Summary Under the Criteria and Evidence for

Final Determination against Federal Acknowledgment

of the

Ramapough Mountain Indians, Inc.

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

Approved: 1-16-96
(date)

Ada E. Deer
Assistant Secretary - Indian Affairs

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## INTRODUCTION

**Administrative History.** The Ramapough Mountain Indians, Inc. (RMI) submitted an undocumented letter of intent to petition for Federal acknowledgement on August 14, 1978, thereby becoming administrative case #58. The group submitted a documented petition on April 23, 1990. A letter outlining the obvious deficiencies in the petition was sent by the Bureau of Indian Affairs (BIA) on June 15, 1990. The RMI submitted a partial response on January 28, 1991. A fully revised petition was determined to be ready for active consideration on March 5, 1992. The petition was placed on active consideration status on July 14, 1992.

A Proposed Finding against Federal acknowledgment of the RMI was published in the FEDERAL REGISTER on December 8, 1993. The Proposed Finding stated that the RMI failed to meet mandatory criteria 83.7 (a), 83.7(b), 83.7(c), and 83.7(e). Most of the concerns under these four criteria had been raised in the 1990 "Obvious Deficiencies Review Letter" and subsequent technical assistance meetings between the BIA and the RMI. The technical reports that accompanied the Proposed Finding suggested possible additional sources for research.

The original 120-day comment period provided by the regulations ended on April 6, 1994. By letter dated February 23, 1994, the RMI requested a 180-day extension of the comment period. This request was granted and the ending date for comments became October 7, 1994. In the February 23, 1994, letter, the RMI posed the question of "how much" proof was needed to change the Proposed Finding. The petitioner was advised in a letter dated March 24, 1994, that it was <u>not simply a question of how much and what type</u> of evidence was necessary, but that they must also respond to the evidence reviewed for the Proposed Finding and how it was evaluated.

The petitioner was told that in order to reverse the Proposed Finding, they would need to accomplish two tasks. First, the RMI would need to refute the evidence and arguments contained in the Proposed Finding. Second, the RMI would need to present additional evidence that demonstrated that the petitioner did meet the four criteria. Specifically the petitioner was told that, first and foremost, the RMI would need to present new evidence which demonstrated that the members, as a group, were the descendants of a historical American Indian tribe, genealogically, socially, and politically.

The BIA again offered that staff from the Branch of Acknowledgment and Research (BAR) would meet with the petitioner's researchers to discuss the evidence needed to respond to the

Proposed Finding. In March 1994, the BAR was contacted by a private consultant claiming to represent the RMI who wanted information regarding their petition. He also wanted to know what it would take to "walk the papers through the process." The BAR met with the consultant, described the petitioning process, and gave him the same information previously provided to the RMI regarding the type of research that was necessary to respond to the Proposed Finding. The BAR viewed this as an informational exchange with a prospective researcher for the RMI. However, the BAR did not receive confirmation from the RMI that the consultant indeed represented them or that he was conducting research on their behalf. The consultant did not maintain contact with the BIA regarding the RMI, nor did he contribute any evidence or comments during the comment period.

On April 22, 1994, the RMI requested that the petition be reviewed under the revised 25 CFR 83 regulations (published in the Federal Register on February 24, 1994, with an effective date of March 28, 1994). The BIA notified the RMI on May 10, 1994, that the petition would be considered under the revised regulations.

Mr. Ronald Jarvis, one of the RMI's newly authorized legal representatives, met with several BIA staff members on September 13, 1994. Mr. Jarvis indicated that they were pioneering new ways of looking at the evidence, researching in Holland, investigating the records of French explorers, and researching other historical records. The BIA research staff emphasized the importance of concentrating not on the early colonial period, but rather on the 1750 to 1820 time period and providing evidence that the proven ancestors of the RMI descended from a historical tribe of Indians. Church records and deeds were again specifically identified as likely sources for additional research. The BIA encouraged Mr. Jarvis to have the RMI researchers meet directly with the Government's researchers so that they would not pursue research areas that were not productive in meeting the criteria.

At the same meeting, Mr. Jarvis presented a letter from the RMI which requested that the Assistant Secretary - Indian Affairs (AS-IA) extend the comment period an additional six months. The letter also stated:

> In addition, there is a substantial body of new and probative evidence that we intend to bring to bear in the Tribe's response to the Proposed Findings, and there are new approaches to the research which we are presently exploring.

Acting on good faith that the RMI would be pursuing viable avenues of research, the request for an additional 180-day extension was granted on September 27, 1994, pursuant to the terms of the new regulations in 25 C.F.R. §§ 83.3(g) and 83.10(g). At the same time, the BIA again offered technical assistance. However, neither the RMI nor its researchers contacted the BIA to set up a meeting between the RMI researchers and BIA researchers.

In late November 1994, the RMI indicated that the petitioner was interested in holding a formal meeting to discuss the Proposed Finding as provided by 25 C.F.R. §§ 83.10(j)(2). The regulations state:

> [T]he Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be made available to any participating party and become part of the record considered by the Assistant Secretary in reaching a Final Determination.

