

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**Final Determination for Federal Acknowledgment of the Wampanoag Tribal Council of Gay Head, Inc.**

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 3.

Pursuant to 25 CFR 83.9(h), notice is hereby given that the Assistant Secretary acknowledges that the

Wampanoag Tribal Council of Gay Head, Inc., c/o Mrs. Gladys Widdiss, State Road, RFD Box 137, Gay Head, Massachusetts 02535

exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination, following a review of public comments on the proposed finding, that the tribe satisfies all of the criteria set forth in 25 CFR 83.7, and, therefore, meets the requirements for a government-to-government relationship with the United States.

Notice of the proposed finding to decline to acknowledge the tribe was published on page 23604 of the *Federal Register* on June 30, 1986. This finding was based on a determination that the tribe met criteria a, d, e, f, and g, but did not meet criteria b and c of Part 83.7 of the Acknowledgment regulations (25 CFR Part 83). In accordance with 25 CFR 83.9(g), interested parties were given 120 days in which to submit factual or legal arguments and evidence to rebut or support the evidence relied upon in the finding. Pursuant to a request by the tribe's legal counsel, the Native American Rights Fund (NARF), the Assistant Secretary—Indian Affairs, by a letter dated October 15, 1986, extended the comment period an additional 34 days.

During the comment period, a rebuttal containing substantive new evidence and arguments challenging the proposed finding was submitted by the petitioner. Comments were also received from Dr. Gloria Levitas, Assistant Chairman of the Department of Anthropology of Queens College in Flushing, New York; from Dr. Francis Jennings, Director Emeritus of the D'Arcy McNickle Center for the History of the American Indian of the Newberry Library in Chicago; from Dr. William S. Simmons, Chairman of the Department of Anthropology at the University of California, Berkeley; from Mr. Robert T. Morgan, Sr., Chairman of the Dukes County (Massachusetts) Commissioners; from Mr. Doug Cabral, editor of the *Martha's Vineyard Times* in Vineyard Haven, Massachusetts; and from Reverend

Peter R. Sanborn, pastor of the Community Baptist Church in Gay Head, Massachusetts.

The comments of Dr. Levitas, Dr. Jennings, Dr. Simmons, and Rev. Sanborn were critical of the proposed finding, while those of Mr. Morton and Mr. Cabral were neutral in this regard. Observations regarding the political influence of the petitioner were presented by Dr. Levitas; Dr. Jennings, Dr. Simmons, Mr. Morgan and Mr. Cabral. In addition, Dr. Jennings, Dr. Simmons, and Rev. Sanborn commented on the community activities of the petitioner. Dr. Simmons also elaborated on the petitioner's retention of traditional Wampanoag legends. Letters were also received after the expiration of the extended comment period from Mr. William Honey, a bank president from West Tisbury, Massachusetts, and from Mr. James L. Quarles, III, an attorney in the Washington, DC office of Hale and Dorr, a Boston law firm which serves as legal counsel for the Gay Head Taxpayers Association. These latter two letters have not been considered as part of the official comment materials.

All submissions were carefully considered, the new evidence was evaluated, and data and conclusions in both the tribe's original petition and the proposed finding were reconsidered in light of the arguments presented. The tribe's rebuttal presented substantive new evidence and arguments which served to greatly strengthen its petition. It has been found that this evidence, when considered along with the arguments and observations presented by the other interested parties and a reconsideration of the evidence presented in the proposed finding, warrants a final determination that the tribe does meet criteria b and c of Part 83.7 of the Acknowledgment regulations.

The proposed finding concluded that the petitioner did not meet criterion 83.7(b) because the absence of extensive social contact within the extended Gay Head Wampanoag community precluded the maintenance of tribal relations. The finding noted that a substantial portion of the Gay Head Wampanoags live in a specific area viewed as American Indian, that they are descendants of an Indian tribe which historically inhabited the area, and that they are distinct from other populations. Yet, at the time the finding was being prepared, evidence to support a positive determination for social interaction and social cohesion—the remaining and significant element of criterion (b)—was insufficient.

