; citing *Mass. Col. Rec.* 5:488). By that time, however, they had already sold a substantial portion of them.	On the Federal level, under the Cohen criteria, assignment of a tribe or band to a reservation creates a legal presumption that such a tribe or band existed at the time of the action. The Mohegan, Narragansett, and Gay Head tribes also retained certain portions of aboriginal territory. ". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1).	This land was not a "reservation" in the modern sense of the word, which implies the existence of a trust relationship between an Indian tribe and the Federal Government, which holds title to the reservation on behalf of the tribe. Rather, "reservation" in these deeds explicitly meant only that the sellers were withholding part of the territory from sale, and intended that they themselves should have it in fee simple, with all the rights implied by that, including the right to sell it at will. The "reservation" in the second deed of February 10, 1681/1682, stated: "Reserving always unto ourselves, our heirs and assigns, out of the above said grant, a certain tract of land five miles square, at such two places as we shall choose, to be wholly at our own use and dispose." In accordance with the terms of this "reservation," on April 28, 1682, a deed of Black James and Company conveyed to Stoughton and Dudley half of the reservation of five miles square. This deed and the follow-up documents giving consent and seisin during 1685 and 1686 provide the best evidence of who was comprised in the "company" of Black James (Temple, *Records of Oxford*, 549-550; Daniels 1892, 755-756, *Suffolk Deeds Liber XII*, 297-299; Shurtleff 1854, 5:368). On the basis of precedent, this material is adequate to meet (c) for a tribe during the colonial period.	Meets (c) for the Chaubunagungamaug Band for the 1680's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1693	(c) Reese c1980; Mandell 1996; *Mass. Archives* 30.	In 1693, in connection with the military activity associated with King William's War, "the legislature of Massachusetts Bay enacted the first law governing Native People as persons different from all others. It granted the Governor and his council the authority to appoint special commissioners (overseers) to rule over Native People" (Reese c1980, [30]. Reese also stated that in 1694, the General Court of the Province of Massachusetts Bay enacted legislation "for the better rule and government of the Indians in their several places and plantations" (Reese c1980, [30]). "One year later the legislature reconfirmed the restrictions for Hassanamisset and imposed the same on Chabanakongkomun" (Mandell 1996, 39-40; citing *Mass. Archives* 30:358-59, 368, Mandell 1996, 212n59).	Neither rule nor precedent; included for informational purposes. "Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	This 1693 had no immediate impact upon the Chaubunagungamaug Band, which apparently was not assigned guardians under its provisions. Mandell stated that in 1694 the provisions were applied to Chaubunagungamaug, but if this was the case, petitions #69, #69A, and #69B presented no relevant documentation prior to 1735/1746. The 1734 deed of sale discussed below did not involve the participation of guardians or overseers. For possible later application of the 1693 act, see below in the discussion of developments in the 1730's.	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1702	(c) *Province Laws* 1701-1702, Chapter 11.	The Act read in part: "to the intent the native Indians might not be injured or defeated of their just rights and possessions, or be imposed on and abused in selling and disposing of their lands, and thereby deprive themselves of such places as were suitable for their settlement and improvement, did, by an act and law [of June 4, 1685] . . . inhibit and forbid all persons purchasing any lands of the Indians without the licence and approbation of the general court, . . . [be it enacted] That all deeds . . . , titles and conveyances whatsoever, of any lands, tenements of hereditaments within the province, as well for term of years as forever, . . . obtained from any Indian or Indians by any person or persons whatsoever, at any time or times since [1633], without license or approvation of the respective general courts . . . or shall hereafter be . . . procured from any Indian or Indians, by any person or persons whomsoever, without the license, approvation and allowance of the great and general court or assembly of this province for the same, shall be deemed and adjudged in the law to be null, void and of none effect . . . (*Province Laws* 1701-1702, Chapter 11).	No rule or precedent; included for informational purposes.	Disposition of Indian lands in Massachusetts was controlled by the legislature and the General Court. On June 26, 1702, published June 28, the legislature passed "An Act to Prevent and Make Void Clandestine and Illegal Purchases of Lands from Indians" (*Province Laws* 1701-02, Chapter 11).	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1702-1783	**(83.1)** Conkey, Boissevin and Goddard 1978; Mandell 1996; Grumet 1996, Calloway 1997.	Very little secondary scholarship is available to illuminate Nipmuc development in the 18th century. In 1978, the Smithsonian Handbook's treatment provided one paragraph each for Natick, Dudley, and Hassanamisco between King Philip's War and the mid-19th century (Conkey, Boissevain, and Goddard 1978, 180). Daniel R. Mandell's *Behind the Frontier: Indians in Eighteenth-Century Eastern Massachusetts* (Mandell 1996) does focus primarily upon the coast and Natick, treating central Worcester county only incidentally and largely ignoring those Nipmuc who lived south of what is now the Massachusetts-Connecticut border. This is also true of Mandell's chapter (Grumet 1996). The recent collection edited by Colin G. Calloway (Calloway 1997) contains little Nipmuc data, with none for this specific period. The limited nature of synthetic secondary scholarship for the period following King Philip's War requires determination of the developments almost entirely from archival documents, which can be somewhat supplemented by local histories of the Worcester County towns in which Nipmucs resided.	No rule or precedent; included for informational purposes.	There was documentable continuity between the pre-King Philip's War and post-King Philip's War populations of the Nipmuc settlements in Worcester County, Massachusetts, and Windham County, Connecticut, although the overall Indian population was much smaller. Some Nipmuc had returned to Chaubunagungamaug by 1681 and some individual Indian families re-settled their private landholdings in Worcester county. Throughout the 18th century, the Connecticut Nipmuc continued to intermarry with the Worcester County settlements. This process is documented not only by the records of Natick and the reservations, but also evidenced by vital records kept by the towns and churches of the region and the land records of Suffolk, Middlesex, and Worcester Counties, Massachusetts, and Windham County, Connecticut. As individuals, these re-settlers were not all necessarily "praying Indians," as evidenced by the baptisms of Nipmuc Indian adults in the church records of the 18th century. However, all the families seem to have been close associates of the prominent "praying Indian" leaders of Eliot's day.	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1707	**(83.1), (c)(1)(i)** Nipmuc #69 Pet. Narr. 1984, 50; Dresser 1900; Mandell 1996; *Suffolk Reg., Deeds, Libro 26, Folio 215*; "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachusetts," c1890; *History of Dudley* n.d.	Black James and Company apparently retained the second half of the reservation made in the 1682 deed, approximately 8000 acres, until 1707, when "the remaining full moiety of the five miles square consisting of 8000 acres" was sold by Black James *et al.* to William Dudley for 10 pounds, because of the "great love and good will, esteem and affections" which they bore toward Joseph Dudley and his family, reserving to themselves, their heirs and descendants forever, the right to fish, hunt, and "on great ponds or rivers necessary for their support" (Nipmuc Pet. Narr. 1984, 50; Dresser 1900, 117; see also Mandell 1996, 39 citing "In the Matter of the Dudley Indians, Brief, Before the House Judiciary Committee of Massachu-setts," circ. 1890, photocopy, Nipmuc Tribal Acknowledgment Project, Worcester, Mandell 1996, 212n58). The petition submissions for #69, #69A, and #69B do not include an actual copy of this deed. According to Suffolk County, Massachusetts, records, Joseph Dudley did not re-sell any of these lands prior to his death on April 2, 1720; his sons, Paul Dudley and William Dudley, began selling them to prospective settlers in 1721 (*History of Dudley*, 106).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1); "Besides the monarch, there was influence from advisors and councilors drawn from the high-ranked families, had been the traditional pattern" (Narragansett PF 1982, 11); "No reference to the sachemship could be found after 1687, . . . However, there is evidence that the Gay Head Indians continued to maintain some political influence and authority over their members" (Gay Head PF 1987, 10); "There are scattered references to specific Miami leaders in French and English documents prior to the late 1740's" (Miami PF 1990, 7). "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25).	It is not clear from the documents whether the 1707 "Black James" was the same individual who had provided leadership for this settlement prior to 1686, or whether by 1707 the phrase was regarded as a title. Collectively, however, the group was the same, had leadership, and was making collective decisions. The deed reserved to the Indians, the heirs and descendants forever, the right to plant, hunt, and use such parts as would be necessary for their support. The motivation for the sale is not known. In light of the substantial restrictions on Indian movement, hunting, and fishing imposed by the Massachusetts General Court during Queen Anne's War, 1704-1708 (see the draft technical report for Petition #69B, BAR), the Indians may have seen little advantage retaining title and some protection in Dudley's holding it. The attorney for the Dudley Indians in 1890 asserted that this deed had never received the approbation of the General Court (Brief 1890). The land conveyed to Joseph Dudley in this 1707 deed comprised more than half of the territory of the town of Dudley when it was incorporated (Eddy 1912b).	On the basis of precedent, this material is adequate to meet (c) for a tribe during the colonial period. Meets (c) for the Chaubunagunga-maug Band for the 1700-1720 period.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1724	(83.1), (c)(1)(i) Nipmuc #69 Pet. Narr. 1984, 50-51; "In the Matter of the Dudley Indians" Brief c.1890; Leavens Papers n.d.' Sale of Indian Land at Webster 1887; Dresser 1900. The 1890 brief referenced Suffolk County, Massachusetts, deeds (this land fell in Suffolk County prior to the formation of Worcester County): Suffolk Reg. Deeds Lib. 26, Fol. 215; Suffolk Reg. Deeds, Lib. 37, Fol. 269; also Worcester Reg. Deed, Lib. 49, Folio 313, 317; Worcester Reg. Deeds B.59, 20.	According to the petitioner, on April 9, 1724, William Dudley conveyed by deed to the Nipmuc Indians title [*sic*] to a tract of land approximately one mile square (640 acres) which was part of their former reservation, "to plant and improve," henceforth to be reckoned as the only reserve and exception in the deed of 1707. This square mile extended from a brook at the northeast corner of Isaac Newell's farm, south to the north line of Paul Dudley's Manexet farm (Nipmuc Pet. Narr. 1984, 50-51). For a fairly extensive study of the location of this square mile, based on copies of old deeds held by the heirs of William Dudley, see an extensive letter to the *Webster Times* by a local historian (Eddy 1912a *in* Leavens Papers). The petitioner did not submit a copy of this deed. A newspaper article at the time of the sale of the Dudley reservation lands stated: "William Dudley allowed the Indians to improve land south of Powder Horn Brook, 'so much west of the road from Woodstock to Oxford as said Indians may have occasion for subsisting cattle, not exceeding 15 acres, for a period of 20 years, and for such further time as may be agreed upon'" (Sale of Indian Land at Webster 1887).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25).	The printed series of Suffolk Deeds terminates in 1684; transactions subsequent to that date must be searched in microfilms of the original deed books. The BIA does not have information at present whether this conveyed to the Chaubunagungamaug Band of the Nipmuc Indians as an entity, or to specific individuals. A subsequent, 1763, deed by Joseph Dudley's heirs to Edward Davis indicated that the 1724 transaction was a lease to the Indians (Daniels 1892, 774-775; citing Worcester Records XLIX, 314; see also Dresser 1900, 118) rather than a title deed as asserted by the petitioner (Nipmuc #69 Pet. Narr. 1984, 50-51). The petition assertion of fee title may be based on the argument advanced in the 1890 brief: "In 1763, the Heirs of Dudley and guardians of the Indians persuaded the Genl. Court to make sale of the same, alleging they held the fee. While as a matter of fact the fee was in the Indians, less 200 (201) acres, see Court Records Book 24, Folio 543, Sect'y State's Office. . . ." (Brief c.1890, 2).	In the absence of copies of the primary sources, which are extant and are obtainable from public record repositories, the statements in the secondary sources are not sufficient to demonstrate that the historical tribe antecedent to the petitioner meets (c) for the 1720's.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1734	(83.1), (c)(1)(i) Dresser 1900; Conant 1893; Lebocuf and Wakefield 1929; Worcester County Registry of deeds 1738, 10:230, 10:236.	One of the most extensive sources of information pertaining to this period results from the desire of the desire of Dudley, expressed at a town meeting held January 30, 1733/1734, to build a meeting house on the Indian Joshua Pegan's old field (Dresser 1900, 117; Conant 1893, 99). The deed for land on top of present Dudley Hill, Dudley, Massachusetts, was dated March 20, 1733/1734 and recorded August 15, 1738 (Worcester County Registry of Deeds 1738, 10:230). It was then known as "Pegin Hill." The four acres were to be used for the purpose of a church, meeting house, and training ground and were accepted by vote of the town meeting on March 27 (Leboeuf and Wakefield 1929, 6). It was surveyed on June 19, 1738 (Worcester county Registry of Deed 1738, 10:230), the land constituting an irregular triangle at the northwest corner of the Indians' square mile of land (copy of Chandler's Survey *in* Leboeuf and Wakefield 1929). A partial copy of the deed shows the signers, largely with the surnames Pegan and Quitticus (Worcester, ss; A true photostatic copy of record, of Worcester District Registry of Deeds, Book 10, page 236. Survey made 19 June 1738; Nipmuc #69B Suppl. 3/28/97).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1). "Besides the monarch, there was influence from advisors and councilors drawn from the high-ranked families, had been the traditional pattern" (Narragansett PF 1982, 11); "No reference to the sachemship could be found after 1687, . . . However, there is evidence that the Gay Head Indians continued to maintain some political influence and authority over their members. These people periodically petitioned the General Court of the Province of Massachusetts Bay between 1727 and 1781, and the Corporation for the Propagation of the Gospel between 1711 and 1776" (Gay Head PF 1987, 10); "There are scattered references to specific Miami leaders in French and English documents prior to the late 1740's" (Miami PF 1990, 7). "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25).	At present, the title relationship between the 1734 deed for the four acres in Dudley to the reservation land mentioned in the 1724 William Dudley deed has not been clarified. It is possible that the land included in the 1734 deed could have been the private property of the Pegan family: the records of the settlement of the estate of Samuel Pegan in the years following 1735 certainly imply that the family were private landholders in fee simple. Other Indian families, not mentioned in the above deed, were apparently residing in the area on the 1730's. A survey of a road from the East Village to Dudley Hill, laid out by the selectmen on March 17, 1737, mentioned as a landmark not only "the Indian land" in general, but "a pitch pine near Collicom's wigwam" in particular (Leavens Papers). Several of the 1734 signers were living in Thompson Parish in the Town of Killingly, now within the borders of Windham County, Connecticut. It is not clear that the sale described in this deed demonstrates political authority or influence within a tribal entity.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1735-1757	**(83.1); (c)(1)(i)** Now and Then c.1932; *Massachusetts Archives* 31, 265-266; 268-269; *Massachusetts Archives* 32, 6-7; *Massachusetts Acts and Resolves* XII, 1735-36, 208; Mandell 1996.	Samuel Pegan was the man described by Mandell as having left Natick during the 1720's to "join his relatives" at Chaubunagungamaug (Mandell 1996, 84). He was dead by November 19, 1735, when two of his sons, Jonathan Pegan and Isaac Pegan, on behalf of the heirs, petitioned for a General Court order for the sale of the estate (*Mass. Archives* 31:265-266, 268-269). Subsequent records include documents such as the January 1739/40 memorial of John Chandler Esq. & Mr. William Lyon, upon the petition of Jonathan & Isaac Pegan, two of the sons of Samuel Pegan of Dudley, Indian (*Acts and Resolves* 659; MA State Archives, *Mass. Archives* 31, 265-270). Petition of Jonathan & Isaac Pegan for themselves and the rest of the children of Samuel Pegan late of Dudley, Indian, decd., left lands in said place; had a lot of about 68 acres in Natick unimproved, request to sell the unimproved (*Mass. Acts & Resolves XII, 1735-36,* 208). A few years later, the 1757 will of Abigail Quittocus of Dudley named several of these children of Samuel Pegan as her cousins (Dresser 1900, 118-119; Now and Then c1932, 67).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	After nearly a quarter-century of very sparse mentions, the Indians residing in the vicinity of Dudley reappeared in the Massachusetts colonial records beginning in approximately 1735. The various guardians of the Indians living at Dudley mentioned in the records prior to the Act of 1746 were presumably appointed by the governor of the colony under the Act of 1693. However, no records were located pertaining to the selection and appointment of guardians for the Chaubunagungamaug Band, or for a group of "Dudley Indians." During the 1730's, all of the Dudley Indians appearing in the Massachusetts records held land at Natick. From a legal standpoint, they may have appeared in the records under guardianship because of the Natick connection. The records to individual families and provide no data concerning internal political authority or influence at Chaubunagungamaug.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1746-1758	(c) Reese c1980; Mandell 1996; *Massachusetts Archives* 31, 564-564a; 31, 567; 33, 64-66.	In 1746, an act of the Massachusetts Bay legislature called "Better Regulating the Indians" provided for the appointment of three people for each plantation to act as guardian. "The guardian had the power of a justice of the peace and could lease out land on the plantation not in use by Native People" (Reese c1980, [36]). According to Mandell, the act authorized, "the appointment of three guardians for each native enclave in the colony. These guardians were given the power not only to act as justices and to manage the community's account, but also to take land that the Indians were not using and lease it to white farmers or cattlemen. Guardians were to submit annual reports to the court--few of which are extant, if they were ever submitted. Three men were elected by a joint meeting of the Governor's council and assembly for eight Indian communities (or cluster of small enclaves): . . . Grafton and Dudley; . . . As a result, Dudley, Mashpee, and other Indian enclaves in the commonwealth suddenly found their land and fortunes controlled by outsiders (Mandell 1996, 144).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	Under the 1746 bill, Grafton (Hassanamisco) and Dudley (Chaubunagunamaug) were paired. In subsequent years, however, the two groups came to have different guardians, although there is no record of a formal separation by legislative act. Further measures concerning the sale of Indian lands were passed in the spring of 1748. The 1746 measure was elaborated on June 12 and 13, 1758, by a bill providing that there be three guardians near every Indian plantation to allot lands to the Indians and guard against trespass; also, to regulate incomes and expenditures in behalf of the tribes; and that no sale or lease of Indian property was to be made except by consent of the guardians (*Mass. Archives* 33:64-66). While providing some background information concerning tribal continuity, these acts in themselves provide no information concerning the nature of internal political authority or influence at Dudley or among the Chaubunagungamaug Band Indians.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1746-1783	(c) *Acts & Resolves* XIV, 39; *Massachusetts Archives* 32, 350; 32, 453; 33, 76; *Journals of the House of Representatives of Massachusetts 1770-1771* 1978, 148; *Journals of the House of Representatives of Massachusetts 1773-1774*, 1981, 108.	The records of the Massachusetts legislature provide a full record of the men who were chosen as guardians of the Dudley Indians between 1746 and the Revolution. If collections of the private papers of any of these individuals exist in manuscript repositories, it is possible that they might contain additional information on Chaubunagungamaug/Dudley in the mid-18th century.	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)). "The appointment of overseers for the Eastern Pequot reservation by the colony of Connecticut in itself provides data about the continuous existence of the tribal entity, but no specific information about internal political leadership or influence" (Eastern Pequot PF 2000, 104).	The appointments in themselves provide no information concerning the leadership, or internal political influence or authority, of the Chaubunagungamaug Band, or Dudley Indians, for which they were assigned as guardians.	Does not meet (c).
1758	(83.1), (c)(1)(i) *Massachusetts Archives* 33, 61-63; *Acts & Resolves 221.*	On June 12 and 14, 1758, on petition of Nanny Pagan and other Dudley Indians complaining of the unjust actions of their guardians and requesting the discharge of the said guardians and appointment of new men, the General Court passed an order for the investigation. Signers of the complaint were: Joseph Pagan, Samuel Pagan, Eleazer Pagan, Hannah Quitticus, Nanny Pagan, Mary Pagan, Esther Pagan, Deborah Pagan, Pashants Pagan, and Sarah Pagan (*Mass. Archives* 33:61; see also *Acts and Resolves* 221). The specific complaints were that their guardians had deprived them of many rights and overcharged them in a list of debts. A committee that heard the complaint advised an investigation and the Court appointed a committee to go to Dudley and investigate (*Mass. Archives* 33:61-63). No record of report of the investigation at Dudley has been located.	". . . representing the group in dealing with outsiders in matters of consequence" (83.1). "No reference to the sachemship could be found after 1687, . . . However, there is evidence that the Gay Head Indians continued to maintain some political influence and authority over their members. These people periodically petitioned the General Court of the Province of Massachusetts Bay between 1727 and 1781, and the Corporation for the Propagation of the Gospel between 1711 and 1776" (Gay Head PF 1987, 10); "The appointment of overseers for the Eastern Pequot reservation by the colony of Connecticut in itself provides data about the continuous existence of the tribal entity, but no specific information about internal political leadership or influence. However, the initiative of the Eastern Pequot Indians in requesting particular persons as overseers, combined with the signatures on the petitions, indicates that the Indians on the Lantern Hill reservation did at this time have internal political processes" (Eastern Pequot PF 2000, 104).	The 1758 signers denied that they signed a 1757 petition and mentioned the guardian's "taking away grass & fruit of Jonathan Pagan's plantation anno 1756 at that time Joseph Pagan had Jonathan's power of attorney during his absence in his Majestie's service" (*Mass. Archives* 31:61). This power of attorney from one relative to another again implies that the Dudley Indians had long been accustomed to handling their legal affairs and real estate without guardianship. Such occasional petitions have been accepted in prior positive acknowledgment decisions as providing adequate documentation concerning political leadership/ influence and internal political processes for the later 17th and 18th centuries.	On the basis of precedent, this meets (c) for the Chaubunagungamaug Band for the 1750's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1763	(c) Daniels 1892, 774-775; Dresser 1900, 118; Brief c.1890, 2; Worcester Records XLIX, 314; *Acts & Resolves* 1762-1763, Ch. 184, 1/29/1763; Mandell 1996.	On January 31, 1763, the heirs of Joseph Dudley sold to Edward Davis of Oxford, Massachusetts, one square mile, "adjoining the Meeting-house in the town of Dudley," being that which William Dudley leased [*sic*] to the Indian natives April 9, 1724, excepting for said Indians 200 acres on the east side thereof . . . so long as they shall continue to improve the same, agreeable to a resolve of the General Court, Jan., 1763., etc." (Daniels 1892, 774-775; citing Worcester Records XLIX., 314). "In 1763, the Heirs of Dudley and guardians of the Indians persuaded the Genl. Court to make sale of the same, alleging they held the fee. While as a matter of fact the fee was in the Indians, less 200 (201) acres, see Court Records Book 24, Folio 543, Sect'y State's Office. . . . In that sale 20 pounds was paid and 9 pounds per year thereafter until the $500.00 was paid in by act . . ." (Brief c.1890, 2).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	A recent scholar has described these transactions as follows: ". . . the Dudley guardians persuaded the General Court to allow William Dudley's heirs to purchase [*sic*; the transaction was a sale] two-thirds of the remaining reserve . . . The Indians, they told the court, no longer farmed the tract, and so had broken the stipulation on the lease obtained three decades before from Dudley . . . The court agreed to the proposal, and in exchange the Dudley heirs [*sic*; the payment was to come from the purchaser, Edward Davis] were to pay fifty pounds into the Indians' account (controlled by the guardians) and nine pounds each year as long as the Indians 'improved' the remaining land" (Mandell 1996, 149-150; citing *Acts & Resolves* 1762-63, Ch. 184, 29 Jan. 1763). Aside from the misinterpretations in the above passage, the documents contain no data concerning political authority or influence.	Does not meet (c) for the 1760's.