However, after a preliminary meeting on December 6, 1994, and in subsequent discussions, the RMI chose to meet with the BIA's researchers in less formal settings. At this December meeting, the RMI again inquired as to avenues of research and the BAR staff reiterated the areas and time periods where records should be searched.

On January 12, 1995, RMI leaders and legal representatives met with the BAR to discuss the criteria which had not been met. At this meeting, the BAR emphasized that research was often long and tedious and the closing date for comments was on April 7, 1995. On February 6, 1995, the BAR sent the RMI a letter summarizing the January meeting and again specifically listing the critical time period (1750-1820) and possible resources.

The RMI requested an additional 120-day "suspension of consideration" of the petition or an extension of the comment period on March 14, 1995, citing "good cause" for the extension. The BIA did not find good cause for a four-month extension, but did extend the comment period for an additional 30 days, until May 8, 1995 (BIA letter, March 30, 1995).

The RMI submitted the Response to the Proposed Finding (hereafter cited as "the RMI Response") on May 8, 1995. This

initiated a 60-day time period established in the regulations to allow petitioners to review and respond to third party comments on the Proposed Finding. On July 10, 1995, the RMI submitted a reply to the comments. The AS-IA then determined an equitable time-frame for the publication of the Final Determination.

The BIA began consideration of the Response on September 18, 1995. Under the regulations, the BIA had 60 days to complete the Final Determination. Because of delays in regulatory deadlines resulting from the Federal Government furlough in November, 1995, the Assistant Secretary for Indian Affairs (AS-IA) extended the deadline until December 11, 1995.

**Bases for the Final Determination.** This Final Determination is based on a consideration of new evidence and arguments submitted by the RMI in the Response to the Proposed Finding, comments submitted by third parties (including both interested and informed parties), the RMI Response to the third-party comments, and materials developed by the BAR in evaluating the RMI Response and the comments of third parties. According to the regulations: "The Assistant Secretary - Indian Affairs may also conduct such additional research as is necessary to evaluate and supplement the record. In either case, the additional materials will become part of the petition record (25 CFR Part 83.10(l)(1))."

The evidence and arguments presented by the RMI for the Proposed Finding were also considered in making this Final Determination, in addition to evidence generated by BIA staff or contractors in conducting their own research in preparing the Proposed Finding. This Final Determination report should be read together with the Proposed Finding and the three technical reports that accompanied it. The actual Proposed Finding is the Summary Under the Criteria, which contained the decision issued by the AS-IA. The technical reports represented a narration and analysis of the factual evidence pertaining to the petition. The Summary Under the Criteria contains the decisional material.

The 25 CFR Part 83 regulations are well founded, based on Federal Indian law and the history of tribal acknowledgment in this country. The allegations of racism made by RMI against the BAR staff have been addressed in a separate inquiry by the Deputy Commissioner of Indian Affairs (BIA letter, September 20, 1995) and will not be responded to in this Final Determination. Because the issue of outside political interference has been raised by the petitioner in numerous instances, as

well as by some informed parties, that issue is addressed in the technical report to the Final Determination.

Intent of the Federal acknowledgment regulations. The Federal Government has an obligation to protect and preserve the inherent sovereign rights of all Indian tribes, whether a tribe has been recognized in the past or not. The regulations governing the acknowledgment process (25 CFR Part 83) state the requirements that unrecognized groups must meet to be acknowledged as having a government-to-government relationship with the United States.

> **The purpose of the acknowledgment process is to acknowledge that a government-to-government relationship exists between the United States and tribes which have existed since first contact with non-Indians** (25 CFR Part 83, "Standards of Evidence and Stringency of Requirements," Federal Register 59:9281).

The acknowledgment regulations require that all seven criteria under section 83.7 must be met in order for a petitioner to be acknowledged. Section 83.10(m) states:

> The Assistant Secretary shall acknowledge the existence of a petitioner as an Indian tribe when it is determined that the group satisfies **all of the criteria in section 83.7**. The Assistant Secretary shall decline to acknowledge that a petitioner is an Indian tribe **if it fails to satisfy any one of the criteria in section 83.7** (25 CFR 83.10(m)) [emphases added].

In 1994, revised Federal acknowledgment regulations were published in the Federal Register (Volume 59, No. 38, February 25, 1994, 9280-9300), after a lengthy period of dialogue with the unrecognized Indian groups, recognized Indian tribes, scholars, and other interested parties. The revision of the regulations in 1994 did not alter the basic purpose of the acknowledgment procedure.

The revised acknowledgment regulations provided petitioners whose petitions were already under active consideration the option to choose to continue having the petition evaluated under the 1978 regulations (Federal Register 43(172), 39361-39364) or to change to the revised 1994 regulations. The RMI exercised their option to have their petition evaluated under the revised regulations. As will be seen from the following discussion, this option has not changed the outcome of this

Final Determination. That is, the Final Determination would have been the same if the RMI had chosen to have their petition evaluated under the 1978 regulations (43 F.R. 172).