The tribe's rebuttal, along with responses received from other interested parties, has provided information

previously lacking and documentation demonstrating social interaction and social cohesion. These data show that the Gay Head Wampanoags have an extensive and interrelated communication network connecting those Wampanoags in Gay Head and elsewhere on Martha's Vineyard with each other and with those members living off-island. Included in this network are the major families in the tribe and the tribal officers. Some of the tribal officers are also Gay Head town officials. The petitioner's rebuttal indicates that the communication network was used for "overtly political purposes by the tribal leaders."

The petitioner also supplied additional information about the tribe's social interaction during important tribal occasions such as birthdays, weddings, retirements, and funerals. The proposed finding concluded that group interaction at these times was minimal, but the new evidence submitted demonstrates that this was not the case. The petitioner's evidence was reinforced by the observations of Rev. Sanborn. Information provided by several other interested parties also demonstrated the existence of specific locations in and around Gay Head which serve as informal gathering places where tribal members congregate.

In addition to providing information about the communication network, the petitioner's rebuttal pointed out that social columns, formerly published in the *Vineyard Gazette*, served as a means of communication and also were used to define the tribe's social boundaries. When Gay Head Wampanoags were the reporters, the social news from Gay Head tended to focus on the activities of the Indian residents, but when non-Indians were the reporters, the news tended to emphasize the activities of the non-Indian residents.

There new data, when taken collectively and conjoined with those originally provided by the petitioner and those obtained by the Acknowledgment staff in the course of their research, are deemed sufficient to conclude that the Gay Head Wampanoags maintain the requisite degree of social interaction or tribal relations to meet criterion (b).

The proposed finding concluded that the tribe did not meet criterion 83.7(c) because it could not demonstrate that it had maintained political influence or other authority over all of its members throughout history. The original petition focused on the town government of Gay Head as being the only means by which tribal political influence or authority was maintained over the Gay Head

Wampanoags between 1870 and 1972, the year in which the Wampanoag Tribal Council of Gay Head was organized formally. The picture that emerges from the rebuttal evidence and arguments and from a reconsideration of the evidence in the proposed finding is of a tribal political situation which is considerably more fluid and diffused than that which was initially described. The available evidence shows that the Gay Head Wampanoags adapted the principal elements of the town governmental system which was imposed upon them by the Commonwealth of Massachusetts and that, within the limits possible, the town government served as the primary structure by which the tribe maintained political influence and/or authority over both its resident and non-resident members. Further evidence presented in the petitioner's rebuttal demonstrated that political influence or other authority was also maintained over members through organizational bodies which functioned outside of and/or parallel to the town government, such as the Howwaswee and Pawkunnawakutt councils and the Wampanoag Tribal Council of Gay Head, and by leaders such as Harrison Vanderhoop, Lorenzo Jeffers, Napoleon Madison, and Donald Malonson, who have functioned both outside and within the municipal structure of the town of Gay Head. Therefore, we conclude that the tribe has maintained tribal political influence or other authority over its members, independent of the control of any other Indian governing body, throughout history until the present.

Based on these new findings, we conclude that the Gay Head Wampanoags meet criteria b and c of § 83.7 of the Acknowledgment regulations. Consequently, the petitioner satisfies all of the mandatory criteria for Federal acknowledgment and, therefore, meets all of the requirements for a government-to-government relationship with the United States.

A report summarizing the Department's response to the evidence and arguments submitted to refute the proposed finding is available to interested parties upon request. Requests for copies of this supplement report or the proposed finding published earlier should be addressed to the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW, Washington, DC 20245, Attention: Branch of Acknowledgment and Research, Mail Stop 32-SIB.

This determination is final and will become effective 60 days from the date of publication of this notice unless the

Secretary of the Interior requests that the determination be reconsidered pursuant to 25 CFR 83.10 (a-c).

Ross Q. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 87-2677 Filed 2-9-87; 8:45 am]

BILLING CODE 4310-02-M

### Bureau of Land Management

[MT-930-4410-14]

#### Designation of an Outstanding Natural Area; Montana

**AGENCY:** Bureau of Land Management—Lewistown District Office, Interior.

**ACTION:** Notice of designation of an Outstanding Natural Area in the Lewistown District

**SUMMARY:** Pursuant to the authority in the Federal Land Policy and Management Act of October 21, 1976, (Section 103 (e) and 43 CFR Parts 8352, I have designated 1,041.75 acres in the following area of special management direction: T. 24 N., R. 8 W., Section 5: E $\frac{1}{2}$ E $\frac{1}{2}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Section 6: S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ; Section 7: N $\frac{1}{2}$ ; Section 8: W $\frac{1}{2}$ NW $\frac{1}{4}$ , Teton County, Lewistown District, Great Falls Resource Area, Montana. This designation was developed with public involvement in the Lewistown District.