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1768-1774	(c) *Massachusetts Archives* 33, 463; 33, 518-520; 33, 551-552; *Journals of the House of Representatives of Massachusetts 1771-1772* 1979, 147; *Journals of the House of Representatives of Massachusetts 1773-1774* 1981, 179, 193. *Acts and Laws of the Commonwealth of Massachusetts* 1792-1793, 622, Resolves 1793--January Session, chapter 37A* [not printed in previous editions]; ***Acts and Laws of the Commonwealth of Massachusetts*** 1792-1793, 475.	These guardians' reports reported on disbursements of Dudley funds and indicated the names of the beneficiaries. The 1793 resolve on the petition of Thomas Pegan (*Massachusetts Resolves 1793*, 622) indicated that his lands had been "set off" to him approximately 1777, but that in the intervening years, he had not received any income from the guardians for their rent. BIA researchers found no record of any "setting off" of the Dudley lands to individuals during the period 1768-1785.	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "Group representatives did not petition the General Assembly between 1872 and 1899. There is little explicit evidence of political activity during this period . . . " (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	These documents provided some background data on tribal continuity, but no information on internal political influence or authority within the Chaubunagungamaug Band or the Dudley Indians. Petitions #69, #69A, and #69B have not presented documents to reflect the existence of internal political authority or influence within the Chaubuna-gungamaug Band, or the Dudley Indians, for this period. BIA researchers located none on a survey of published records, and have not ascertained whether there was no such documentation for this period, or whether the petitioners have not submitted such documentation as may exist.	Does not meet (c) for the 1760's and early 1770's.
1775-1785	**(c) No pertinent documentation.**	**The only documentation in the record for this period is the military records of individual Indian men from the Dudley settlement.**	**"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).**	**Petitions #69, #69A, and #69B have not presented documents to reflect the existence of internal political authority or influence within the Chaubuna-gungamaug Band, or the Dudley Indians, for this period. BIA researchers located none on a survey of published records, and have not ascertained whether there was no such documentation for this period, or whether the petitioners have not submitted such documentation as may exist.**	**Does not meet (c) for the later 1770's and early 1780's.**