The legal and policy precedents for acknowledgment are codified in the regulations. These precedents also provide the fundamental bases for interpreting the regulations. The acknowledgment criteria are based on and consistent with past determinations of tribal existence by Congress, the courts, and the Executive Branch. These past determinations have required that to be acknowledged as having tribal status a group must have maintained its social solidarity and distinctness and exercised political influence or authority throughout history until the present.

The criteria used by the Interior Department between 1934 and 1978 to recognize tribes are summarized in the 1942 Handbook of Federal Indian Law by Felix Cohen, and are commonly referred to as the "Cohen criteria." These summarized Executive Branch practice as well as judicial and legislative precedents. One of these criteria required that a group have "exercised political authority over its members through a tribal council or other governmental forms" (Cohen 1942, 171). A supplementary consideration was the "social solidarity of the group." The Cohen criteria also considered previous Federal recognition, e.g., treaty relations, executive orders, Congressional acts, or other actions.

Fundamental to the definition of a tribe is the nature of tribal membership. The Department has long said that an Indian tribe is an entity whose members maintain a bilateral political relationship with the tribe. The courts have supported this interpretation, most recently in a March 13, 1992, decision, Masayesva v. Zah v. James (CIV 74-842 PHX EHC, CIV 90-666 PCT EHC, consolidated, D. Ariz.).

The preamble to the acknowledgment regulations, published in 1978, indicated the intent by stating that "groups of descendants will not be acknowledged solely on a racial basis. Maintenance of tribal relations--a political relationship--is essential" (43 F.R. 172, Bureau of Indian Affairs 1978).

The review of petitions for acknowledgment must balance the fundamental requirements of the regulations with the effect of historical influences on, and changes in, past and present Indian society. Unrecognized tribes often face limitations which differ from those of recognized tribes, such as lack of resources, difficulty in maintaining a separate land base, and absence of Federal support for political institutions.

Although these historical and social conditions may have made it difficult for some unrecognized groups to meet the requirements of criteria 83.7(b) and 83.7(c), the regulations require that petitioners maintain a significant level of community and political influence or authority in order to be federally acknowledged as entitled to a government-to-government relationship.

Overview of the Proposed Finding. The Proposed Finding concluded that the Ramapough Mountain Indians, Inc. met criteria 83.7(d), 83.7(f), and 83.7(g). The Proposed Finding concluded that the RMI failed to meet mandatory criteria 83.7(a), 83.7(b), 83.7(c), and 83.7(e).

The impact of the 1994 revised acknowledgment regulations on the RMI final determination. Because of changes in the revised regulations, the conclusions for this Final Determination are slightly different from those reached in the Proposed Finding under criteria 83.7(a), identification by external observers; 83.7(b), social community; and 83.7(c), political authority. At the time of the Proposed Finding, the AS-IA found that the RMI did not meet any of these criteria. It is now found that, under the revised regulations, the petitioner meets criterion 83.7(a).

Under the provisions of the revised regulations, the petitioner has been found to meet criteria 83.7(b) and 83.7(c) only for a limited period of time, from 1870 to about 1950. The modifications under the revised regulations do not change the ultimate finding concerning criteria 83.7(b) and 83.7(c), however, since the requirement of continuous existence as a social community and political entity, from the time of first sustained contact of the antecedent historical tribe or tribes with non-Indians to the present, remains in force. Therefore, meeting a criterion for a limited period is not sufficient to meet the criterion overall, because of the requirement of continuous existence.

Even if the revised regulations had been in force at the time the Proposed Finding on the RMI was issued (1993), the conclusions regarding criteria 83.7(b), 83.7(c), and 83.7(e) would not have been different. In fact, if the revised regulations had been in force at the time the RMI petition was submitted, it would have received an expedited negative finding under criterion 83.7(e), without reference to the other criteria. Under the 1994 revised regulations, the RMI still do not meet three of the seven mandatory criteria: 83.7(b), 83.7(c), and 83.7(e).

Responses to the Proposed Finding. The only extensive response received to the Proposed Finding was from the Ramapough Mountain Indians, Inc. This RMI Response included numerous exhibits, including many third-party letters. These are analyzed in the technical report supporting the Final Determination. Brief letters in response were received from the Office of the Attorney General, State of New Jersey; some local government agencies, and informed parties. These are also analyzed in the technical report supporting the Final Determination.

## LIST OF ABBREVIATIONS AND ACRONYMS

25 CFR Part 83 = The part of the Code of Federal Regulations dealing with the Federal acknowledgment of Indian groups as Indian tribes. Revised regulations were published in the Federal Register on February 25, 1994.

A.M.E. = African Methodist Episcopal

AS-IA = Assistant Secretary - Indian Affairs, Department of the Interior.