In 1983, the Headwaters Resource Management Plan established the adjacent Ear Mountain Area as an Outstanding Natural Area (ONA). This 1,041.75 acre addition was obtained through a land exchange (M-59763) with the Nature Conservancy and a planning amendment completed December 1986 recommended this parcel of ONA management. This designation aligns itself with the resource management plan direction for blocks of public land along the Rocky Mountain Front that contain unique resources.

This area provides additional public access to the Ear Mountain ONA as well as to the adjacent Lewis and Clark National Forest, the nearby Bob Marshall Wilderness, and the Ear Mountain State Wildlife Management Area.

The ONA designation provides protection and management direction for the critical habitat for the threatened grizzly bear; prey base habitat for the endangered grey wolf; important seasonal habitat for numerous wildlife species including elk, bighorn sheep, mountain goat, mule deer, black bear, mountain lion, plus various other wildlife. This designation will also protect the area's scenic quality, rated

as Class A (outstanding), and provide for continued educational and recreational use. Regulated commodity production will be permitted by this designation. Regulation will occur through off-road vehicle restriction, no-surface occupancy designation relative to oil and gas development, and designation of a selected portion as a no lease area.

The area will be managed to maintain generally undisturbed conditions and to promote recreational use of the public lands. A 12.75-acre parcel will be managed as a multiple-use area and public access trailhead.

**DATE:** These decisions were included in the Decision Record for the Resource Management Plan amendment for the Special Designation of the Ear Mountain Addition, Great Falls Resource Area, Lewistown District, Montana, Bureau of Land Management, December 24, 1986. This decision became final 30 days after receipt by the public.

**ADDRESSES:** Questions on specific management plans, research opportunities, or protection plans should be addressed: Area Manager, Great Falls Resource Area, P.O. Box 2863, Great Falls, Montana.

Dated: February 2, 1987.

Robert Haburchak,

Acting District Manager

[FR Doc. 87-2703 Filed 2-9-87; 8:45 am]

BILLING CODE 4310-01-M

### Fish and Wildlife Service

#### Availability of the Draft Environmental Impact Statement: Upper Mississippi River National Wildlife and Fish Refuge

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of availability of a draft environmental impact statement (EIS) for the proposed Master Plan on the Upper Mississippi River National Wildlife and Fish Refuge.

**DATE:** Comments will be accepted until May 15, 1987.

**ADDRESS:** Comments should be sent to: Deborah Southworth, U.S. Fish and Wildlife Service, Federal Bldg., Fort Snelling, Twin Cities, MN 55111, 612-725-3306

or

Jim Lennartson, U.S. Fish and Wildlife Service, 51 E. 4th Street, Winona, MN 55967, 507-452-4232

**FOR FURTHER INFORMATION CONTACT:** Same as above.

Property Management, Office of Acquisition and Property Management, Room 5517, Department of the Interior, Washington, DC 20240, (FTS or 202) 343-3336.

**SUPPLEMENTARY INFORMATION:** In the new Uniform Relocation Act rules which appeared in the Federal Register of Thursday, February 27, 1986 (51 FR 7000), 41 CFR 114-50.310 (-10), paragraph (h) states, "The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed." This notice is to advise appellants to file appeals with the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203, (FTS or 703) 235-3810.

Gerald R. Riso,

Assistant Secretary.

[FR Doc. 86-14657 Filed 6-27-86; 8:45 am]

BILLING CODE 4310-10-M

#### Bureau of Indian Affairs

#### Proposed Finding Against Federal Acknowledgment of the Wampanoag Tribal Council of Gay Head, Inc.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that the Wampanoag Tribal Council of Gay Head, Inc., c/o Mrs. Gladys Widdiss, State Road, RFD Box 137, Gay Head, Massachusetts 02535, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet two of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Wampanoag Tribal Council of Gay Head is based on land which was traditionally and aboriginally Wampanoag. This organization represents a group of lineal descendants of the Gay Head Wampanoag Indians whose ancestors have inhabited this area since first sustained contact with European settlers in 1642. The Gay Head Wampanoags have been identified as being American Indians from historical times until the present, and Gay Head has been identified continuously throughout history as an Indian community. Since at least 1807,

however, a substantial portion of the Gay Head Indian descendants have not resided in this or any other American Indian community, and at present only about 15 percent of the group's 521 members reside at Gay Head. For most of this century, the Gay Head Indians have not maintained group interaction or tribal social relations, either within the historically Indian settlement or between those resident at Gay Head and the ever-growing number of non-resident Gay Head Indian descendants.