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1786-1849	(c) Dudley Guardians' Accounts (Nipmuc Pet. #69A Suppl.); Worcester County, Massachusetts, Probate Records; Nipmuc #69 Pet. Narr. 1984, 53, 78; *Acts and Resolves Passed by the General Court of Massachusetts* 148, 135; *Resolves of the General Court* 1838, 674; Briggs Report 1849, 44; *Acts and Resolves* 1849, Chap. 21.	Appointments of guardians and guardians' reports. From the date of the 1797 sale, the Dudley guardians' accounts were examined by the selectmen of the town of Dudley until the establishment of Webster in 1832. The accounts henceforth were reviewed by the Selectmen of Webster. Beginning in 1803, the accounts began to list the names of more individual beneficiaries. See the draft technical report for petition #69B for year-by-year summaries.	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	For a more detailed discussion of these documents, see the charts for criterion 83.7(b). While providing some background data on tribal continuity, they do not name leaders or provide any information concerning political authority or influence within the Chaubunagungamaug Band or the Dudley/Webster Indians during the first half of the 19th century.	Does not meet (c) for 1797-1849.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1797	(83.1); (c)(1)(i) Mandell 1996; Brief c.1890;	On June 7 (Brief c.1890, 3, says June 17), 1797, all of the 200 acres of land which remained after the sale of 440 acres to Edward Davis in 1763 was conveyed to Levi Davis, of Charlton, to satisfy debts of $300 owed by the Indians. The deed was signed by the guardians, Lemuel Corbin, Mark Dodge, and John Healy. On his part, Levi Davis deeded to the Commonwealth a different tract of land in Dudley Township of 26 acres, 58 rods and agreed to pay, or secure the payment of, $667.00 (Brief c.1890, 3, says $1,667) plus interest into the state treasury for the benefit of the Indians. The sale was completed June 17 (Nipmuc Pet. Narr. 1984, 53, 78). By this 1797 transaction, the physical locale of the Dudley Indians' land base, which since at least 1724 had been in the immediate neighborhood of the church in the Town of Dudley, Massachusetts, was transferred to a site near Lake Chaubunagungamaug which would, with the establishment of Webster in 1832, fall into a different town (Webster was constituted from what had been the eastern portion of Dudley and a small part of Oxford).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6); "Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25); "The group has acted as a community to defend its land" (Tunica-Biloxi PF 1980, 4). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	There is no copy of the actual deed in the record. Mandell indicated that in the late 18th century, the status of the Dudley Indians' land base underwent a major change, in that, "All but 26 acres were sold to cover debts and to 'give the Town Liberty to act and dispose of [the Indians'] Interests as they do with their other Poor'" (Mandell 1996, 168; citing John Chamberlain, Dudley, to the Massachusetts legislature, in documents relating to Unpassed Senate Legislation, no. 2151, 12 Feb. 1796, Massachusetts Archives; Mandell 1996, 231n26). This is not an accurate description of the land transactions, which sold all the former land, purchased 26 acres, and relocated the Indians. **The documents reflect only the actions of the guardians and the purchaser, and provide no information about the opinion of the Indians, nor do they provide information concerning political authority or influence within the Chaubunagungamaug Band or Dudley Indians.**	Does not meet (c) for the Chaubunagung-amaug Band or Dudley Indians for the 1790's.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1814	(c) Nipmuc #69 Pet. Narr. 1984, 80.	At the time of the 1797 sale, the Dudley guardians still received, as annual income, the payment agreed to at the 1763 sale. It was not until 1814, pursuant to a resolve of the legislature, that the heirs of Edward Davis agreed to pay to the Commonwealth the sum of $500 pounds in commutation of the annual sum due from the estate stemming from the 1763 purchase. The interest on this 1814 commutation payment was to be paid annually out of the state treasury to the guardians of the Indians until such time as the Dudley Indians should become extinct (Nipmuc Pet. Narr. 1984, 80). The petition gave a date 11 years later for this commutation payment, attributing it to June 24, 1825 (Nipmuc #69 Pet. Narr. 1984, 80). **The total of both trust funds amounted to $2,199.84.**	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6) "Group representatives did not petition the General Assembly between 1872 and 1899. There is little explicit evidence of political activity during this period . . ." (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d))..	The two sets of late 19th-century disbursement records pertaining to the Dudley Indians resulted from these two separate funding sources: one set was for the funds resulting from the 1797 land sale; the other set was for the capital in the interest-bearing fund resulting from the various stages of the Edward Davis sale between 1763 and 1814. The documents reflect only the actions of the guardians and the purchaser, and provide no information about the opinion of the Indians, nor do they provide information concerning political authority or influence within the Chaubunagungamaug Band or Dudley Indians.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1840's	(81.3), (c)(1)(i) Bergner c.1990.	One piece of hearsay evidence names two leaders on the Dudley/Webster reservation in the first half of the 19th century. In his reminiscences concerning the author George Washington Sears (1821-1890), who was born in the Oxford Gore near what would later be the Webster town boundary: "There was a remnant of the NIPMUCK tribe still in existence, about thirty-six, where they spent most of their time hunting, fishing, making baskets, setting snares for rabbits and grouse. Old Ja-ha was the head man of the tribe and he was past ninety years old. The best indian [*sic*] of the tribe was INJUN LEVI as the whites called him, but to his tribe he was known as NESSMUK. Their reservation was on Nipmuck-pond now owned by the 200 Sportsman Club. NESSMUK was probably twenty- twenty two years old and George Sears was about five years old . . . Those indians [*sic*] passed away. When George went back to look for Nessmuk's grave, no one knew the spot" (Bergner c.1990; Nipmuc Pet. #69B Suppl. 3/31/1997, 1890 folder).	". . . making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence" (83.1); "There are scattered references to specific Miami leaders in French and English documents prior to the late 1740's" (Miami PF 1990, 7); "There is limited evidence of some continuity of leadership as well" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	Both of the individuals named in this account could be verified from other records. "Old Ja-ha" was probably Luke Jaha, b. 1771, Shrewsbury, Massachusetts--d. 1841, Webster, Massachusetts (see Nipmuc GTKY file, BAR). The attribution of leadership status to him is somewhat verified by the 1840 Federal census, which apparently listed the entire population of the reservation, 11 males and 12 females, under his name as head of household (NARS M-704, Roll 201, 1840 U.S. Census, Worcester County, Massachusetts, Town of Webster, Frame 0069). "INJUN LEVI" was probably Levi Jaha, b. 1814, Dudley, Massachusetts--d. 1873, Dudley, Massachusetts (see Nipmuc GTKY file, BAR). These dates are compatible with the estimates provided by Bergner. Although these retrospective memoirs named the two men, they provided no information concerning their activities, or how political authority or influence was exercised within the petitioner's antecedent group in the 1840's. The material does not in itself provide sufficient evidence that the Chaubunagungamaug Band met 83.7(c) in the 1840's, but in combination with other material in the record, provides supporting data for the conclusion that the Chaubunagungamaug Band met 83.7(c) through 1869.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1849	(c) F.W. Bird, W. Griswold, and C. Weekes, "Report of the Commissioners Relating to the Condition of the Indians in Massachusetts," 1849 House Document 46," in *Mass. Legislative Reports of 1849*, Boston: Wright & Potter, 1850 (*Briggs Report* 1849); Doughton, Unseen Neighbors 1997; (Nipmuc #69 Pet. Suppl. 1987, Attachment 4); Plane and Button 1993. This report was cited by Plane and Button as the "Bird Report." The preface was signed by Massachusetts Governor George N. Briggs on February 21, 1849, and it is ordinarily cited as the *Briggs Report*.	Plane and Button described it as an investigation commissioned by the Legislature in 1849, led by Francis W. Bird (Plane and Button 1993, 590). . "The men who served on the Indian commissions in the years from 1849 to 1862 had strong links to the abolitionist and radical Republican camp" (Plane and Button 1993, 592). "Francis W. Bird, the chair of the 1949 [*sic*] commission and a member of the 1869 commission, was an illustrious Massachusetts Republican and a close advisor to the state's Radical Republican Senator, Charles Sumner" (Plane and Button 1993, 611n38). As far as is known, the original notes kept by these commissioners are not extant. With the exception of Natick, they identified 847 Indians in the state, including Chappaquiddick, Christiantown, Gay Head, Fall River or Troy, Mashpee, Herring Pond, Grafton or Hassanamisco, Dudley, Punkapog, and Yarmouth (*Briggs Report* 1849, 5-6).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	Concerning the Dudley/Webster Indians, the Briggs Report found a total of 48 individuals, about half of whom "live on the territory," which was described as about 30 acres in Webster. The commissioners were aware that the original land in the center of the town of Dudley had been sold "some years since" and "the present territory purchased for them" (*Briggs Report* 1849, 42-43). These comprised about 11 families: 22 males, 21 females, 2 unknown, 40 natives, 8 foreigners [non-Indian spouses]. The age distribution comprised: 6 under 5; 7 5-10; 8 10-21; 21 21-50; 5 50-70; 1 over 70, aged 74 (Briggs Report 1849, 43). For further description, see the charts for criterion 83.7(b). The 1849 *Briggs Report* did not mention a leader for the group or provide any information concerning its internal structure, political authority, or political influence (Nipmuc #69 Pet. Suppl. 1987, 1). It did list the amount of money that the state had provided toward the group's support since 1843, a total of $1805.50 which included $250.00 for five years' salary for the guardian (*Briggs Report* 1849, 43). The material does not in itself provide sufficient evidence that the Chaubunagungamaug Band met 83.7(c) in the 1840's, but in combination with other material in the record, provides supporting data for the conclusion that the Chaubunagungamaug Band met 83.7(c) through 1869.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1857	(c) *Resolves of 1857*, Ch. 80.	On May 29, 1857, the Massachusetts legislature passed a resolution to require all Indians claiming support of the Commonwealth, to reside upon the land set apart for their use, and under the guardian's immediate supervision (cite). On November 28, 1857, the following entry occurred: "please pay to the order of C.R. Ransome the sum of one hundred and twenty five and 11/100 dollars on account of appropriation for the building houses for the Dudley Indians per Resolves of 1857, Ch. 80" signed by Selectmen of Webster.	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6); "Group representatives did not petition the General Assembly between 1872 and 1899. There is little explicit evidence of political activity during this period . . . " (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	This act and payment were in connection with a project whereby the portion of the Dudley Indians who were receiving public assistance (the "State Paupers") were moved from the 26-acre reservation to one acre "on the public highway, about half a mile from the principal village in Webster," and "more directly under the public eye, where a healthy public sentiment could have its sanitary influence, and where the civil authority could have a more direct supervision over them" (Earle Report 1861, 103). The new lot was described by Earle as only 1/4 mile from the 26 acres and "convenient of access to it" (Earle Report 1861, 103). The larger lot remained held for the Indians by the state (Nipmuc Pet. Narr. 1984, 88-89). The documents contain no data concerning the opinion of the Indians in regard to this move, nor any material pertaining to political influence or authority within the group.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1859-1861	(c) *Earle Report* 1861.	It was compiled by John Milton Earle, Massachusetts Commissioner of Indian Affairs, in response to an April 6, 1859, act of the legislature. Earle's correspondence and notes, compiled during his investigation, primarily in 1859 (Earle Papers), are at the American Antiquarian Society in Worcester, Massachusetts, and provide background information beyond that in the published report (*Earle Report* 1861; sometimes cited in the secondary literature as Massachusetts Senate Report No. 96, 1861). The purpose of the investigation was, to a considerable extent, to ascertain the dimensions of the Commonwealth of Massachusetts' financial responsibility for the Indians residing within its boundaries. He summed up the financial aspect with the comment: "From this it will be seen that there are only three tribes, whose poor are now dependant on the treasury of the State for their support. These are, first, and largest in amount, the Dudley tribe" (*Earle Report* 1861, 14).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	The published report began with a definition: "The Dudley Indians, so called, are a remnant of that portion of the Nipmugs, called the Pegan tribe, which formerly inhabited the track [*sic*] of land in Worcester County, now known as Charlton, Dudley, Sturbridge, Oxford, Southbridge, and Webster, with portions of some of the adjoining towns" (Earle Report 1861, 101). Earle's summary indicated that he was not fully aware of the various land transactions pertaining to the reservation nor of the disposition of the funds that had accrued to the Dudley Indians' guardians from the Edward Davis estate (*Earle Report* 1861, 102). It appears that he did not have access to the guardians' accounts. He knew about the reservation land of 26 acres and 28 rods and the lot of one acre bought for them by the commonwealth in 1857 (*Earle Report* 1861, 102-103). He identified the total number as 94 individuals, including those who had left the reservations and obtained legal settlement in various towns. See further discussion in the charts for criteria 83.7(b) and 83.7(3). The report did not name leaders and provided no information concerning political influence or authority.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861	(c) *Earle Report* 1861.	Earl wrote: "As will be inferred from what has already been stated, this tribe has no municipal, religious, or educational organization. The better portion of them, scattered in various towns, belong to ... municipal orgnizations, and have the benefits of religious and educational institutions, such as are common to those in their condition of life. Those who reside on the reservation, though subject to the legal disabilities of Indians, enjoy the benefits of the public schools of the town, and have the usual opportunities for religious worship and instruction, so far as they choose to avail themselves thereof" *(Earle Report* 1861, 105).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	Earle's recommendations were in favor of ending the guardianship exercised by the Commonwealth: "the number now residing there [on the reservation] is thirteen, a reduction of nearly one-half in eleven years. Of those remaining, seven vary from 40 years of age to 75, two of them being unmarried females between 40 and 50 years of age. There is but one young married couple, and but four children, two of whom are boys of 17 and 12 years of age. The former of these earns his own living and the latter will soon be able to learn his. Under these circumstances, no good reason can be perceived, why all who are now minors should not, as fast as they come of age, be placed on the same legal footing, as all other residents of the State, who are born upon its soil" (*Earle Report* 1861, 106-107). **Insofar as this report addressed the issue of the existence of political influence or authority within the tribe, it indicated that there was none.**	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861-1870	(c) Guardians' accounts and reports (Nipmuc Pet. #69A Suppl. 4/21/97, Public Document No. 31 1867; Public Document No. 31 1868; Public Document No. 31 1869; Nipmuc Pet. #69B suppl. 3/28/97, Public Document No. 36 1861, Public Document No. 36 1862; Public document No. 35 1863; Public Document No. 32 1864); Remnant of the Indians of Webster (Nipmuc Pet. #69A Suppl. 4/21/1997, original at the American Antiquarian Society, Worcester, Massachusetts).	The guardian's reports continued to be filed regularly throughout the Civil War years, and are supplemented by a record book maintained by the Town of Webster for the "Remnant of the Indians of Webster."	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6). "A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	These documents provided some background data concerning tribal continuity, but did not name leaders or address the issues of political influence or authority. For more extensive discussion of these documents, see the charts for criterion 83.7(b).	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1869	(83.1); (c)(1)(i) Massachusetts Act of Enfranchisement; Plane and Button 1993; Nipmuc #69 Pet. Narr. 1984, 95.	In short, this was detribalization legislation. On June 23, 1869, as a delayed follow-up to the recommendations of the 1861 Earle Report, Indians were granted state citizenship in Massachusetts (Nipmuc Pet. Narr. 1984, 95; for more extensive information, see Plane and Button 1993). The act provided that the state board of charities should take charge of both the house and all property associated with it in the town of Webster, formerly used by the Dudley Tribe of Indians. The act gave the board the option of either leasing the house and land to the tribe on terms similar to those upon which they had occupied it, or of selling both at public auction (Nipmuc Pet. Narr. 1984, 96; Massachusetts Statutes 1869, 780, Chapter 463, Section 5). In August 1870 [sic, 1869?), the multi-family tenement house in Webster was sold, pursuant to Section Five of the Act, to Thomas McQuaid [McQuade], for $1790.00. The funds were paid into the state treasury and the remaining Indians, formerly inhabiting the premises, were moved to the town of Dudley and accommodated and supported at the state's expense until January 1, 1870 [sic] (Nipmuc Pet. Narr. 1984, 97).	"Connecticut continued to maintain a guardian system over the Mohegan Indians until 1875" (Mohegan PF 1989, 6).	This act provided no data concerning political influence or authority within the affected tribes.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1870-1886	(c) No pertinent documentation.	There is no documentation in the record for this period which addresses criterion 83.7(c).	"A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria" (83.6(d)).	Petitions #69, #69A, and #69B have not presented documents to reflect the existence of internal political authority or influence within the Chaubunagungamaug Band, or the Dudley Indians, for this period. BIA researchers located none on a survey of published records, and have not ascertained whether there was no such documentation for this period, or whether the petitioners have not submitted such documentation as may exist. For information concerning the group that can be derived from Federal census records and the reminiscences in the Leavens Papers, see the charts for criterion 83.7(b).	Does not meet (c) for 1870-1886.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1886-1891	(c) Disbursement Records, 1886-1891; Sale of Indian Land at Webster 1887; Brief c.1890.	The largest body of documentation concerning the Dudley Indians between the Civil War and the 20th century was generated by the various court suits aimed at obtaining a per capita disbursement of any remaining property or trust funds held on their behalf by the Commonwealth of Massachusetts. On December 22, 1886, F.M. Morrison, attorney for the Pegan Indians, filed a petition at Probate Court in Worcester seeking permission to authorize the sale of the remaining 26 acres, 58 rods left in Worcester County. The sale was authorized by the Probate Court on this date, as provided in Section Three of the Act of Enfranchisement. The court appointed two commissioners to handle the sale, Charles E. Stevens and Thomas Harrington, both of Worcester (Nipmuc Pet. Narr. 1984, 96, 98-99).	"Economic organization is strong evidence of significant political influence and leadership because it affects a major part of the lives of group members in ways which are intrinsically important" (Snoqualmie PF 1993, 25). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	If the documentation submitted in regard to this lawsuit had contained data indicating the procedures by which the Pegan Indians who were beneficiaries of the suit had organized to engage a lawyer and pursue the issue, it would provide valuable data concerning the group's political authority and influence for the late 1880's and early 1890's. Even in the absence of that, it provides some supporting evidence that there was political authority and influence, or at least some measure of organization, among some of the descendants of the Pegan Indians in the late 1880's. However, it also shows that this did not comprise the entire group of descendants of those Dudley Indians alive in 1869, since after the original disbursement list was drawn up in 1887, new claimants continued to appear and be added for over two years. For further discussion of the lists, see the charts for criterion 83.7(e). As the record stands, the evidence in itself is not sufficient to meet (c).	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1891-1978	(c) No written documentation.	There is no written documentation in the record concerning political authority or influence for this period.	". . . representing the group in dealing with outsiders in matters of consequence" (83.1). "There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions" (83.7(c)(1)(v)). "There are no clearcut, significant examples of the exercise of political influence or authority among the Indiana Miami between the early 1940's and the late 1970's an exercise of such influence or authority was no demonstrated by alternate means" (Miami FD 1992, 4). ". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1989, 6).		Neither meets nor disproves (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1940's - early 1970's	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse was asked about what, if any, interaction he had had with other Nipmucks during the period from the 1940's to the early 1970's. Mr. Morse said that during that period, it was difficult to remember the Nipmucks with whom he might have interacted at gatherings and parties for the following reason: **Excerpt from Transcript:** Mr. Morse: "because back then, I wasn't interested in that [Nipmuck stuff], so I never paid much attention [to who was or was not a Nipmuck]. If I did back then, I coulda gave you a book and you woulda been able to read it and have anything you want. But I wasn't interested in that. Just like Mr.Henries – Crow Henries – when I first met Walter . . . He wasn't doing nothin' as far as Native American people are concerned. I don't know what he told you, but he did a lot of reading . . . just like I did. I did a lot of reading because I had to. So that's why I know what's going on. If it wasn't for books, [unintelligible] be no place."	". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1989, 6). 83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.	In this statement and others that he made in the interview, Mr. Morse strongly suggested that, during the period from the 1940's to the early 1970's, he and other future members of #69B with whom he was acquainted during these decades did not identify as Nipmuck (though many were aware that they were descended from Nipmuck), and, more important for an evaluation under (c), he implied that these Nipmuck did not constitute a group. If, as Mr. Morse suggests, there was no #69B group during this period, the petitioner could not have maintained political influence or authority over its members as an autonomous entity for at least the period from the 1940's to the early 1970's. The statement by Mr. Morse, then, provides some negative evidence for the period from the 1940's to the early 1970's.	Negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977 - 1997	Table of Nipmuc Gatherings and Fairs Held at Hassanamesit in the 20th Century.	Table Six of this document covered the years from 1936 to 1997. In addition to other information that is not relevant to this discussion, the chart lists in chronological order 30 gatherings that took place from 1977 to 1997. Because at least Mr. Edwin Morse and some members of his extended family as it was defined above participated in affairs of the #69 joint petitioner from 1977 until the mid-1990's, the 30 gatherings in the chart that span this 18 or 20 year period are relevant to #69B. At least formally, these 30 gatherings were organized by both the Hassanamisco and Chaubunagungamaug Bands, which were cooperating at the time.	As evidence that the petitioner meets (c), the regulations state: "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii); and "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii).	Nearly all of the gatherings listed in the above document appear to be annual fairs. For example, each year from 1990 to 1997, only one event – "Annual Native American Indian Fair" – is listed. There is no evidence that such events, which were open to the public and attended by many non-Nipmucs, were anything other than recreational. Only four of the gatherings during this period may have been more than recreational. These events took place during the period from 1979 to 1982 and are labeled, "Tribal Meeting - closed to the public," "constitution and by-laws signed by council chiefs," "Annual Meeting," and "meeting/election."	Does not meet (c).
1977	Minutes of "Joint Meeting: Legal Heirs of Hassanamisco, and the Nipmucs," dated 5/14/77.	This document contains a list of 19 people who attended the meeting, which was organized by Zara CiscoBrough. Joseph (Walter) Vickers Jr.; Anna Mays; Sheila Cisco; Samuel Cisco; Charlie Richardson, Carol Palavra; Robin Palavra; Brent Palavra; Walter Vickers Sr.; Emma White; Marylou Willoughby; Lois Ann Wilcox; Horace Cisco; Lillian Wells; Charlie Hamilton; Carol Vickers; Robin Vickers; Pam Vickers; and Michelle Vickers attended. The document alludes to efforts to obtain Grafton State Hospital land, organize a fair, establish an Indian Center in Worcester "for all the natives in the Worcester area," and respond to a recent article in a newspaper that was said to have stated that all Nipmucs were dead.	As evidence that the petitioner meets (c), the regulations state: "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	Neither Mr. Morse nor any member of his extended family appears on the attendance list of this meeting. It is likely that, by the Spring of 1977, Mr. Morse had not yet joined the Nipmuck group that later became #69.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse claims that it was around 1977, which was when he was 49, that he "started to push forward as Chaubunagungamaug." Excerpt from transcript: Mr. Morse: "Back then [in the 1920's and 1930's when he was a child], we knew we was Chaubunagungamaug. We knew we came from South Woodstock, CT. We knew that was in Dudley. So, uh, *but we had nobody to do anything*. And then when we got older we found out everything we had to know. About 21 years ago. That's when we started to push forward as Chaubunagungamaug. But we didn't know uh. And then, as far as joining anything we –Zara's sister–she was giving out, I think it was $175 for clothing, $125 for food to all Nipmucks. You go down there, and you sign your name on the dotted line, and you were automatically on the tribal roll." BIA: "So she was just signing up anybody who came by?" Mr. Morse: "Anybody that came by. Said they was a Nipmuck." BIA: "And they got the food and clothing and also were just signed up?" Mr. Morse: "Yep."	". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1989, 6). 83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.	Here Mr. Morse further discussed events that occurred during the decade of the 1970's, the decade during which Mr. Morse joined a Nipmuck group for what he strongly suggested was the first time in his life. In so doing, Mr. Morse provided additional evidence that the petitioning group – the group of which he is a leader – does not meet (c) for at least the period before 1977. In describing the event of his joining the group that later became #69, an event which Mr. Morse said occurred in 1977 when he was 49 years old, Mr. Morse strongly suggested that, during the half-century from the early 1930's to 1977, there was no Nipmuc organization, association, or community of which he and most future members of #69B were a part, and there were no Nipmuc activities or expressions of a collective Nipmuc identity of which he and most future members of #69B were a part. The statement quoted here followed Mr. Morse's brief description of his childhood in which he implied that, to the best of his knowledge, did not involve Nipmuc beyond the members of his extended family.	Negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1977	Letter to Mrs. Mitchell from Zara CiscoBrough, Chairman, dated 9/6/77, with enclosures; enclosures include a petition..	The letter requests a date to present petition to Governor Dukakis or Mrs. Mitchell herself. Enclosed petition was said to contain the names of a number of Nipmucs "who are vitally interested in Nipmuc New Town Creation." This project involved a proposed transfer of land not in use by the state of Massachusetts to the Nipmucs for settlement. The project was spearheaded by Zara CiscoBrough. The petition contains the names of 37 individuals. One of these individuals is Edwin Morse.	As evidence that the petitioner meets (c), the regulations state: "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii); and "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii).	This document provides the earliest evidence of the political participation of Mr. Morse, who later became "chief for life" of #69B, in Nipmuck matters. More specifically, it suggests that Mr. Morse considered at least one issue acted upon by a group leader during this period to be of importance. Though this document demonstrates that Mr. Morse participated politically in a Nipmuck group in the late 1970's, it does not demonstrate that such political participation existed broadly among members of #69B. In addition, though the document shows that Nipmucs took an interest in Nipmuc affairs, the group referenced in the document was not the petitioning group.	Does not meet (c).
1978	Document of a meeting of the Hassanamisco Council (Nipmuc Tribal Council, Hassanamisco Band, Minutes 6/8/1978).	There is no indication of the nature of the meeting. The roster indicates that 49 people were present. Included is Zara CiscoeBrough, as well as members of the Morse extended family (Edwin Morse Sr.; Edwin Morse Jr., Dolly Swenson, Ruth Bessette, Shirley Lomba, Joseph Lomba, Diane, Tina, and Rickey Rigney; Ralph and Ryan Walley; Elizabeth Morse, Kimberly Santana, Ruth Morse, Edith Half Moon Hopewell, Lucille "Billie" Walley, Dorothy Prince, Ralph Walley III, Dawn Walley; Joni, Nicole, Elizabeth, Jose, and Ralph Santana).	As evidence that the petitioner meets (c), the regulations state: "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	At a minimum, this document suggests that Edwin Morse Jr., Edwin Morse Sr., and other descendants of Elizabeth (Henries) Morse were beginning to participate politically, as well as possibly socially, with members of a Nipmuc group. This document does not demonstrate, however, that the Morses' participation in this meeting shows that the petitioner meets (c) for this period. Most important, the document does not show that this participation encompassed most of the petitioning group or that the attendees from the current #69B who attended were representing any organization antecedent to the current petitioner.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1979	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse stated that when the council meetings for #69B, which were (and are) open to all members, started, they used to have 50 or 60 people come to the council meetings.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii); and "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	If the number of members attending the Chaubunagungamaug meetings in 1979 was as large as 50 or 60, it would suggest that many potential members of #69B considered issues acted upon or actions taken by group leaders and the new Chaubunagungamaug Clan governing body to be of importance, and that there may have been widespread knowledge, communication and involvement in political processes by many of the group's members. However, the limited documentation from the period does not provide any sign-in sheets or other evidence to support Mr. Morse's recollection of the numbers. The numbers attending a few years later were not this large.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
prior to 1979	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Glen Heath said that it was not until after he got married, which was when he was approximately 40 years old, that he met Mr. Morse. Excerpt from Transcript: "Then, I got married. I had some friends that knew Chief Wise Owl. That's how I met him. That was '79 or '80 . . . [When I met him, I said,] "I would like to, uh, join the uh, join his tribe." [Then Wise Owl said,] "the first thing is that [you need to] get whatever you [can] get saying that you are who you say you are." Within at most a few years of the above conversation, Glen Heath and many of his family (through Glen's submission of their paperwork) were enrolled in #69B. By 1991, Glen was serving on the group's governing body, and his extended family was one of only three extended families other than that of Mr. Morse comprising #69B.	83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.	By Mr. Heath's own account, he and members of his extended family did not even meet Mr. Morse until 1979 at the earliest. As such, it is likely that they had little to no significant political relationships with other future #69B group members until 1979 at the earliest. As the Heath family is one of only three extended families that comprise the #69B group and is thus a significant part of the petitioner, this statement of Mr. Heath's strongly suggests that the petitioner may not meet (c) for the period before the late 1970's. Similarly, in another BIA interview, Mr. Kenneth Leroy White, who has also served on the #69B governing body and, more important for our purposes, is a member of one of the other two extended families that comprise #69B other than the family of Mr. Morse, stated that he did not meet Mr. Morse until the 1980's, which was when Mr. White was in his late 30's and early 40's. It is, of course, possible that Mr. White and Mr. Heath knew one another – and NOT Mr. Morse – before the 1970's, and that the extended families of Mr. White and Mr. Heath were part of a Nipmuc group that could be considered, instead of the Chaubunagungamaug Clan, the predecessor of #69B. In the submitted material, during the field visit, and during phone conversations, however, at no point was there any indication that this might be the case. If this is the case, the petitioner is strongly encouraged to submit evidence to demonstrate it.	Negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980-1983	(c) Articles of incorporation and by-laws.	See description under criterion 83.7(d).	83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations. The fact that a group that meets the criteria in § 83.7 (a) through (g) has recently incorporated or otherwise formalized its existing autonomous political process will be viewed as a change in form and have no bearing on the Assistant Secretary's final decision.	There is no evidence in the record that indicates that the organization of the Chaubunagungamaub Band of Nipmuck Indians, the predecessor group of petitioner #69B, from 1978 through 1981, represented the formalization of an existing autonomous political process.	Does not meet (c).
1980 - late 1990's	Interview with Edwin W. Morse Sr., 7/22/98.	When asked about "the most important issues that the council has dealt with," Mr. Edwin Morse Sr. said, "The biggest and most important thing was getting federal recognition." Mr. Edwin Morse, Jr. added, "Other things would be discussing how many kids needed toys for Christmas or how many families needed Christmas dinners. That's what we've been doing for 20 years [which would have been from about 1978 (but see below) to 1998]. Before we did it, my aunt [Edith E. Hopewell] did it . . . for about 10 years [which would have been from about 1968 to 1978]." At that point in the interview, Mr. Edwin Morse, Sr. clarified that it was in 1980 that he started making food and toy distributions at Christmas time.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii); "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii); and "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	The above statement suggests that, from 1980 to the late 1990's, there existed "issues" with which the Chaubunagungamaug Band governing body has dealt (e.g. a dearth of large meals and toys at Christmas). If appropriate, during the response period, the petitioner might choose to submit documentation about these "issues" and activities, beyond the few newspaper clippings that exist about these activities, to help show that it meets (c) for all or part of the period since 1968, which is when, it is alleged, these activities were begun. In preparing this additional documentation, the petitioner should take great care to show that the federal acknowledgment effort and/or the efforts to provide Christmas dinners were not simply acts of a few individuals but rather were considered by most of the membership to be of importance and/or involved the mobilization of most of the membership. The petitioner should also take great care to show that the efforts to provide Christmas dinners were done in the context of being Nipmuck. For the period prior to the 1980's, there is almost no evidence that these distributions were even done in this context.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1980's	Various newspaper articles submitted by Ron Little Crow Henries in 1995; articles appeared in *The Worcester Telegram*, *The Patriot*, and *The Webster Times*, among other newspapers.	The articles document activities and events organized by #69B or in which members of #69B participated, including powwows, food distributions, a film showing, and a parade.	As evidence that the petitioner meets (c), the regulations state:"The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i); "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii); and "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	Though these newspaper articles do not demonstrate that the recorded activities encompassed most of the group, they do show that, during the 1980's, there existed activities that encompassed at least a portion of the group. As such, to varying degrees, the articles provide evidence that a Nipmuck group (and in some cases, #69B in particular) was able to mobilize at least some members for group purposes, that at least some of the members considered issues acted upon or actions taken by group leaders to be of importance, and that there was at least some knowledge and communication between leaders, on the one hand, and members, on the other, during the 1980's. As such, these articles provide some evidence that the petitioner meets (c) for the 1980's.	Does not meet (c).
1980's - late 1990's	Interview with Kenneth Leroy White, 7/25/98.	Mr. White was asked what issues have come up for the council. Mr. White mentioned the issues of "Deer Island," "the Harbor Islands," and the restructuring of the Massachusetts Commission on Indian Affairs. When asked to name and discuss "issues internal to the group," Mr. White did not identify any.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii); and "There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions" (c)(1)(v).	Mr. White's identification of #69B "issues" would be useful to in evaluating whether the petitioner meets (c) if these issues were coupled with evidence that most of the membership considers these issues to be of importance. This said, the point should be made that the suggestion by Mr. White that there may not be any issues "internal to the group" raises the possibility that there may not be any internal conflicts. Conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions are often important evidence that the petitioner maintains political influence or authority over its members as an autonomous entity.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981	Letter to Zara CiscoBrough from Edith Hopewell at Oxford, n.d. (but from its contents, it seems to have been written about 1981)	Among other things, this document states, "Enclosed find papers I tried to call you about. They are very defamitory [*sic*] to you and all our kind. They are holding a meeting 7/23/81 at their father's house in Dudley to form their own committees and chief, etc. which I know they haven't the power to do, and she should be told by you or someone in authority she is not a "Princess," her father or anyone close to was never a chief as in my case." "All these people who are forming their own clan as they say needn't ever come to me again for help. I've helped them every year for 6 years now . . . They have only admitted to being Indian after they got $250.00 from the Indian fund . . ."	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii). 83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.	The above letter provides both negative and positive evidence with respect to (c). With its suggestion that members considered issues acted upon by group leaders to be of importance, the letter provides some positive evidence that the petitioner meets (c) for 1981. With its suggestion that the group may have been comprised of a single extended family in 1981 and that the group was formed in recent times, the document provides some negative evidence. Indeed, the letter can be considered documentation of the event of the creation of the petitioning group in the early 1980's, documentation that accompanies other evidence of this event, including evidence from interviews conducted with #69B group members.	Does not meet (c).
1981-1982	Interview with Edwin W. Morse Sr., 7/22/98.	When asked whether any other Nipmucks participated with Mr. Morse in parades, Mr. Morse replied as follows: **Excerpt from Transcript:** Mr. Morse: "Oh, there was our council. He had a girlfriend at the time - Wayno (?). She had about 8 sisters there with her, and then we had Spotted Eagle, Wildcat, Three Bears . . . There were some girls. There was Eagle Hawk from Rhode Island. He marched with his daughter. A guy named Tall Oak, his wife and kids used to be with us. There much have been at least 40 different people. When we walked there was this guy – sagamore from Sioux – Fire Hawk. He used to walk with us all the time. Some of 'em were Nipmuck. The biggest part of 'em were Nipmuck."	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii).	Though in this statement Mr. Morse acknowledges that not all of those who "walked" with him in parades were members of #69B or even were Nipmucks, his statement provides some evidence that he, as a group leader, was able to raise interest among individuals and perhaps even among Chaubunagungamaug Band members to represent Indians (or perhaps even Nipmucks) at public events. Lists of members who participated with Mr. Morse in these events, together with other information about these events beyond the few newspaper articles that help document Mr. Morse's participation, would strengthen the petitioner's case.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981-1986	Minutes of the "Nipmuck Indian Council" - Webster.	The minutes chronicle the bureaucratization of the group's leadership and the efforts of group leaders to organize social (and possibly also political) activities for the #69B group as a whole. The minutes describe, for example, the successful efforts of the tribal council to organize a "Winterfest" gathering in 1986. These minutes indicate that, unlike many of the other gatherings that the council organized, this gathering was intended to be closed to the public. The minutes reflect the fact that, during one council meeting (Minutes dated January 13, 1986), it was announced that "flyers" for this Winterfest gathering had been mailed to over 20 addresses.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii); and "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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). **83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.**	The minutes provide evidence that group leaders considered issues that they acted upon and actions that they took to be of importance; however, to show that most of the membership considered these issues and actions important, the petitioner should submit additional material. Similarly, the minutes demonstrate that group leaders undertook efforts to mobilize members and resources from members; to demonstrate that such efforts did indeed mobilize members and resources from members, the petitioner should submit additional material, such as lists of members who attended gatherings. Finally, the minutes reveal a group in the process of creating itself as a group (e.g. by deciding how "Nipmuck" is to be spelled, etc.). In so doing, the minutes strongly suggest that #69B is the current embodiment of a **group that was formed in recent times.**	Does not meet (c)., but can be used in combination with other evidence to meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981-1986	Minutes of the "Nipmuck Indian Council" - Webster.	The minutes dated October 12, 1984 document a series of events in which group leaders disciplined a member of the group. The events involved a single group member and seemed to have occurred at roughly the same time, suggesting that the series of events is perhaps best treated as a single event. According to the minutes of this meeting, #69B member, Rusty Lekas, was proclaiming himself Chief of the Nipmucks, soliciting donations, opening Mr. Morse's mail, had posted a notice on his mailbox that indicated that he was to receive all mail directed to the "Nipmuc Indian Council," and was found drinking and under the influence of drugs while on the reservation. When Wise Owl and Great Owl found Mr. Lekas drinking and under the influence of drugs while on the reservation, they "threw him off." At the same time, Loving One removed the notice that Mr. Lekas had posted his mailbox and informed the postmaster of the problem. She and Wise Owl then went to the courthouse and "swore out" a complaint against Mr. Lekas. It was reported in the minutes that Mr. Lekas apologized and wrote out a "promissory note" stating that he would not "do such a thing anymore."	As evidence that the petitioner meets (c), the regulations state: "group leaders and/or other mechanisms exist or existed which exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior" (c)(2)(iii); "group leaders and/or other mechanisms exist or existed which settle disputes between members or subgroups by mediation or other means on a regular basis" (c)(2)(ii); and "There are internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions" (c)(1)(v).	The significance of this portion of the minutes of October 12, 1984, is that it reveals an event in which group leaders disciplined a single group member. As such, the minutes provide some evidence of individual political leadership and a functioning Chaubunagungamaug Band governing body. To strengthen its case that it maintained political influence or authority over its members during this period, the petitioner might submit additional material showing that these incidences of disciplining members are part of a larger pattern, a pattern in which group leaders exert influence on the behavior of group members. The petitioner might identify and describe, for example, norms that group leaders might uphold, events in which group leaders have imposed sanctions upon members of their group, and/or events in which they settled disputes between members. Concomitantly, the petitioner could describe internal conflicts, conflicts which show controversy over, for example, the ways by which leaders discipline members.	Does not meet (c), but can be used in combination with other evidence to meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981-1986	Minutes of the "Nipmuck Indian Council" - Webster. (Nipmuc #69 Pet. Response 1987, Attachment 3)	The minutes that were dated November 11, 1985 indicate that at least three members of the council give presentations and make appearances to increase public awareness of the Nipmucks and the #69B group. For example, it was mentioned that, during Thanksgiving there were twenty programs in which Chief Wise Owl, Little Star, and Tall Oak participated. The minutes cited above do not only mention these events; they also record the results of a vote of the council that was made at the November 11 meeting. This vote was a vote to make Tall Oak the Program Coordinator for all such events.	". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1989, 6). As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).**	The minutes suggest that at least three group leaders took actions with respect to their Nipmuck identity that go beyond simply attending council meetings. As such, the minutes provide some evidence of individual political leadership and perhaps even of a functioning Chaubunagungamaug Clan governing body for the early 1980's. If the petitioner were to demonstrate that the presentations and appearances of these leaders were expressions of the will of the #69B group and not simply the actions of three Nipmuck individuals who also happened to be leaders of the #69B group, the petitioner might be able to show that, during these events, leaders articulate issues and take actions that most of the membership considers to be of importance.	Does not meet (c)., but can be used in combination with other evidence to meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1981-1986	Minutes of the "Nipmuck Indian Council" - Webster. (Nipmuc #69 Pet. Response 1987, Attachment 3) .	The minutes dated January 13, 1986 state that Little Star reported that 42 families received holiday meals from the council. Toys were given to all the children under 16 in these families.	As evidence that the petitioner meets (c), the regulations state: "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	The minutes from this meeting provide some evidence of individual political leadership and probably even a functioning #69B governing body for the mid-1980's. If the families receiving meals and toys from the council are part of the petitioning group, and/or if the resources for these distributions were raised or otherwise provided for by group members, the petitioner might be able to show that one of the functions of group leaders is to redistribute group resources, if only during the month of December. If the resources for such a distribution do indeed come from the membership, the petitioner should document the specific ways by which leaders mobilize these resources from its members. Regarding this portion of the minutes of the January 13, 1986, meeting, the petitioner should also show that the efforts to provide toys and Christmas dinners were not simply the acts of a few individuals as individuals but rather were acts of political leadership. Involvement of the membership in these acts, such as through the verbal and/or material support of most members, is critical to demonstrating that most of the membership considered these events to be of importance and/or that these events involved the mobilization of most of the membership.	Does not meet (c), but can be used in combination with other evidence to meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1984	Videotape entitled, "Nipmuck Indians."	The document presents Nipmuck history and, to a lesser extent, Nipmuck contemporary life to a general audience. There is footage of the land that was donated to the group in 1982, short interviews with members of the group, and group events and activities.	". . . there is no evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967" (Mohegan PF 1989, 6). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	The tape provides some evidence of individual political leadership and of a functioning #69B governing body. The tape does not show that there is a political connection between the membership and leaders. The tape could be used by the petitioner as evidence that it meets (c) for the mid-1980's if the petitioner addresses several problems. First, not all persons who appear on the tape are identified, and thus cannot be confirmed as members of the Chaubunagungamaug Band antecedent to the current petitioning group. Second, the tape does not demonstrate that the political influence or authority that it claims that Chaubunagungamaug Band leaders exercised over members of the group encompassed most of the group. If, during the mid-1980's, the petitioner maintained political influence or authority over most of its members, it should submit material and evidence to clearly demonstrate this. For the 1980's, the petitioner might begin this work by creating a written narrative to accompany the tape.	Does not meet (c).
late 1980's	Interview with Kenneth Leroy White, 7/25/98.	Mr. White was asked how he was selected to be on the council. More specifically, he asked whether there had been an election or whether Mr. White's family had appointed him. Mr. White said that his family had appointed him. [Elsewhere in the interview, Mr. White reported that he has twice served on the council: he served "for a short time in the late 1980's" and then "came back about three years ago," which was in the mid-1990's.]	"It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	The significance of Mr. White's statement about how he was selected to be on the council is that it suggests that #69B group leaders are appointed by their extended families to represent their family on the group's governing body. In so doing, this statement about how the group selects its leaders exposes group political processes and asserts a political connection between the membership and leaders, particularly in light of the fact that several sources corroborated this statement by Mr. White.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1987	Nipmuc #69 Pet. Supplement 1987, [9].	In this unpaginated narrative, under the topic "Issue #7: Current Political Structure:," the petition researcher argued, first, that the chief's position in the Chaubunagungamaug Band is inherited. By way of explanation or illustration, he added that Mr. Morse traces his genealogy back to Black James. Second, he stated that the band council is elected by the band membership. The terms are two years. The petition researcher then briefly discussed the larger umbrella organization for the band chief and band council of the group that later became #69B. The larger "Nipmuc Tribal Council," he argued, has been composed of the two band chiefs; the sachem, who presides over all; and two additional representatives from each of the two band councils.	The directive, Changes in the Internal Processing of Federal Acknowledgment Petitions, stated that: "The BIA's review of a petition shall be limited to evaluating the arguments presented by the petitioner and third parties and to determining whether the evidence submitted by the petitioner, or by third parties, demonstrates that the petitioner meets each of the criteria" (65 *Federal Register* 7052, 2/11/2000).	The researcher's assertion that the Morse family descends from Black James could not be confirmed, nor could the statement that the historical Chaubunagungamaug or Dudley/Webster Indians had an inherited chieftainship. The statements in the last two sentences of the description (see left) were confirmed through interviews. Though the governing body mentioned in the Nipmuck #69 Pet. Response 1987 is that of #69, the statements are relevant to (c) because they do indicate efforts on the part of the Chaubunagungamaug Band (which was then part of #69) to establish a functioning governing body. The two claims described in sentences three through six of the description are more problematic. **Mr. Morse has been the only one who is identified as having held a chief's position among the Dudley/Webster Indians since the 19th century, when the last identified leader was from the Jaha family line. The evidence in the record does not indicate that any descendant of the Sprague/Henries family held such a position during the 18th or 19th centuries. Mr. Morse did not assume the title until the late 1970's or possibly even the early 1980's, at which time he was more than 50 years old, nor does the evidence in the record indicate that his mother ever exercised any political influence or authority over any Chaubunagungamaug entity larger than her own immediate family.**	Neither meets nor negates (c)..