BAR = Branch of Acknowledgment and Research, Bureau of Indian Affairs (Evaluator of the Petition)

BIA = Bureau of Indian Affairs

Ex. = Documentary exhibit submitted by the petitioner

FD = Field data (research conducted by the BAR staff for the purpose of verifying and adding to the information submitted in the petition)

F.R. = Federal Register

"Jackson Whites" = An imprecise, racist term for poor residents of the Ramapo Mountains in use from the late 1800's to the present. The origin of the term is unknown, but its first known use in print was in the 1870's. By the time of the Vineland Study (1917) "Jackson White" was used by outsiders to refer to people in several distinct social communities in the Ramapo Mountains, some perceived as predominantly White and Indian, some perceived as predominantly African American and Indian, and some perceived as poor White. The term was used to refer to individuals in the Ramapough Mountain People (RMP) community (see definition of RMP, below), among others.

Joslyn Report = Report by Roger D. Joslyn, genealogist for the RMI, which was included in the RMI Response.

Petition = Petition submitted in 1993 by the RMI for acknowledgment as an Indian tribe.

Proposed Finding = The Proposed Finding of the Assistant Secretary - Indian Affairs, Department of the Interior, which declined to acknowledge the existence of the RMI as an Indian tribe; published December 8, 1993. This included: a Summary Under the Criteria (an evaluation of the evidence as pertains to each of the seven mandatory criteria for Federal acknowledgment, found in 25 CFR §83.7); Summary of the Evidence; and three supporting technical reports (historical, anthropological, and genealogical).

RMI = Ramapough Mountain Indians, Inc., a 1978 incorporation with a membership of about 3,000 people; in this report, also known as "the petitioner." The RMI membership list includes some, but not all, of the Ramapo Mountain People (see below). When referring to events before 1978, the members of the RMI will be referred to as RMP, since there is no known Ramapough Mountain Indian tribe prior to that year.

RMI Response = Response of the RMI to the Assistant Secretary - Indian Affairs' Proposed Finding; received by the BIA May 8, 1995.

RMI Response Appendix = Appendix of unnumbered items included with the May 8, 1995, RMI Response.

RMI Response Ex. = Numbered exhibits included with the RMI Response to third party comments; received by the BIA on July 10, 1995.

RMP = Ramapo Mountain People: a term used in this report as a designation for the people of the Van Dunk, Mann, DeGroat, and DeFreese families living in and around (or originating from) the towns of Mahwah, New Jersey, Ringwood, New Jersey, and Hillburn, New York. Not all of the RMP are members of the Ramapough Mountain Indians, Inc., even though they share a common ancestry. Also, not all of the RMP claim to be Indian. As used in this final determination, RMP is <u>not</u> synonymous with "Jackson Whites," the latter being much broader in meaning, and less well-defined (see definition of "Jackson Whites," above).

## SUMMARY CONCLUSIONS UNDER THE CRITERIA (25 CFR 83.7(a-g))

### Criterion 83.7(a)

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. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members.**

**(1) Identification as an Indian entity by Federal authorities.**

**(2) Relationships with State governments based on identification of the group as Indian.**

**(3) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.**

**(4) Identification as an Indian entity by anthropologists, historians, and/or other scholars.**

**(5) Identification as an Indian entity in newspapers and books.**

**(6) Identification as an Indian entity in relationships with Indian tribes or with national regional or state Indian organizations.**

**Proposed Finding.** The proposed finding on the RMI was prepared under the provisions of the 1978 25 CFR Part 83 regulations (43 F.R. 172). The proposed finding concluded

that the petitioner did not meet criterion 83.7(a) before 1978, and therefore did not meet criterion 83.7(a).

**Impact of the 1994 revised Federal acknowledgment regulations.** The final determination has been prepared under the 25 CFR Part 83 regulations as revised in 1994. Part of the purpose of the revision was to reduce the burden of proof imposed upon petitioners. In that process, criterion 83.7(a) was modified in such a way that external identification of the group as an Indian entity was no longer required from earliest historical times to the present, but only from 1900 to the present. As a result, petitioners no longer need to address the issue of continuity of tribal existence from first sustained contact with non-Indian settlers under criterion 83.7(a), but only under criteria 83.7(b) for distinct community and 83.7(c) for political authority or influence over the membership.

This modification leaves criterion 83.7(a) standing alone, without pre-1900 historical identifications as a foundation. Essentially, all that it now requires is that the petitioner demonstrate that external observers identified the petitioning group as an "Indian entity" on a "substantially continuous basis" from 1900 to the present. Even in this context, however, it should be noted that each individual criterion incorporates the definitions contained in section 83.1. Also, the final determination references both the technical report to the final determination and the set of three technical reports prepared for the proposed finding.

Criterion 83.7(a) does not require that the petitioner was consistently identified as an Indian entity by all of the six types of possible evidence listed since 1900. Identification by any one type of the possible evidence throughout the time period since 1900, or by a combination of the different types of evidence at various points during the time period since 1900, is adequate for the petitioner to meet criterion 83.7(a).