Aboriginal Wampanoag leadership was provided by a hereditary chief or sachem, and Gay Head was one of four major sachemships on the island of Martha's Vineyard. No reference to the sachemship could be found after 1687, and there is only one firsthand description of the political system or processes at work at Gay Head prior to 1827. However, there is evidence that the Gay Head Indians continued to maintain some tribal authority through the consensus of a general council between 1727 and 1870. These people continuously petitioned the colonial and state authorities of Massachusetts during this period. State records acknowledge that between 1814 and 1862 these Indians were essentially autonomous and self-governing. In 1862 the State imposed greater jurisdictional control over Gay Head by establishing it as an Indian district. Full state citizenship was extended to the Gay Head Indians in 1869, and in 1870 the State incorporated Gay Head as a township. After that date, the State did not officially recognize the existence of a tribal entity at Gay Head until 1976.

Following incorporation as a town, the Indians at Gay Head lost their political authority and influence as a tribal group. The group's acknowledgment petition maintains that the "imposed" town government structure was adopted by the Indians as their tribal governing body until 1972, the year in which the Wampanoag Tribal Council of Gay Head was formed. However, the existing sources indicate that although the town government was dominated by Indian descendants, in substance and form it was indistinguishable from any other small New England town. It took no actions which might be interpreted as primarily benefitting the Gay Head Indians as a tribal group, and a number of its officers were not of Gay Head Indian descent. There is some evidence, in fact, that it actually spurned Indian activities and identification and rejected formal alliances with other Indians groups and communities.

Unlike any other tribal government, the town government was mandated by State law to accept legal responsibility

for an increasing number of non-Indian residents, while it had no legal authority over the significant number of Gay Head Indian descendants who left the town. No evidence was found to indicate that town officials exerted any informal political influence or control over the non-resident Gay Head Indian descendants or that the non-residents participated in the political process within the town. Nor could it be established that sustained political influence or authority was maintained within the Gay Head community outside the town government through any formal or informal group structure or process. Neither has it been demonstrated that the Wampanoag Tribal Council of Gay Head, Inc., formed in 1972, has exercised significant political influence or authority over the Gay Head Indian descendants. This organization does not have a substantial base of political support in its claimed membership, either in Gay Head or elsewhere. The Tribal Council has not succeeded either in creating interest in the issues defined by its leadership as important or in promoting attendance and participation in group activities.

The group's governing document describes how membership is determined and how the group governs its affairs and its members. Approximately 98 percent of the 521 members can demonstrate that they meet the group's membership requirement. Documentary evidence exists establishing their ancestry back to the historical tribe as it existed in 1792.

No evidence was found that the members of the Wampanoag Tribe Council of Gay Head, Inc., are members of any other Indian tribe or that the group or its members have been the subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Gay Head Wampanoags meet criteria a, d, e, f, and g, but do not meet criteria b and c of § 83.7 of the Acknowledgment regulations (25 CFR Part 83).

Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioners and

interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, NW., South Interior Building, Room 32, Washington, DC 20245, Attention: Branch of Acknowledgment and Research.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period, the Assistant Secretary will publish the final determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

If at the expiration of the 120-day response period this proposed finding is confirmed, the Assistant Secretary, in accordance with § 83.9(j), will analyze and forward to the petitioner other options, if any, under which the petitioner might make application for services or other benefits.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86-14684 Filed 6-27-86; 8:45 am]

BILLING CODE 4310-02-M

#### Bureau of Land Management

##### Action To Prepare for Timber for Sale Under the Provisions of House Joint Resolution 465; Medford District, OR

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final notice of action to prepare timber for sale under the provisions of House Joint Resolution 465.