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1988	Videotapelabeled, "Wedding Chief Red Fox: Sept 19, 1988."	The document provides footage of a Nipmuck gathering in 1988 that included a powwow that culminated in the wedding of Edwin Morse, Jr.	(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. As evidence that the petitioner meets (c), the regulations state: "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i) and "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	From the tape, it is impossible to identify which individuals were the leaders of the Chaubunagungamaug Band, with the exception of Edwin Morse, Jr., or even which were members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (See Interview with Lucyann Swenson, 7/22/98), no conclusions can be drawn from the tape about whether the petitioner exercises political influence or authority over its members, whether it may be by mobilizing significant numbers of members and significant resources from members for these gatherings; or by demonstrating that, through these gatherings, there exists widespread knowledge, communication and involvement in political processes by most of the membership. If the petitioner wishes to use this tape as evidence that it meets (c), it needs to provide a written narrative and analysis of the gathering that, at a minimum, identifies the individuals who appear on the tape.	Does not meet (c).
1990's	Interview with Edwin W. Morse Sr., 7/22/98.	Mr. Morse stated that tribal council meetings are open to all members. Then, he described the scope of member participation in these events. Excerpt from Transcript: Mr. Morse: "They [members of #69B] can come if they want, but I live so far away from everything they don't come . . . It's always in our newsletter after the meeting. Very few of them come. When I lived in Webster [which, he later said, was when the council meetings started in 1979], we used to have 50 or 60 people come to the council meeting."	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii).	Despite giving notice of the meetings in a publication sent to the homes of members of #69B, by Mr. Morse's own admission, few Nipmucks attend council meetings. This suggests that most of the membership may not consider issues acted upon or actions taken by group leaders and the #69B governing body to be of importance. Of course, other factors may explain the low attendance at council meetings. If there is/are other explanations, the petitioner should provide it/them for consideration during the response period.	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1990's	Letters from Mrs. Janis Weber.	Together, the documents provide an account of how Mr. Weber came to be enrolled in #69B. This account is given by Mr. Weber's wife, who researched Mr. Weber's genealogy and contacted the BIA for contact information about #69B. In relating the story of Mr. Weber's enrollment, among other things Mrs. Weber reports that it was not until shortly before Mr. Weber was enrolled in the group that he became acquainted with the group's leader, Mr. Morse. (Because Mr. Weber's brother and perhaps other of his primary kin came to be enrolled in #69B as a result of the actions of Mr. Weber, Mrs. Weber's account also implicates the relationship between the extended family of Mr. Weber and the petitioning group.) One of the letters makes reference to the fact that, in September of 1996, Mr. Weber **and his brother were serving on the #69B tribal council (Weber to BIA 9/16/96).**	(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. 83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations.	The statement by Mrs. Weber that her husband did not know Mr. Morse until shortly before her husband was enrolled provides evidence that the petitioning group does not represent the incorporation of a long-standing entity, but rather was formed only recently, particularly when viewed in the context of other evidence which suggests that this is the case. In its entirety, the evidence suggests that, with the exception of members of his own extended family, including some of his sisters and their children and grandchildren, Mr. Morse did not know many, if not most, of the members of #69B much before the late 1970's, which was not long before the #69B group seems to have been created. The fact that Mr. Weber and his brother were able to secure seats on the group's governing body only a few short years **after they met the leaders of #69B supports the thesis that the group was formed only recently, while the short duration of his affiliation indicates that the group's membership is unstable. Lucyann Swenson shortly thereafter stated to the BIA that, "[w]e still haven't received our documents, genealogies, research papers, old photos, etc..from the Sutton office as well as the stuff Janis Weber has. She is now affiliated with the Sutton office . . ." (Swenson to Stearns n.d., received by BIA 3/31/1997). Other individuals, in addition to the Weber brothers, were also able to secure such positions only a few years after joining the #69B organization.**	Negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1991	List of Nipmuc adults attending annual business meeting 11/24/91 in Worcester, Massachusetts.	This document is a list of Nipmuc adults attending a meeting which was described as the annual business meeting.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	This meeting occurred before #69B split off from #69 and formed their own group and may even be a meeting of a different but related group, such as NTAP. This meeting is therefore far from an ideal event with which to evaluate whether the petitioner meets (c). Nonetheless, the document does suggest that there was at least some interest among Nipmucks in issues raised by Nipmuck leaders. The document does not provide evidence that there is a political connection between the membership and leaders, nor does it show that political process is going on. If the petitioner were to submit additional material, such as a description of the meeting and how, specifically, those who attended the meeting participated, the petitioner might be able to use this document as part of the evidence that it meets (c) for the early 1990's. Among other things, the nature of the group hosting the meeting needs to be clarified and explained, and a political connection between the membership and leaders that was articulated, expressed, and even produced through group political processes needs to be shown.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1994	Letter from Dolly Swenson and Cheryl Magos dated 3/10/94.	The authors claim that Mr. Morse's group (Chaubunagungamaug Band), Mr. Vicker's group (Hassanamisco Band), and NTAP were "factions" of a larger Nipmuc group.	As evidence that the petitioner meets (c), the regulations state: "There are internal conflicts which show controversy over valued group goals, properties, polices, processes and/or decisions" (c)(1)(v). "The bitter, faction-like conflicts of the 1950's and 1960's between the organizations representing the subgroups provides some, largely indirect, evidence that political processes may have extended beyond the organizations to at least a portion of the membership in general" (Miami FD 1992, 4).	Almost no information was received from the petitioner explaining its relationship to either Vickers's group (which is #69A) or the NTAP group for the period following the petitioner's decision to split from #69. Because bitter, faction-like conflicts can provide evidence that political processes extend beyond the organizations to the membership in general, and because internal conflicts which show controversy over valued group goals, properties, polices, processes and/or decisions can reveal that a group maintains political influence or authority over its members, the petitioner might choose to submit additional material about these groups and the relationship of these groups to #69B. This said, it should be pointed out that it is probable that the conflicts referenced above are not internal to the petitioning group and thus **could not be used to show that the petitioner meets (c).**	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
mid-1990's	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Burt Heath, who secured a seat on the tribal council in the mid-1990's despite the fact that he had not even met Mr. Morse until the late 1970's at the earliest, which was when Burt was in his late 30's, described how he became a council member. **Excerpt from Transcript**: "Little over two years ago, I went on the council. They had some members on there that Chief Wise Owl had appointed, and they just didn't prove out that they were native. Chief Wise Owl said, 'I'd rather have a native on there.' And that's what we did. I had a meeting with the chief. In fact, we had dinner . . . And then he brought me [and?] he said, 'Guess what? Council member!' And then, [unintelligible] three or four months, and then when they made some changes on the council, then I was brought on."	83.2(c). Associations, organizations, corporations or groups of any character that have been formed in recent times may not be acknowledged under these regulations. (c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.	The first part of Mr. Heath's admission fits with other evidence submitted by the petitioner or revealed in interviews, evidence which strongly suggests that, with the exception of members of his own extended family, Mr. Morse did not know many, if not most, of the current members of #69B before the late 1970's, which was not long before #69B appears to have been created. The fact that Mr. Heath, like his brother and the Weber brothers, was able to secure a seat on the group's governing body not long after he met Mr. Morse supports the thesis that the group was formed only recently. Groups that have been formed in recent times may not be acknowledged under the regulations. This said, it should be pointed out that other reasons could explain the selection of such individuals (*e.g.* wealth, influence).	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1995	Copy of *Nipmucspohke.*	The document identifies the editor of the newsletter as Cheryl Magos. It also indicates that at least that issue of the newsletter was sent out from Branchburg, New Jersey.	As evidence that the petitioner meets (c), the regulations state: "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i) and "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	The petitioner provided almost no information about the newsletter, making it almost impossible to evaluate whether this document provides positive evidence that the petitioner meets (c). Other evidence (see Ron Little Crow Henries submission of June, 1995), indicates that: 1) the newsletter was started no earlier than 1991 and possibly as late as 1994 and thus cannot provide evidence of whether the petitioner meets (c) for a very long period of time during the period since 1970, if it can even do so at all; 2) if the mailing list even includes members of the petitioning group, the mailing list extends far beyond the boundaries of the petitioning group and thus the newsletter is of dubious value for evaluating the petitioner; and 3) the newsletter is not an instrument of the petitioning group or even of a petitioning group member. **This raises serious questions and doubts as to whether the newsletter can be of any use to the petitioner in helping show that #69B meets (c).**	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	Interview with Edwin W. Morse Sr., 7/22/98.	According to Mr. Morse, about 3,000 people attended the Nipmuck gathering during which Ricky Swenson got married.	As evidence that the petitioner meets (c), the regulations state: "Most of the membership considers issues acted upon or actions taken by group leaders or governing bodies to be of importance" (c)(1)(ii). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	Mr. Morse did not indicate how many of these participants were members of #69B (which has only 212 members in total), nor did the petitioner submit any information or documentation to support the claim of large attendance. Accordingly, the statement of Mr. Morse does not demonstrate, for example, that most of the group considered issues raised by group leaders to be of importance. Likewise, without additional description and/or analysis of the event, it cannot be concluded that this event shows that there is political process going on or that members of #69B maintain a bilateral political relationship with the group. The petitioner is invited to submit such information.	Does not meet (c).
1997	Videotape: "Homecoming 9/13-14/97. Nipmuc Nation - Grafton, MA."	This document presents footage on a gathering that took place in September of 1997. The tape documents the various activities that were organized for the children and the fact that an outdoor exhibit of photographs was set up alongside the circular clearing that served as a dancing ground during the event. Also presented in the tape is a woman weaving, children and adults dancing, and dozens of people laughing, talking and eating.	(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.	From the tape, it is impossible to identify which individuals are the leaders of #69B or even which are members of the group. Particularly since Nipmuck leaders have described their gatherings as open to the public and intertribal in nature (see Interview with Lucyann Swenson, 7/22/98), no conclusions can be drawn about whether the petitioner meets (c) from this submission.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1998	Interview with Lucyann Swenson, 7/22/98.	Ms. Swenson states that only about 50 people from the membership list of #69B attend the annual powwow at Thompson.	(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	There are 212 people on the membership list. If only 50 attend the powwow, less than 25 per cent of the membership attend what the leadership of #69B considers to be the most important Nipmuck event of the year. This low attendance of Nipmucks at the group's most significant annual gathering is all the more striking given than 75 per cent of the membership, or 159 Nipmucks, live within a ten mile radius of the towns of Dudley and Webster, which are very close to the reservation where the gathering is held. If we consider only those Nipmucks who live nearby as able to attend the gathering, we find that as many as 66 per cent are not attending, even though they live as close as a ten minute drive from the annual gathering and even though they receive notice of the date and time of the gathering well in advance through a newsletter that is sent to all members. This raises serious questions as to whether the petitioner maintains political influence or authority over its members. As such, this statement provides some evidence that the petitioner does not meet (c) for the late 1990's.	Negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1998	Interview with Edwin W. Morse Sr., 7/22/98.	In the interview audiotapes with the seven #69B leaders, Mr. Morse and others several times stated that each #69B extended family selects a member to represent them on the council. By this method, it can be inferred that there are four families that comprise #69B: Mr. Morse's family and the three extended families that are represented by Mr. Heath, Mr. Hinkley, and Mr. White. Mr. Morse did not explain why he listed two surnames with each individual. Mr. Morse explained the situation as follows: Excerpt from Transcript: Mr. Morse: "My family it's Henries and Sprague. Big Bear [His name is Glenn Heath] – he's got Nickles and Brown. His brother, Burt [who is a former council member], same people. Don Hinkley. He is a Dorris? Actually Pegan and Dixon (Or Dorris and Dixon). [Doesn't remember which, he said.] Then there's Kenny White. He's White and Dorris. Then my daughter, Lucyann, and her daughter, Dianne Raymond. And [Wise Owl's] son."	No rule or precedent; included for informational purposes.	It appears from this statement of Mr. Morse that, at the time of the interview in 1998, four extended families functioned as political units of the #69B group. According to Mr. Morse, at the time of the interview these four families were represented on the council by 1) Mr. Morse, his son, his daughter and possibly his granddaughter, 2) Mr. Heath, 3) Mr. Hinkley and 4) Mr. White. It appears from this statement of Mr. Morse that, at the time of the interview in 1998, four extended families functioned as political units of the #69B group. According to Mr. Morse, at the time of the interview these four families were represented on the council by 1) Mr. Morse, his son, his daughter and possibly his granddaughter, 2) Mr. Heath, 3) Mr. Hinkley and 4) Mr. White.	Neither meets nor negates (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1998	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Glen Heath has three aunts, one of whom, he said, did not wish to join #69B because she did not wish to identify "that way," by which he meant as an Indian. While his aunt Ethel lives in Connecticut, his aunt, Mary, lives in California. He said that, despite the fact that Mary lives in California, she is on the membership list and gets the newsletter. Moreover, he said that he telephones her at least once or twice and month to keep her informed of "what's going on," by which he meant of current #69B events and developments.	As evidence that the petitioner meets (c), the regulations state: "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii). "It must be shown that there is a political connection between the membership and leaders and thus that the members of a tribe maintain a bilateral political relationship with the tribe. This connection must exist broadly among the membership. If a small body of people carries out legal actions or makes agreements affecting the economic interests of the group, 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).	According to Mr. Heath, he, who is a member of the council as was mentioned above, gives and receives information about #69B matters from members of his extended family, the family whom he represents on the council. This provides some evidence not only that there exists political process in #69B but also that political processes, at least among Mr. Heath's family, "work" in the way that has been described by Mr. Morse, Ms. Swenson, and others who were interviewed by the BIA researcher. To establish that there is widespread knowledge, communication and involvement in political processes by most of the group's members and not simply by members of Mr. Heath's family, the petitioner should provide additional information and documentation.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98.	Mr. Heath said that during some of the gatherings hosted by #69B, the "young people" are instructed about, for example, how to tend the fire and what that means. He explained: **Excerpt from Transcript**: "It's a cultural thing . . . But again, it's intertribal because it's more than just Nipmuck. There are certain people that are friends of Wise Owl and Loving One. They're friends of the band. They're there and they'll always be welcome there. Federal recognition or whatever is not going to change their ability to come and set with us. That'll be there . . . We just don't work that way [excluding people]."	As evidence that the petitioner meets (c), the regulations state: "group leaders and/or other mechanisms exist or existed which exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior" (c)(2)(iii).	This brief description of #69B gatherings by Mr. Heath suggests that group leaders may exert influence on the behavior of individual members. If this is the case, and there is no evidence that this is the case, the petitioner should provide detailed descriptions of how, specifically, #69B leaders exert this influence by describing, for example, the ways leaders establish norms, maintain norms, or enforce sanctions to direct or control behavior. The petitioner should also address questions about the extent to which the actions described by Mr. Heath involve members of the group, questions that are raised by Mr. Heath's statement that these gatherings are "intertribal." It is possible that many, if not most, individuals being "influenced" by #69B leaders at these (and other) gatherings are non-members.	Does not meet (c).