Additionally, criterion 83.7(a) does not require that the identification as an Indian entity was factually accurate on the part of the observer, or that the observer was a specialist in anthropology or ethnography. There is no requirement that the observer's assertions be documented or verified by historical evidence. Another section of the regulations, section 83.8(d)(3), does require "substantially continuous historical identification, by **authoritative, knowledgeable** [emphasis added] external sources," to show the succession of leaders for those petitioners claiming to have had prior unambiguous Federal acknowledgment. Criterion 83.7(a),

however, omits any such provision. Criterion 83.7(a) is designed to elicit a sense of the opinion about the group which was being expressed by external observers. The observers did not need to be knowledgeable. Evaluation of factual accuracy is now conducted under criteria 83.7(b), 83.7(c), and 83.7(e).

Nonetheless, criteria 83.7(a) through 83.7(g) are not totally discrete from one another. Section 83.3 Scope specifically states that:

> This part . . . is intended to apply to groups that can establish a substantially continuous tribal existence and which have functioned as autonomous entities throughout history until the present (59 F.R. 38, 9294).

The General provisions for the documented petition, section 83.6(d), also state that:

> A petitioner may be denied acknowledgment if the evidence available demonstrates that it does not meet one or more criteria. A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria. A criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met (59 F.R. 38, 9295).

Under criteria 83.7(a), 83.7(b), and 83.7(e), the BIA must consider the validity of the content of the statements in the evidence and the knowledgeability and reliability of the source. Otherwise it is impossible to determine if the criterion is met. By contrast, in the context of criterion 83.7(a), the "facts" are not the objective truth of what an observer said about the group, but simply the opinion expressed by the observer. Therefore, the "facts" to be analyzed under criterion 83.7(a) are the precise content, taken in context, of what the observer said--not whether the observer was correct. Does the opinion being expressed amount to identification of the petitioner's antecedent group as an Indian entity?

The regulations under 25 CFR Part 83 do not exist to acknowledge as Indian tribes all groups in the United States which do or may have some American Indian ancestry. They are designed

to extend Federal acknowledgment as Indian tribes to those indigenous North American Indian groups which can demonstrate continuous existence as communities which have possessed political authority or influence over their members since first sustained contact with non-Indian settlers.

Criterion 83.7(a) does not address race or ancestry per se. Neither does it allow the introduction of a different type of racism. On the one hand, we state once more that the presence of non-Indian ancestry in a petitioning group does not negate its Indian identity if it has a specific Indian identity. On the other hand, the "one-drop-rule" does not work in reverse. The mere presence of some Indian ancestry in a group of people, or attribution of partial Indian ancestry to a group of people by outside observers, does not automatically make that group eligible for Federal acknowledgment as an Indian tribe under 25 CFR Part 83. Neither does it mean that the group will be found to meet criterion 83.7(a).

**Comment.** The RMI Response maintained that the handling of the evidence for criterion 83.7(a) in the Proposed Finding was "Arbitrary and Capricious." The BIA denies this allegation.

The RMI Response discussed the issue of Indian ancestry extensively under criterion 83.7(a). Criterion 83.7(a) does not pertain to the issue of generic Indian or specific tribal ancestry. The final determination discusses that issue under criterion 83.7(e), as appropriate. The placement of the discussion in the petitioner's response may, however, indicate confusion about the nature of the Federal acknowledgment regulations.

The basic questions raised by the RMI Response under criterion 83.7(a) are whether (1) in the absence of traditional identifying source materials (see the discussion of the evidence, below), the definition of a petitioning group as a distinct tri-racial isolate with an Indian component by observing anthropologists, historians (both academic and local), scholars, and journalists is to be deemed by the AS-IA as equivalent to the identification of the group as an Indian entity by such observers, or (2) whether identification as a distinct entity with some kind of Indian component, in the absence of other types of stronger corroborative evidence, offers only "insufficient evidence" that the petitioner meets criterion 83.7(a).

We take note that several of the third-party comments received by the BIA from contemporary anthropologists indicated that the writers considered that the first of the above questions

should be answered in the affirmative in the context of modern academic anthropological theory. These comments, like the RMI Response, intermingled discussion of the interpretation of the significance of part-Indian ancestry in a petitioning group with discussion of the issue of external identification of a group as an Indian entity. None of these third-party comments received by the BIA addressed the question from the perspective of Federal Indian law and the legal precedents defining the nature of American Indian tribes and groups.

**Summary of the Evidence under Criterion 83.7(a).** The evidence under criterion 83.7(a) is summarized in order of the types of evidence acceptable to the Secretary listed in the 25 CFR Part 83 regulations.

Criterion 83.7(a)(1). The petitioner's response to the proposed finding presented no additional evidence to indicate identification of the RMI as an Indian entity by Federal authorities. The petitioner claimed that the inclusion of a one-page description of the RMI predecessor community in a book about surviving Indian groups on the East Coast published by the Smithsonian Institution in 1948 amounted to identification as an Indian entity by Federal authorities for purposes of criterion 83.7(a). That entry and an evaluation of why it did not equal identification by Federal authorities are discussed in the technical report to the final determination. The actual passage has been determined by the BIA to fall under the category of identification by "anthropologists, historians, and/or other scholars." We conclude that there were no Federal records which identified the RMI as an Indian entity within the meaning of the 25 CFR Part 83 regulations prior to 1978.