**SUMMARY:** House Joint Resolution 465 (Pub. L. 99-190) directs the Secretary of the Interior to sell timber returned to the United States under the Federal Timber Contract Payment Modification Act (Pub. L. 98-478) to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District of the Bureau of Land Management.

To implement the requirements of House Joint Resolution 465, the Medford District will offer for sale in this Fiscal Year 213 million board feet of new timber and all timber not sold in Fiscal Year 1985. Pursuant to the congressional mandate to achieve the full allowable cut for Fiscal Years 1985/1986 as directed by House Joint Resolution 465, if any of these sales are enjoined, stayed or otherwise delayed by reason of judicial review or administrative appeal, the Secretary of the Interior will offer as a substitute sale a nearly equal volume

of timber in the Medford District from that returned to the United States under the Federal Timber Contract Payment Modification Act. House Joint Resolution 465 provides that any decision by the Secretary to sell the returned timber shall not be subject to judicial review.

**EFFECTIVE DATE:** April 14, 1986.

**ADDRESS:** Any suggestions or inquiries should be sent to: Director (230), Bureau of Land Management, Room 5626, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Chuck Frost (202) 655-8864 or Dave Estola (503) 231-6867.

**SUPPLEMENTARY INFORMATION:** A notice of action to prepare for sale timber under the provisions of House Joint Resolution 465 was published in the Federal Register on April 14, 1986 (51 FR 12657), and the public was invited to review the proposed substitute sales, ratings and environmental studies and make comments for 30 days. No public comments were received during the comment period.

The Bureau of Land Management recommended that the Secretary of the Interior permit the modification of sales 1 through 22, 25 through 27, 31, 33, 35 and 36, 39 and 44. Those sales were listed in the notice of April 14, 1986. Modifications include changing silvicultural prescriptions from shelterwood to clearcut; removal of cutting units located on trial harvest lands which are not currently needed for studies under the Forestry Intensified Research program; and modifications of units to provide increased protection for other resources such as riparian areas and wildlife habitat. The modifications are in conformance with the environmental impact statements for the Josephine and Jackson/Klamath master units and with the supplemental environmental impact statement for the Medford District timber management program. The Bureau also recommends combining Little Lo Cal (Sale No. 17) and Logan Cut (Sale No. 19) into one sale, combining Toad Ditch (Sale No. 22) and Lucky Seven (Sale No. 44) into one sale and combining Long Gulch (Sale No. 35) and Missouri Mason (Sale No. 39) into one sale because of common access, of common rock resource for surfacing roads and of the relatively close vicinity of the sales to one another. The recommended modifications do not alter the original environmental rating of any sale. The

Bureau of Land Management also recommends rearrangement of sale priority to facilitate modification of sales.

The Secretary of the Interior concurs with the recommendations of the Bureau of Land Management.

The Secretary of the Interior, therefore, directs the Bureau of Land Management to offer sales of timber from the following list of sales, in the order designated, as other planned sales are enjoined, stayed or otherwise delayed by judicial review or administrative appeal:

1. Logan Lo Cal (Combined Little Lo Cal and Logan Cut).
2. Deer Deer.
3. J-Root.
4. Stratton Ridge.
5. Susan Creek.
6. Windy Dutchman.
7. North Fork Butte Creek.
8. Jackass Thinning.
9. Cow Overlook.
10. Rattlesnake.
11. Cleveland Combo.
12. Anaktuvak.
13. Archer McNabb.
14. Hot Loft.
15. Snow Rerun.
16. 14 Stings.
17. Hewitt Creek.
18. Rum Creek.
19. Slippery Chicken.
20. 19 Reasons.
21. Southside II.
22. Lucky Toad (Combination of Toad Ditch and Lucky Seven).
23. Esmond Mountain.
24. Wilcox Peak.
25. Willow Creek.
26. Salt Lick.
27. Headwaters.
28. Long Missouri (Combined Long Gulch and Missouri Mason).
29. Spike II.
30. Murphy Gulch.
31. Pop Rock.
32. Dead Indian Creek.
33. Woodford Creek.
34. Eastman Gulch.
35. Peters Pride.
36. Bull Run.
37. Wildcat.
38. Malone Creek.
39. Cold Springs.
40. West McGinnis.
41. West Panther Salv.
42. Mules Noses.
43. Mules End.
44. Starveout.
45. Flying W.
46. Rockhead II.
47. Pennington Water.
48. Skull Creek.