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Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Lucyann Swenson, 7/22/98	Ms. Swenson described a recent event in which her father's sister's child, Bradley (whom she also identified as the son of "Aunt Billie"), called some elders, "honkies." Ms. Swenson said that, at the time, Bradley was serving as an apprentice to a medicine man and had moved to the town of Oxford for that reason. Ms. Swenson said that she told Bradley that he was no longer needed in Oxford and that he was no longer welcome in "the circle of elders." Ms. Swenson claimed that, shortly thereafter, Bradley "quit" #69B, enrolled in #69A, and is now "trying to unseat us."	As evidence that the petitioner meets (c), the regulations state: "group leaders and/or other mechanisms exist or existed which exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior" (c)(2)(iii); and "group leaders and/or other mechanisms exist or existed which settle disputes between members or subgroups by mediation or other means on a regular basis" (c)(2)(ii).	In this statement, Ms. Swenson provided an example of an event in which group leaders discipline a member. By so doing, group leaders seem to be maintaining norms and enforcing sanctions to direct or control behavior. The BIA interviews mentioned only this single example of group leaders disciplining a member, and from data that the petitioner submitted but failed to analyze, the BIA identified only one other similar example. To show that the petitioner has maintained political influence or authority over its members as an autonomous entity, the petitioner should submit descriptions, documentation, and analysis of other similar examples and show that this influence is being exercised by leaders over most of the membership. If appropriate, the petitioner should also **submit any material that may exist about dispute resolution by group leaders.**	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Lucyann Swenson, 7/22/98	In her brief description of the powwow in September that is hosted by #69B, Ms. Swenson remarked that there is a "public announcement of the new Indian names of kids." When asked to describe and discuss the "naming ceremony," she said only that names are "approved by the circle of the elders. There are usually four elders." This body approves or disapproves the names, she explained, and the ceremony "congratulates on the new name."	As evidence that the petitioner meets (c), the regulations state: "group leaders and/or other mechanisms exist or existed which exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior"(c)(2)(iii).	The petitioner provided almost no additional information about these events. If, as Ms. Swenson suggests, a body of four individuals exercises some authority by approving or disapproving names, the "naming ceremony" events might provide some evidence that the petitioner meets (c) for the late 1990's. To use these events to demonstrate this, the petitioner should provide descriptions of these events, preferably in some detail. Given the suggestion that "native names" are conferred upon non-Nipmucks during these events and that the naming ceremonies are public and intertribal (See Interview with Glen Wayland Heath and Bert Edwin/Edson Heath, 7/23/98), the petitioner should also address questions about the proportion of ceremony participants who are group members and the extent to which these naming ceremonies are held for the general public as opposed to the #69B group.	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Kenneth Leroy White, 7/25/98.	When asked, Mr. White replied that a newsletter is published and distributed to the membership about once a month. He then added, "We try to get it out once a month."	As evidence that the petitioner meets (c), the regulations state: "The group is able to mobilize significant numbers of members and significant resources from its members for group purposes" (c)(1)(i); and "There is widespread knowledge, communication and involvement in political processes by most of the group's members" (c)(1)(iii).	The petitioner provided almost no additional information about the newsletter, making it impossible to evaluate whether it provides evidence that the petitioner meets (c). It is unlikely that this newsletter could be of much use to the petitioner in helping show that it meets (c). However, if, upon review, the petitioner wishes to argue that it meets (c) through evidence that includes the newsletter, if appropriate it could try to show, for example, that the group mobilizes members and significant resources from members through the newsletter. It could document how many members are mobilized to help distribute the publication, to help fund the enterprise, and/or to help provide the content of issues. It should be noted that this newsletter probably is not the newletter edited by Ms. Magos but rather that of Ms. Swenson, a council member, who published and distributed a newsletter on behalf of the council (see "Minutes of the 'Nipmuck Indian Council' - Webster," Nipmuc #69 1987 Response, Attachment 3).	Does not meet (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(c)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
late 1990's	Interview with Kenneth Leroy White, 7/25/98.	When asked whether there were any meetings with the group as a whole, Mr. White replied that the council meetings are open to the membership, and when asked whether "a lot of people" or "mostly council members" "usually come" to these meetings, Mr. White said, "mostly council members." Later, Mr. White claimed that 50 to 75 people on average come to "the ceremonies," and, when asked, Mr. White said that attendees are "mostly Nipmuck." "There are some non-Indians that come just to see what it's about," he continued. "[But it's] Mostly Nipmuck."	(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.	In the first part of this portion of the interview with Mr. White, which involved statements about meetings with the group as a whole, Mr. White provided information about attendance at council meetings during the late 1990's that is corroborated by statements made by Mr. Morse (see Interview with Mr. Edwin Morse 7/22/98). Mr. White's statement about the proportion of Nipmucks at "ceremonies," however, is not corroborated by the statements of other #69B leaders and may even contradict them. If the petitioner were to submit evidence, such as attendance lists, of members of the group who attended these gatherings, the discrepancy between Mr. White's account and other accounts might be resolved, and, more important, the petitioner might be able to show that these gatherings encompassed most of the group and that they show that the petitioner meets (c).	Does not meet (c).