Criterion 83.7(a)(2). The proposed finding found that:

> At no time prior to the RMI's incorporation in 1978 was the group of people who were precursors to and ancestors of the RMI the subject of any separate series of Indian documents in the records of either the States of New York and New Jersey or the Federal Government.

This remains the case. One aspect of the petitioner's evidence has become weaker since the proposed finding was issued. The proposed finding stated that:

> The RMI were recognized as American Indian by resolutions of the New Jersey and New York State legislatures in 1980. Since that time, the RMI

> have been repeatedly identified as an "Indian" group in newspaper accounts and have received Indian Education funding from the Federal government (RMI PF, Summary Under the Criteria 5).

In November 1995, the BIA received conflicting information from the State of New Jersey as to whether or not the 1980 resolution to recognize the RMI had been withdrawn by its sponsors and never voted upon by the New Jersey legislature, or had been passed by both houses of the New Jersey legislature. A newspaper article dated January 17, 1980, tended to confirm that the resolution had received passage. Because of the conflicting nature of the information, the denial was not weighed as evidence against the conclusion expressed in the Proposed Finding that the RMI had received New Jersey state recognition in 1980.

Claims by the petitioner that the fact that the Vineland Study was written by employees of the New Jersey Training School, and that later mention of this study by a New Jersey state employee in a magazine article published in 1931, amounted to state identification of the RMI predecessor community as an Indian entity was found not to be valid. Neither of these was an official study sponsored by the State of New Jersey. They are discussed in the technical report under the category of "identification as an Indian entity by anthropologists, historians, and/or other scholars." The evidence reveals that neither the State of New Jersey nor the State of New York identified the RMI as an Indian entity prior to 1980.

Criterion 83.7(a)(3). Evidence relating to churches and missionary organizations is considered under 83.7(a)(3) along with "dealings with a county, parish, or other local government in a relationship based on the group's Indian identity." The proposed finding concluded that:

> During the later 19th and first half of the 20th century, neither the churches nor the schools utilized by the petitioner were identified as "Indian."

The petitioner's response asserted that other BIA acknowledgment determinations had given great weight to church records, but the RMI proposed finding had not adequately considered a letter written in 1926 by a minister who had served the RMI predecessor community from 1876 to 1880. The petitioner presented in evidence a 1926 letter written by the Rev. George A. Ford, in which he described the church members as "col-

ored," with "considerable Indian blood coming down from early days."

BIA researchers undertook additional research on the petitioner's church history to evaluate this level of evidence in preparing the final determination. The context of this specific letter and its relationship to the 19th century records of the church where this man had served as a minister are discussed in the technical report. The letter does demonstrate an opinion about the nature of the petitioning group expressed in 1926. However, the actual church records, which were available through 1918, did not identify the church as Indian, or its members as Indian.

Criteria 83.7(a)(4) and 83.7(a)(5). Aside from the material cited above, essentially all of the material presented by the petitioner relating to identification of the group as an Indian entity by external sources fell into these two categories. Since most of the identifications of the petitioning group made by anthropologists, historians, and/or other scholars were made in newspapers and books, discussion of paragraphs 83.7(a)(4) and 83.7(a)(5) is combined here.

The Proposed Finding on the RMI concluded that:

> Since the third quarter of the 19th century, anthropologists, social workers, journalists, and others have consistently described the RMI precursor community as a distinct group of mixed race, or as an entity whose members were said by tradition to have some Indian ancestry. The petitioner's ancestors were never described as an American Indian group per se. Occasional references which used such terms as "tribe" or "clan" to describe the community were essentially using these words as synonyms for "a kinship-based, non-white community distinct from the surrounding society" (Proposed Finding 1993, Summary under the Criteria 4).
>
> Since the first newspaper article discussing the petitioner's ancestors was published in 1872, the composition and origins of the RMI precursor community have been extensively discussed by local historians, by journalists, and occasionally by anthropologists, archaeologists, and folklorists. In addition to acknowledging European and African components among the RMI ancestors, such writers have variously attributed the possibilities of Minsi and Hackensack (Delaware), general Algonquin

> or Munsee, Tuscarora (Iroquoian), and occasionally Creek and Seneca ancestry to the group. These reports attributed a certain amount of Indian ancestry to the RMI based primarily upon the physical appearance of some members of the group and stereotyped character traits (Proposed Finding 1993, Summary under the Criteria 5).

The technical reports to the proposed finding analyzed in detail all of the external identifications presented by the petitioner and reached the above-quoted conclusions as to the nature of these identifications. The petitioner's response to the proposed finding did not present any new or additional evidence pertaining to external identifications of the petitioner since 1900.