Recommendation: The petitioner has not shown the existence of continuous political authority or influence since first sustained contact with non-Indian settlers. The petitioner therefore does not meet the requirements of criterion 83.7(c).

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CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION D - The petitioner has submitted a copy of its present governing document, including its membership criteria.

Summary of the Evidence: The Chaubunagungamaug Band, as a distinct organization, adopted its first by-laws in 1981, entitled "Nipmuck Indian Council by-Laws." The record contains an undated revision of those by-laws (Nipmuc Response 1994, Ex. 6) and a third revision attached to the Chaubungagungamaug Band constitution, signed August 9, 1996, by Edwin W. Morse, Sr. and Edwin W. Morse, Jr. (Nipmuc Pet. #69B suppl. 12/10/1996). The predecessor organization of the current petitioner formally incorporated under the name of the "Nipmuc Indian Council, Inc.," according to the laws of the Commonwealth of Massachusetts, on January 18, 1982 (Nipmuc Pet. 1984, Ex. 20). There was a proposed revision of the by-laws in 1993, but no revised governing documents stemming from that initiative were submitted to the BIA. The current governing document was developed in July 1996.

On November 21, 1983, both Walter Vickers (head of petitioner #69A) and Edwin Morse, Sr. (now the head of petitioner #69B) signed a "Governing Document of the Nipmuc Tribe" (Nipmuc Pet. 1984, 200-200b). There is no indication that it was adopted by vote of the membership of either the Hassanamisco Band or the Nipmuck Indian Council Inc. [Chaubunagungamaug Band], nor did the document contain any provisions for ratification. In 1993, during the joint petitioning process, another constitution was adopted by an electoral process under the aegis of the Nipmuc Tribal Acknowledgment Project (NTAP). Since the current petitioner has withdrawn from the joint organization, these documents have not been analyzed on this chart.[1]

[1]Throughout the chart for criterion 83.7(d), the boldface listing, for example **(d)**, in the column "form of evidence" does not indicate that the item of evidence under analysis met the criterion under that form of evidence. Rather, it indicates the BIA researcher's determination of the category or type of evidence into which the document discussed could best be construed to fall. Technical problems associated with the table format of the charts do not permit the repetition of this footnote on every page of the charts.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(d)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(d) Constitution of the Chaubunagunga-maug Band of Nipmuck Indian [*sic*] (DiNapoli to Reckord [*sic*] 7/18/1996; second copy 12/10/1996; see #69B Minutes 7/11/1996, Nipmuc Pet. #69B suppl. 6/19/1997).	On July 31, 1996, the BIA received a copy of the "Constitution of the Chaubunagungamaug Band of Nipmuck Indian [*sic*]," accompanied by a cover letter (DiNapoli to Reckord 7/18/1996). The cover letter was on letterhead of the Nipmuck Indian Council of Chaubunagungamaug; the document itself was undated and unsigned. The BIA received another copy of the same document, each page containing the embossed seal of the Nipmuc Indian Council of Chaubunagungamaug, on December 10, 1996. The copy received by the BIA on December 10, 1996, was signed on the by-laws page by Chief Wise Owl, Edwin Morse Sr., Chief of Tribe; and Chief Red Fox, Edwin Morse Jr., Subchief of Tribe. It was witnessed by Susan Little Flower Kessler, and the signatures notarized with a date of August 9, 1996, by Rita H. Edwards. This may be the constitution referred to in handwritten notes, not formal minutes, taken of a #69B council meeting held July 11, 1996, which mentioned that a by-laws and constitution were "being written up" (Nipmuc Pet. #69B Suppl. 6/19/1997).	For statements concerning current govering documents, see Jamestown Clallam PF 1980, 4; Tunica-Biloxi PF 1980, 4; Narragansett PF 1982, 15.	The five-page document consisted of a preamble and four sections. A one-page by-laws, variant from the 1981 by-laws, with blank spaces for signatures and notarization, was attached to the copy received in July. Section I pertained to membership; Section II to tribal government; Section III to tribal council duties; and Section IV to ordinances and resolutions. It contained no amendment procedures or provisions for adoption or ratification. The remainder of the documents contained in the #69B mailing received by the BIA on December 10, 1996, were certified with the signatures of the #69B council members, dated November 29, 1996. There was no council certification of the constitution. It has been impossible for the BIA to determine whether or not this constitution represents a validly adopted current governing document for petitioner #69B. However, it has been submitted by the petitioner. Criterion 83.7(d) has no requirements for the mode by which a governing document is adopted.	Meets (d).
1997	(d) Constitutional amendment, Section II, Part A (Edwin Morse, Sr., and Edwin Morse, Jr. to Reckord 1/13/1997).	Changed the family lines entitled to a seat on the #69B council: to be Dorus, Henries, Pagan, Nichols, Humphrey, and Stebbins/Wheeler.	For statements concerning current governing documents, see Jamestown Clallam PF 1980, 4; Tunica-Biloxi PF 1980, 4; Narragansett PF 1982, 15.	It has been impossible for the BIA to determine whether or not this amendment represents a validly adopted current governing document for petitioner #69B. However, it has been submitted by the petitioner. Criterion 83.7(d) has no requirements for the mode by which a governing document is adopted.	Meets (d).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(d)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1982	Former governing document.	The purposes of the organization of the Nipmuck Indian Council, as stated in the Articles of Organization, were: A) To promote social and economic growth for all Indians, with the attention focused on the Nipmuc Indians of the Worcester County area. B) To promote the preservation of all Indian land (e.g., historical cemeteries) in the Worcester County area. C) To recommend and support legislation beneficial to Indian people of the Algonquian nation. D) To foster and promote the arts, crafts, culture, and language of the Nipmuc Indian (Nipmuc Pet. 1984, Ex. 20 [1]).	Included for informational purposes.	The purposes of the organization, as outlined in the articles of incorporation, were cultural, and made no reference to the Chaubunagung-amaug Band or to the Dudley/Webster reservation	Neither meets nor negates (d).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(d)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(d) Membership criteria (constitution signed 8/9/1996 by Edwin Morse, Sr., and Edwin Morse, jr.; Nipmuc Pet. #69B Suppl. 12/10/1996).	**A. Eligibility.** See the detailed discussion on the chart under criterion 83.7(e). **B. Application for Membership** Application for membership shall be by completion of an official registration form. **C. Status Verification** The method for determining Nipmuck heritage established for the Chau-bunagagungamaug Band of Nipmuck Indian is hereby adopted as the uniform research procedure to be utilized in all cases to identify Chau-bunagungamaug Band of Nipmuck Indian and to determine if each applicant is of Chaubunagungamaug Band of Nipmuck Indian heritage. **D. Enrollment** A Tribal Roll shall be maintained on which shall be recorded the name of every person living who has applied for tribal membership and who has been certified to be of Chaubunagungamaug Band of Nipmuck Indian Dudley/Webster heritage. All applicants whose Chaubunagungamaug Band of Nipmuck Indian heritage is certified shall be entered on the Tribal Roll of the Chaubunagungamaug Band of the Nipmuck Indians.	For statements concerning application of membership criteria, see Samish PF 1982, 19; Ramapough FD 1996, 18, 27.	The governing document as submitted contains the petitioner's membership criteria. For section E, Ineligibility, see the discussion on the chart for criterion 83.7(f).	This meets (d).
1982	Former membership criteria.	Under category 3 concerning "class of members," paragraph A) stated: "Membership in the Council is open to all Nipmuc Indians or descendants of Nipmuc Indians who are recorded as such on the Tribal Rolls with the approval by Majority vote of the Council. Documented proof of heritage must be submitted and accepted by the Council" (Nipmuc Pet. 1984, Ex. 20 [2]).	Included for informational purposes.	This 1982 provision did not require that applicants be descendants of the Chaubunagungamaug Band, nor of former residents of the Dudley/Webster reservation.	Neither meets nor negates (d).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(d)

Recommendation: The petitioner has submitted a copy of its current governing document, including the membership criteria. The petitioner therefore meets the requirements of criterion 83.7(d).