However, the petitioner's response to the proposed finding asserted that the BIA had acted in an arbitrary and capricious manner in not equating the above type of descriptions of the RMP with conclusive identification as an "Indian entity" within the meaning of criterion 83.7(a).

The technical report to the final determination, therefore, returned to the issue, and analyzed more extensively, with augmented direct quotations, those portions of the material relating to the RMP published from 1900 through 1978 which, according to the petitioner's Response, amounted to conclusive identification as an Indian entity. Material in this category published since 1978 was not re-analyzed for the final determination, since the proposed finding had already concluded that the petitioner met criterion 83.7(a) since 1978.

The re-analysis has concluded that no matter what the context of the specific work under consideration (i.e., whether the book was titled as a survey of surviving Indian groups on the East Coast or titled as a survey of the Negro family in America), the sources presented as evidence by the petitioner and analyzed in the proposed finding did consistently identify the RMP as a mixed tri-racial isolate group to which tradition attributed a certain amount of American Indian ancestry.

There was no indication that any of these sources published between 1900 and 1978 were written by authors whose intent was to deny the RMP's "Indian" component on the basis of a "one-drop-rule" theory that any African ancestry made a community black. On the contrary, although they did not identify the RMP as an Indian entity per se, these authors consistently distinguished the RMP from contemporary (1970-1978) American Negro society. The RMP were described not as a white communi-

ty, or as a black community, or as a Native American community, but as an "other"--a unique and distinct community, with its uniqueness and distinctiveness specifically resulting from the perceived long-standing amalgamation of three races.

The implications of this consistent definition of the RMP as uniquely and distinctively "other" for criterion 83.7(a) are discussed more fully below.

Criterion 83.7(a)(5). See combined discussion under 83.7 (a)(4).

Criterion 83.7(a)(6). The RMI Proposed Finding also found that:

> No evidence was presented by the petitioner to indicate that the Munsee as a whole, individual Munsee-speaking tribes, or other Delawarean groups which moved west, maintained any type of contact with ancestors of the RMI in the later 18th, 19th, or first half of the 20th centuries (Proposed Finding 1993, Summary under the Criteria 2).

While the part of this conclusion relating to the 18th and 19th centuries is no longer relevant under criterion 83.7(a), it remains the case that in its response to the proposed finding, the petitioner presented no new evidence to indicate that the Munsee as a whole, individual Munsee-speaking tribes, or other Delawarean groups which moved west maintained any type of contact with ancestors of the RMI in the first half of the 20th century, the period from 1900 to 1950.

**Summary Conclusion under Criterion 83.7(a).** In the case of the RMI, taking all the ambiguities into consideration, there are several caveats that must be stated prior to making a determination on criterion 83.7(a).

Caveats. First, criterion 83.7(a) does not require that external identifications of the petitioning group have been factually correct in order to evaluate their relevance. Accepting the relevance of a given document for criterion 83.7(a) does not mean that the contents of that document were accurate.

Second, the BIA does not accept at face value the statements made since 1900 by anthropologists, historians, other scholars, and journalists about the petitioner's alleged connection with any known historical American Indian tribe. The factual basis of these statements are considered and analyzed under

criteria 83.7(b) and 83.7(c), where demonstration of continuous tribal existence since first sustained contact with non-Indian settlers until the present are still required.

Third, the BIA does not accept at face value the statements made since 1900 by anthropologists, historians, other scholars, and journalists about the alleged Indian ancestry of the RMP. The factual basis of these are considered and analyzed under criterion 83.7(e).

Fourth, the BIA requires that note be taken that the reduced burden of proof in the revised regulations has had the effect of separating out from evaluation under criterion 83.7(a) the analysis that was done in the proposed finding of how the attribution of partial Indian identity and ancestry to this petitioner developed in the literature between 1872 and 1900.

Conclusion. The nature and character of the evidence regarding criterion 83.7(a) have not changed from the proposed finding to the final determination. The BIA specifically denies that the treatment of this evidence in the proposed finding was arbitrary and capricious. The RMP, the group which included ancestors of the RMI, was described from 1900 until 1978 as an isolated community of mixed-race origins, or a tri-racial isolate, one of whose components was perceived to be Indian in origin.

The present petitioner has not presented as evidence under criterion 83.7(a) such traditional identifying source materials for Indian groups as the records of a former reservation, detribalization records, or recording on the special Indian population schedules of the Federal census in 1900 and 1910. Such sources have been used by various petitioners who have received positive decisions in the matter of Federal acknowledgment.

Within these limitations, the AS-IA has determined that identification by anthropologists, historians, and other scholars of the existence of a distinct tri-racial entity which is generally believed to have included an Indian component in its originating population shall be regarded as minimal evidence for identification of the existence of an American Indian entity under the regulations.

Therefore, we find that the petitioner has met criterion 83.7(a) since 1900, under the reduced burden of proof standard required by the 1994 revision of the regulations.