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CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION E - Descent from the historic tribe.

Summary of the Evidence: In this instance, the historic tribe from which descent is to be shown is the Chaubunagungamaug Band, also called the "Pegan Indians" from a prevalent surname in the group, or Dudley/Webster Band, of Nipmuc Indians. After 1685, this band was located in the south central portion of Worcester, Massachusetts, on a reservation which was established by Massachusetts and which continued as a state reservation until the Massachusetts enfranchisement act of 1869. This reservation, originally in the Town of Dudley, was included in the Town of Webster after its creation.

The petitioner's membership requirements specify descent not only from the historical Chaubunagungamaug Band, or Dudley Webster Band, of Nipmuc Indians, but also from two specific documents prepared by the State of Massachusetts: the first in 1861 (Earle Report 1861) and the second in 1890 (Disbursement List 1890). Eighty-seven percent of the members of petitioner #69B descend from persons identified as Dudley/Webster Indians in the 19th century official records created and maintained by the State of Massachusetts and listed as qualifying documents in the petitioner's constitution. Such official state records comprise evidence acceptable to the Secretary under the 25 CFR Part 83 regulations.

The administrative record contains limited evidence concerning the band's membership in the 18th century, and extensive additional evidence from State records concerning the membership of the petitioner's qualifying ancestors in the Dudley/Webster band earlier in the 19th century, including listings on the reports of state-appointed overseers and two earlier tribal census (Town of Webster 2/16/1835; Briggs Report 1849). These documents identifying the ancestors as tribal members have been supplemented with submissions from, and BIA research in, Federal census records from 1790 through 1920, State and town vital records, church records, obituaries, newspaper feature articles, and similar data pertaining to and/or demonstrating the descent of the petitioner's current members from the qualifying ancestors. The BIA researcher surveyed all this material and organized it according to family lines in a background genealogical report which covers both petitioner #69A and petitioner #69B (Nipmuc GTKY 1998, BAR). This background report (with privacy data removed) is available for consultation. While the Massachusetts and Connecticut town vital records listings were far from comprehensive for the period from the American Revolution to 1849, persons listed on the Dudley disbursement records did appear, while the coverage was more comprehensive after 1849. Since there has been no significant controversy concerning the tribal membership of the qualifying ancestors or the nature of the descent lines, these charts do not include an analysis of each individual document pertaining to each individual qualifying ancestor.[1]

[1]Throughout the chart for criterion 83.7(e), the boldface listing, for example **(e)(1)(iv)**, in the column "form of evidence" does not indicate that the item of evidence under analysis met the criterion under that form of evidence. Rather, it indicates the BIA researcher's determination of the category or type of evidence into which the document discussed could best be construed to fall. Technical problems associated with the table format of the charts do not permit the repetition of this footnote on every page of the charts.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(e) "Constitution of the Chaubunagunga-maug Band of Nipmuc Indian [*sic*]" 8/9/1996 (Nipmuc Pet. #69B Suppl. 12/10/1996).	**A. Eligibility** Blood descendants of a person or persons identified as Chaubunagungamaug Band of Nipmuck Indian as defined through standards established through the Chaubunagungamaug Band of Nipmuck Indian as being a descendant of a Chaugunagungamaug Band of Nipmuck Indian named on either the 1861 Earle Report of the 1890 Disbursement List. **C. Status Verification** The method for determining Nipmuck heritage established for the Chaubunagagunga-maug Band of Nipmuck Indian is hereby adopted as the uniform research procedure to be utilized in all cases to identify Chaubunagungamaug Band of Nipmuck Indian and to determine if each applicant is of Chau-bunagungamaug Band of Nipmuck Indian heritage. **D. Enrollment** . . . All applicants whose Chaubuna-gungamaug Band of Nipmuck Indian heritage is certified shall be entered on the Tribal Roll . . . . **E. Ineligibility** No person shall be certified a member of the Chaubunagungamaug band of Nipmuck Indian while his or her name is on the roll of any other Band, whe-ther Federally recognized or not (Nip-muc Pet. #69B Suppl. 12/10/1996).	"One hundred and eighty six of the tribe's 200 members could prove descent from lists of Tunicas and Biloxis prepared in the late 1800's and early 1900's" (Tunica-Biloxi FD 1981, 46 FR 143, 38411); "Eligibility based on Narragansett Indian blood has been further defined and restricted, according to a memorandum dated October 4, 1979, to require applicants for full voting membership to trace their Narragansett Indian bloodlines back to the 'Detribalization Rolls of 1880-84. . . . Given the nature of the 'detribalization rolls' and the circumstances surrounding their preparation, they are considered to be acceptable as evidence of Narragansett Indian ancestry for acknowledgment purposes (Narragansett PF 1982, 16); "The petitioner's membership criterion requires that members descend from an individual 'who appears on a census of the inhabitants of Gay Head, Massachusetts, published in 1871 (Gay Head PF 1985, 7); "Approximately . . . percent of the membership can demonstrate that they meet the group's membership requirement which is descent from an individual on a list of Mohegan Indians prepared in or before 1861" (Mohegan PF 1989, 12).	This provision goes strictly by descent, and makes no provision for blood quantum or for the maintenance of tribal relations. For circumstances surrounding the adoption of these criteria and issues of validity, see the discussion under Criterion D. The provision entitled "Ineligibility," apparently intended to prohibit dual enrollment, is drafted in such a way that any other group can make an applicant for membership in #69B ineligible for membership by simply refusing to remove his or her name from the membership list, even if they have been formally requested to do so in writing. The way this provision is drafted has the effect of making a substantial number of persons on the #69B membership list submitted for acknowledgment technically ineligible for acceptance by #69B, as they have also been retained on the membership list of #69A (see analysis below).	Neither meets nor disproves (e); provided for informational purposes.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996-1997	Submissions of genealogical charts; census, vital records, and other documents (Nipmuc #69B Suppl. 2/24/1997).	Ancestry charts and family group sheets, supplemented by extensive copies of vital records and other documentation.	"Although the group has not attempted to trace their ancestry any further back than the 1871 census, there is documentary evidence to establish ancestry back from the 1871 ancestor to Gay Head Indians who appear on a list prepared in 1792 . . . evidence also suggests that several of the 1792 ancestors were descendants of the aboriginal inhabitants of the area at the time of English colonization" (Gay Head PF 1985, 7); "Other Federal, State, and local records, such as Federal, State, and local records, such as Federal population census schedules, 19th century petitions to the State and County made by Mohegans, probate records, and vital records, corroborate this descent" (Mohegan PF 1989, 11).	The by-laws attached to this constitution, signed by Edwin W. Morse Sr. and Edwin W. Morse Jr. on August 9, 1996, did not provide additional details. The first stated only that, "The Chaubunagungamaug Band of Nipmuck Indians will accept as members persons who are direct descendants of Chaubunagungamaug Nipmuck Indians and recorded as such. Only documented proof must be accepted by council as noted in our Constitution" (By Laws of the Chaubunagungamaug Band 1996; Nipmuc Pet. #69B Suppl. 12/10/1996). A letter from petitioner #69B to the BIA dated December 15, 1996, enclosed a copy of a two-page membership application in use by the group. This letter stated: "Our requirements for documentation into the Chaubunagungamaug Band include birth, marriage or death certificates along with any other supporting documentation (family diaries, family Bibles, ect..) For all members tracing back to an identifiable Nipmuck on one of our base rolls, which is either the 1861 Earle Report or the 1890 disbursement list (Morse and Morse to BIA/BAR, 12/15/1996) [original written in all capital letters]. We request that these documents be submitted to our council along with the application for approval/ verification. The council along with our two researchers who are Sue Kessler and Moose [Edwin W. Morse, Jr.] will inform the applicant in writing via certified mail if more information is need. The applicant is also informed on how to obtain this information.	The records used by the BIA to examine the assertion of descent from the historic tribe for the key ancestors of petitioner have been the same types of record which have been used to verify descent from a historic tribe in prior cases.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(e) "Constitution of the Chaubunagungamaug Band of Nipmuc Indian [*sic*]" 8/9/1996 (Nipmuc Pet. #69B Suppl. 12/10/1996).	**A. Eligibility** Blood descendants of a person or persons identified as Chaubunagungamaug Band of Nipmuck Indian as defined through standards established through the Chaubunagungamaug Band of Nipmuck Indian as being a descendant of a Chaugunagungamaug Band of Nipmuck Indian named on either the 1861 Earle Report of the 1890 Disbursement List.	No precedent: included for informational purposes.	Of the persons listed as Dudley/ Webster Indians on the 1861 Earle Report and the 1890 disbursement list--the basic qualifying documents accepted by the #69B constitution as providing eligibility for membership--the BIA has determined that the following extended families are known to have living descendants. Of them: Esther Jaha's line has descendants only in #69A; Esther Humphrey's line currently has descendants only in #69A; a few were included on a prior #69B list; James Pegan's line has descendants only in #69A; James E. Belden's line has descendants only in 69A; Lydia Ann (Sprague) Nichols Shelley Henries' line has descendants in both #69A and #69B; **Betsey (Pegan) White's line has known descendants only through the Henries family, which also descends through Lydia Ann Sprague, as noted above: it has descendants in both #69A and #69B.** **A large numeric majority of the known Dudley-Webster descendants remained with #69A at the May 1996 split. More Dudley/Webster family lines are represented in #69A than in #69B.**	Neither meets nor disproves (e).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1997	(e) "Constitution of the Chaubunagungamaug Band of Nipmuc Indian [*sic*]" 8/9/1996 (Nipmuc Pet. #69B Suppl. 12/10/1996). A. **Eligibility** Blood descendants of a person or persons identified as Chaubunagungamaug Band of Nipmuck Indian as defined through standards established through the Chaubunagungamaug Band of Nipmuck Indian as being a descendant of a Chaugunagungamaug Band of Nipmuck Indian named on either the 1861 Earle Report of the 1890 Disbursement List.	Current members of #69B descend from the following qualifying ancestors who appeared on the 1861 Earle Report and/or the 1890 disbursement list: Lydia Ann (Sprague) Nichols Shelley Henries: Through her daughter Hannah (Nichols) Brown (descendants also in #69A): 71 of 212 members (none dually enrolled with #69A); Through her son Walter S. Henries (descendants also in #69A): 4 of 212 individuals (3 dually enrolled with #69A); Through her son Winfred Henries (descendants also in #69A), all through one of his daughters, Elizabeth Rogers (Henries) Morse: 110 of 212 individuals (79 dually enrolled with #69A); Descendants of Lydia Ann Sprague's other children are in #69A or not enrolled. Betsey (Pegan) White. She has known descendants only through one great-granddaughter Angenette (Arkless) Henries, wife of Winfred Henries, above.	"One hundred and eighty six of the tribe's 200 members could prove descent from lists of Tunicas and Biloxis prepared in the late 1800's and early 1900's" (Tunica-Biloxi FD 1981, 46 FR 143, 38411); "Eligibility based on Narragansett Indian blood has been further defined and restricted, according to a memorandum dated October 4, 1979, to require applicants for full voting membership to trace their Narragansett Indian bloodlines back to the 'Detribalization Rolls of 1880-84. . . . Given the nature of the 'detribalization rolls' and the circumstances surrounding their preparation, they are considered to be acceptable as evidence of Narragansett Indian ancestry for acknowledgment purposes (Narragansett PF 1982, 16); "The petitioner's membership criterion requires that members descend from an individual 'who appears on a census of the inhabitants of Gay Head, Massachusetts, published in 1871 (Gay Head PF 1985, 7); "Approximately . . . percent of the membership can demonstrate that they meet the group's membership requirement which is descent from an individual on a list of Mohegan Indians prepared in or before 1861" (Mohegan PF 1989, 12).	Eighty-seven percent of the petitioner's members descend from ancestors listed on the qualifying documents and meet the petitioner's requirements.	Meets criterion 83.7(e) on the basis of precedent.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1997	(e) "Constitution of the Chaubunagungamaug Band of Nipmuc Indian [*sic*]" 8/9/1996 (Nipmuc Pet. #69B Suppl. 12/10/1996). **A. Eligibility** Blood descendants of a person or persons identified as Chaubunagungamaug Band of Nipmuck Indian as defined through standards established through the Chaubunagungamaug Band of Nipmuck Indian as being a descendant of a Chaugunagungamaug Band of Nipmuck Indian named on either the 1861 Earle Report of the 1890 Disbursement List.	#69B has 25 members who claim eligibility through a Dorus line that appeared on no Dudley/Webster records. The name Polly Dorus did appear on the 1890 distribution list, but it was not the same Polly Dorus who was ancestress of this family line. This is documented by census records, death records, and Worcester County, Massachusetts, probate records. Eleven of these 25 persons are dually enrolled with #69A. The final membership list for #69B also included one Hazzard/Ransom descendant and one Thomas descendant (neither dually enrolled with #69A). Neither is eligible for membership by #69B's standards.	"One hundred and eighty six of the tribe's 200 members could prove descent from lists of Tunicas and Biloxis prepared in the late 1800's and early 1900's" (Tunica-Biloxi FD 1981, 46 FR 143, 38411); "Eligibility based on Narragansett Indian blood has been further defined and restricted, according to a memorandum dated October 4, 1979, to require applicants for full voting membership to trace their Narragansett Indian bloodlines back to the 'Detribalization Rolls of 1880-84. . . . Given the nature of the 'detribalization rolls' and the circumstances surrounding their preparation, they are considered to be acceptable as evidence of Narragansett Indian ancestry for acknowledgment purposes (Narragansett PF 1982, 16); "The petitioner's membership criterion requires that members descend from an individual 'who appears on a census of the inhabitants of Gay Head, Massachusetts, published in 1871 (Gay Head PF 1985, 7); "Approximately . . . percent of the membership can demonstrate that they meet the group's membership requirement which is descent from an individual on a list of Mohegan Indians prepared in or before 1861" (Mohegan PF 1989, 12).	Two of the petitioner's 212 members do not have documented Nipmuc ancestry. Twenty-five of the petitioner's 212 members have documented ancestry from Connecticut Indian families (Dorus), but not from the Dudley/ Webster lists specified in the petitioner's constitution as a membership qualification. However, as noted in the section above 87 percent of the petitioner's members descend from ancestors listed on the qualifying documents and meet the petitioner's requirements.	Meets criterion 83.7(e) on the basis of precedent.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1801-1849	(e)(1)(ii) Reports of state-appointed overseers of the reservation (Nipmuc Pet. #69A Suppl.).	Photocopies of Dudley/Webster guardians' accounts from the first half of the 19th century. These reports name, as beneficiaries of the Dudley/Webster funds, at various times, the identified qualifying ancestors claimed by 87 percent of the petitioner's membership, their parents, and their collateral relatives.	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii). No precise precedent on point for the use of reports of state-appointed overseers. However, there is an implied precedent in the evaluation of absence from overseer's records: "William Sherman never appeared as a beneficiary in the records of the administrator of the Golden Hill funds" (GHP FD 1996, 12).	The listing of an individual on an official report by the state-appointed overseer of a reservation identified with a specific historic tribe is sufficient to create a presumption that the individual listed was a member of the tribe and that the individual's descendants, therefore, descend from the historic tribe. These reports provide corroborative evidence for the qualifying documents specified in the petitioner's constitution.	Meets (e).
1835	(e)(1)(ii) Tribal census (Nipmuc Pet. #69A Suppl.)	The selectmen of the Town of Webster compiled a document, addressee unknown (to whom it may concern) listing all the individuals whom they considered to be members of the "Dudley Tribe of Indians" at that date. It apparently comprised the first known attempt at a census. **The census listed some of the qualifying ancestors claimed by 87 percent of the petitioner's membership, their parents, and their collateral relatives.** **After the preparation of this 1835 census, no new family lines appeared on the guardians' disbursement records (see above) and no new individuals who cannot be documented as members of the immediate family of prior beneficiaries until the publication of the Briggs Report in 1849 (see below).**	"State . . . or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	This census provides corroborative evidence for the qualifying documents specified in the petitioner's constitution.	Meets (e).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1849	(e)(1)(ii) Dudley Tribe, Webster, Mass. (Briggs Report 1849, Appendix A, 69; Nipmuc Pet. Narr. 1984, 83; Nipmuc Pet. Suppl. 1987, Attachment 4).	According to the preface by Governor George N. Briggs written February 21, 1849: "I herewith communicate, for the use of the Legislature, the Report of the Commissioners, appointed under the Resolve of the Legislature, passed on the 10th of May, 1848, 'to visit the several tribes, and parts of tribes, of Indians, remaining within this Commonwealth, to examine into their condition and circumstances, and report to the next Legislature what legislation, in their opinion, is necessary in order best to promote the improvement and interests of said Indians'" (Briggs Report 1849, 3). One of the most significant aspects of this report was that it added to the list of "Dudley Indians" some family lines that had not been on the 1835 census (see above) and had never appeared on the disbursement lists, namely the Kyle/Belden line, Ezra Pichens, and Noyes B. Shelby. Pichens and Shelby would not appear in subsequent years, but the Kyle/Belden line continued thereafter to be listed among the Dudley Indians.	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	This report listed the Sprague family, including Lydia A. Sprague, ancestress of the majority of the current petitioner's membership. Petitioner #69B does not accept all of the lines listed on the Briggs Report. For more extensive discussion of the issue, see the charts for petition #69A and draft technical reports for both petition #69A and #69B.	Meets (e).
1855	(e)(1)(ii) State census (Massachusetts State Archives, 1855 Census, Worcester County, #30, Southborough to Westborough).	This census listed the "Dudley Indians" as a special category in the Town of Webster.	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	The names listed included the families ancestral to 87 percent of the members of the current petitioner.	Meets (e).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1861	(e)(1)(ii) Dudley Indians (Earle Report 1861).	This document was compiled by John Milton Earle, Massachusetts Commissioner of Indian Affairs, in response to an April 6, 1859, act of the legislature (Earle Report 1861; sometimes cited in the secondary literature as Massachusetts Senate Report No. 96, 1861). Earle's correspondence and notes, compiled during his investigation, primarily in 1859, are at the American Antiquarian society in Worcester, Massachusetts, and provide background information beyond that in the published report. The Earle Report's appendix included a tribal census carried out by a state official, under instructions from the Massachusetts State Legislature, listing each individual in the tribe, arranged by families, according to name, age, gender, whether or not married, tribe (for members and for non-Dudley spouses0, occupation, and residence (by town).	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	The listing of an individual on an official report by the state-appointed overseer of a reservation identified with a specific historic tribe is sufficient to create a presumption that the individual listed was a member of the tribe and that the individual's descendants, therefore, descend from the historic tribe.	Meets (e).
1865	(e)(1)(ii) Massachusetts state census (1865 Massachusetts State Census, Reel #36, Town of Webster).	The "Dudley Indians" were not listed as a special category in the Town of Webster. However, they were grouped together. The grouping included the qualifying ancestors of 87 percent of the membership of the current petitioner.	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	This document does not provide any type of tribal identification, and therefore does not in itself provide evidence that the petitioner meets criterion 83.7(e). It does, however, provide corroborative evidence when used in conjunction with other documents in the record.	Does not meet (e).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1886-1891	(e)(1)(ii) Disbursement records, Dudley Indian funds (Worcester Probate Register Case 6045, Vol. 438, 549; Worcester Probate Registry Vol. 446, 192: New Series; Nipmuc Pet. Supp. 1987, Attachment 9; Worcester Probate Register, Case 6045, Vol. 446, 175).	On December 22, 1886, F.M. Morrison, attorney for the Pegan Indians, filed a petition at Probate Court in Worcester seeking permission to authorize the sale of the remaining 26 acres, 58 rods left in Worcester County. The sale was authorized by the Probate Court on this date, as provided in Section Three of the Act of Enfranchisement. The court appointed two commissioners to handle the sale, Charles E. Stevens and Thomas Harrington, both of Worcester (Nipmuc Pet. Narr. 1984, 96, 98-99). At the beginning of 1888, action began in the state legislature to investigate the issue of other trust money that had been held by the state on behalf of the Dudley Indians. On June 7, 1889, the Massachusetts legislature passed an Act authorizing the comissioners for the Pegan Indians to bring suit against the Commonwealth for recovery of funds held in two trust accounts (Chap. 443, An Act to Enable the Commissioners for the Dudley Tribe of Indians to Prosecute in the Superior Court Certain Claims Against the Commonwealth. Nipmuc Pet. Narr. 1984, 100).	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	On November 7, 1889, the Associate Justices of the Superior Court in Suffolk County, Massachusetts, decided in favor of the petitioners (Nipmuc Pet. Narr. 1984, 102), in spite of the state's argument that the tribe was extinct (Nipmuc Pet. Narr. 1984, 102-103). The court determined that a principal of $2,199 plus interest was due from January 1870 to March 1890 (Nipmuc Pet. Narr. 1984, 103). This material contains several partition lists, not all of which are accepted as qualifying documents by the petitioner. Although the first list, dated November 12, 1887, was incomplete, it contained the names of the qualifying ancestors of 87 percent of the current petitioner's membership. The list filed October 16, 1888, also contained the names of these ancestors as did a "final" list dated November 28, 1888, and yet another list filed December 24, 1888.	Meets (c).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1890	(e)(1)(ii) List of Dudley Indians, dated October 27, 1890 (Worcester County, Massachusetts, Probate Register, 474:242, New Series); Supplementary list, Dated 12/5/1890 (Nipmuc Pet. Narr. 1984, 105); Distribution List, 1/6/1891 (Worcester Probate Register, case 6045, Vol. 476, 387, filed 9/1/1891).	On June 5, 1890, the Massachusetts legislature resolved that the sum owned to the Pegan Indians should be paid to the commissioners. The Worcester County Probate Court was instructed to compile a list of all bona fide descendants of the Pegan Indians alive in 1869 at the time of enfranchisement and *bona fide* descendants (Nipmuc Pet. Narr. 1984, 103). By November 18, 1890, the commissioners and attorneys for the Indians concluded that, based upon an examination of genealogical evidence supporting the claims of various individuals, there were as of 1890 a total of 72 blood descendants of the tribe's members who had been living at the time of the passage of the Act of Enfranchisement (Nipmuc Pet. Narr. 1984, 103). **The qualifying ancestors of 87 percent of the membership of the current petitioner were included on the final distribution list.**	"State . . . official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe . . ." (83.7(e)(1)(ii).	The disbursement list included 48 persons living in 1869 and still alive (Nipmuc Pet. Narr. 1984, 104-105); 22 living in 1869 who had died in the intervening period (Nipmuc Pet. Narr. 1984, 105); and a supplementary list of 12 persons, December 5, 1890 (Nipmuc Pet. Narr. 1984, 105), for a total of 80. Omitting the 22 decedents, 58 individuals received $61.61 each. The petition stated that the trust funds were distributed on January 13, 1891 (Nipmuc Pet. Narr. 1984, 106). Possibly as a result of the interest generated by this series of lawsuits, John E. Lynch published a monographic study, "The Dudley, or Pegan Indians," in 1891 in the *Collections of the Worcester Society of Antiquities* Vol. 9, No. 35 (Lynch 1891). For the Dudley Indians, the intense study **generated by this series of lawsuits more than adequately compensates for the missing 1890 Federal census records and provides an excellent study of the group and its geographical distribution as of 1890 (the 1891 final list did not include residency).**	Meets (e).

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1997	(e)(2) Current membership list 2/10/1997 (#69B Pet. Suppl. 2/24/1997).	The #69B supplementary submission received by the BIA on February 24, 1997, contained a #69B membership list dated February 10, 1997, and certified on February 17, 1997, by Chief Wise Owl Edwin Morse Sr. and Chief Red Fox Edwin Morse Jr. (Nipmuc #69B List 2/10/1997). Their signatures were witnessed, but the list was not certified by the full #69B council. This list, analyzed by the BIA for purposes of the proposed finding, contained 212 individuals, of whom 93 are also listed as members by #69A.	83.7(e)(2) "The petitioner must provide an official membership list, separately certified by the group's governing body, of all known current members of the group. This list must include each member's full name (including maiden name), date of birth and current residential address" . . . "as well as a statement describing the circumstances surrounding the preparation of the current list, . . ."	The membership list should be updated, using the current format, certified by the governing body, and submitted to the BIA for preparation of the final determination.	This meets (e)(2) for submission of a current membership list.
1996	(e)(2) Prior membership list 5/31/1996 (Nipmuc #69B List 5/31/1996).	On May 31, 1996, the BIA received a membership list headed "Nipmuck Tribal Roll of Chaubunagungamaug" (Nipmuc #69B List 5/31/1996). It was uncertified and provided to the BIA by Robert DiNapoli, an investor who was working with the petitioner. The individual membership numbers were newly assigned. It included some persons noted as deceased.	83.7(e)(2) "The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria" . . . "and, insofar as possible, the circumstances surrounding the preparation of former lists."	It contained 70 names, but appeared to be missing every other page, as there was a consistent pattern to the omitted numbers. It contained members of some family lines, specifically Comee and Tingley, that would not appear on the subsequent #69B lists.	This meets (e)(2) for prior membership lists.
1996	(e)(2) Prior membership list 8/8/1996 (Nipmuc #69b Certifications 12/10/1996).	Later certifications submitted by petitioner #69B referred to a membership list adopted on August 8, 1996, and submitted on November 20, 1996 (Nipmuc #69B Certifications 12/10/1996). The BIA did not receive such a submission and believes that these certifications pertained to the next item.	83.7(e)(2) "The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria" . . . "and, insofar as possible, the circumstances surrounding the preparation of former lists."	Technically, this list does not meet (e)(2) for prior membership lists, because the petitioner did not submit it. However, no petitioner has ever been disqualified for failure to submit a prior membership list.	Does not meet (e)(2) for prior membership lists.

Chaubunagungamaug Band of the Nipmuck Nation, Webster/Dudley, #69B: Criterion 83.7(e)

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(e)(2) Prior membership list 8/23/1996 (Nipmuc 369B List 8/23/1996).	On October 16, 1996, Chief Wise Owl [Edwin W. Morse Sr.] faxed to the BIA a 41-page membership list with a cover page that read: "Full Tribal Roll Printed August 23, 1996. Inactive Members marked INACTIVE in upper right corner" (Nipmuc #69B List 8/23/1996). The list was uncertified. It had apparently been compiled by Robert DiNapoli, an investor working with the group. A second partial copy, marked up, was faxed to the BIA by Janis Weber, a researcher, on October 29, 1996. On December 12, 1996, the BIA wrote the group with some questions pertaining to the list (Reckord to Morse 12/8/1996). On December 10, 1996, Edwin W. Morse, Sr., replied that the membership list adopted August 8, 1996 [*sic*], and submitted to BIA on November 20, 1996 [*sic*], was official. The dates for adoption of the membership list given in this letter did not match the ones on the list that Morse faxed to BAR.	83.7(e)(2) "The petitioner must also provide a copy of each available former list of members based on the group's own defined criteria" . . . "and, insofar as possible, the circumstances surrounding the preparation of former lists."	The list contained 374 names. Sixty-five persons were marked "INACTIVE." These were primarily descendants of a Natick/Ponkapoag family from Stoughton, Massachusetts (see discussion elsewhere of the #69B membership questions raised by Rosita Andrews), but included also the three marked as deceased and a scattering of others. The petitioner responded to BIA questions about how the categories were to be handled (Maddox to Morse 12/8/1996) by saying that the inactive members should be omitted from consideration in analyzing the list, which provided a membership of 309. A large proportion of the persons on this list were Sprague/Henries/Morse descendants; more were Sprague/ Henries and Sprague/Nichols descendants. There were also Dorus descendants and a nuclear family which claimed, but could not document, descent from the Hassanamisco Stebbins family.	This meets (e)(2) for prior membership lists.

Recommendation: The petitioner's key ancestors were identified as members of the historical tribe by evidence acceptable to the Secretary. Eighty-seven percent of the current petitioner's membership descend from these key ancestors, which falls within the parameters of precedent. The petitioner therefore meets the requirements of criterion 83.7(e).

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CHAUBUNABUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION F - 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 Evidence: No members of petitioner #69B appear to be enrolled with any other federally acknowledged tribe.

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1996	(f) Membership criteria (constitution signed 8/9/1996 by Edwin Morse, Sr., and Edwin Morse, jr.; Nipmuc Pet. #69B Suppl. 12/10/1996).	**E. Ineligibility** No person shall be certified a member of the Chaubunagungamaug band of Nipmuck Indian while his or her name is on the roll of any other Band, whether Federally recognized or not (Nipmuc Pet. #69B Suppl. 12/10/1996).	For precedents, see Poarch Creek PF 1983, 7; Snohomish PF 1983, 26; Miami PF 1990, 15.	The provision entitled "Ineligibility," apparently intended to prohibit dual enrollment, is drafted in such a way that any other group can make an applicant for membership in #69B ineligible for membership by simply refusing to remove his or her name from the membership list, even if they have been formally requested to do so in writing. The way this provision is drafted has the effect of making a substantial number of persons on the #69B membership list submitted for acknowledgment technically ineligible for acceptance by #69B, as they have also been retained on the membership list of #69A. Although this represents a problem in the drafting of the petitioner's governing document, it does not directly impact the requirement of criterion 83.7(f).	Meets (f).

Recommendation: The members of petitioner #69B are not principally members of any other federally acknowledged American Indian tribe. The petitioner therefore meets the requirements of criterion 83.7(f).

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CHAUBUNAGUNGAMAUG BAND OF THE NIPMUCK NATION, WEBSTER/DUDLEY, PETITIONER #69B: PROPOSED FINDING - SUMMARY CHART

CRITERION G - Neither the petitioner nor its members have been the subject of congressional termination legislation.

Summary of the Evidence: In this case, the evidence consists of an absence of evidence. There is no documentation in the record that the petitioner has been the subject of congressional legislation forbidding a Federal relationship.

Date	Form of Evidence	Description	Rule / Precedent	Issue / Analysis	Conclusion
1984-1996	(g) Absence of evidence.	The 1984 joint petition #69 did not contain a formal statement in regard to criterion 83.7(g). The certifications provided by the petitioner with the submission received by the BIA on 12/10/1996 did not include a statement in regard to criterion 83.7(g).	"(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship" (59 FR 9293). For precedents, see Grand Traverse Band PF 1979, 8; Death Valley Shoshone PF 1982, 7; Narragansett PF 1982, 18; Poarch Creek PF 1983, 7.	No evidence in the record indicates that the petitioner has been the subject of congressional termination legislation. The guidelines request a formal statement, but the mandatory criterion does not require one.	This meets (g).

Recommendation: There is no evidence in the record that the petitioner has been the subject of congressional termination legislation. The petitioner therefore meets the requirements of criterion 83.7(g).

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