## Criterion 83.7(b)

**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.**

**Proposed Finding.** The 1978 Federal acknowledgment regulations, under which the Proposed Finding was prepared, stated under criterion 83.7(b) that the petitioner must present:

> Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area and that its members are descendants of an Indian tribe which historically inhabited a specific area (43 F.R. 172, 39363).

The Proposed Finding concluded that the RMI did not meet this criterion at any point in time, for although there was substantial evidence that a distinct community had existed for a portion of the petitioner's history, from approximately 1870 until approximately 1950, this community had neither been "viewed as American Indian" nor were its members "descendants of an Indian tribe which historically inhabited a specific area."

**Impact of the 1994 revised Federal acknowledgment regulations.** The RMI chose, on April 22, 1994, to have their petition evaluated under the revised 1994 regulations, which contain new wording for the social community requirement:

> A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present (CFR 25 §83.7(b); 59 F.R. 38, 9295).

Under the 1994 revised regulations, there must be evidence that establishes, as a minimum, a reasonable likelihood that the petitioner has been a distinct community from historical times to the present. Criterion 83.7(b) no longer requires evidence that a petitioner's community has been <u>viewed as American Indian</u> as well as "distinct from other populations in the area," as had been required for criterion 83.7(b) under the 1978 regulations.

It should be noted that in the 1994 revision the issue of demonstrating descent from an Indian tribe has also been analytically separated from the consideration of community, and is now considered under 25 CFR §83.7(e).

**Comment.** One of the comments received from Dr. Karen Cantrell, an interested party, seemed to imply that the 1994 revision of the Federal acknowledgment regulations imposed a new, more strict requirement for the community criterion (25 CFR §83.7(b); see Cantrell 1995/7/5, RMI Response Ex. 16). It appears that Dr. Cantrell distinguished between the Proposed Finding terminology "community" and "social community." She assumed that the latter concept was more strictly defined and, therefore, required a different kind of evidence. This is not the case. With the exception of the modifications specifically addressed in this Summary under the Criteria, which have worked to the advantage of the RMI petitioner, the standard for the maintenance of community in the 1994 revised regulations is the same as it was in the 1978 regulations.[1] While the 1994 regulations changed the wording and contain more specific examples of evidence that is acceptable to the Secretary, the standard has not been changed.

The Proposed Finding used the terms "community" and "social community" interchangeably. The regulations under 25 CFR Part 83 provide the following definition for community: "any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. Community must be understood in the context of the history, geography, culture, and social organization of the group" (25 CFR §83.1).

The term "geographical community" is used as a designation for people living in a village-like setting. It is accepted by the regulations as a high level of evidence if more than 50% of the petitioner's members live in such a setting. This means that the BIA is willing to assume that people who share kinship ties and live in a limited, homogeneous, isolated geographical area are interacting with each other in significant ways, if there is no significant evidence to the contrary. Some of the petitioners since 1978 have successfully met this level of evidence, but most have not.

[1] This is true for all seven criteria listed in the regulations for Federal acknowledgment (25 CFR §83.7(a)-(g)).

Petitioners are not, however, required to provide evidence at this high level. If there is no evidence for the existence of an endogamous community or a geographical community, the regulations provide for other forms of evidence that fulfill the requirement for community. These include newspaper articles, local histories, diaries, church records, personal correspondence, oral histories, and any other sources of information that might produce evidence concerning the social interaction of group members. This procedure is precisely how the Proposed Finding arrived at the conclusion that the RMP community was distinct from 1870 to 1950. The analytical concept of "social community," therefore, is not a stricter requirement under the new regulations. It is used as a synonym for community, and the standard for community remains the same.

**Summary of the Evidence under Criterion 83.7(b).** Contrary to the RMI Response's assertions, the petitioner has not documented that the RMP coalesced into a distinct community until around 1870. The RMI Response presented no new evidence to support the assertion that the RMP have been a continuous community from colonial times to the present. In conducting its evaluation of the RMI petition, the RMI Response to the Proposed Finding, and comments from interested parties, the BIA found no new evidence to support the contention that the RMP social community had existed from colonial times to 1870.

Also, the petition did not provide acceptable evidence which clearly demonstrated that the RMI social community continued to exist from 1950 to the present. The RMI Response offered no new evidence concerning the community of the RMI from 1950 to the present. BIA researchers found only limited, anecdotal evidence for RMI social community from 1950 to the present.

**Summary Conclusion under Criterion 83.7(b).** The change in wording for 25 CFR §83.7(b) in the 1994 revised regulations requires a modification in the conclusion reached in the Proposed Finding. The Proposed Finding found that there was sufficient evidence that the RMP were a distinct community from about 1870 to 1950. Nevertheless, because they were not a distinct American Indian community whose members were "descendants of an Indian tribe which historically inhabited a specific area," the petitioner failed to meet the requirements of 25 CFR §83.7(b) for that time period.

Under the revised regulations, however, it is now determined that the petitioner meets criterion 83.7(b) at a high level of evidence from 1870 to 1950, because the qualifying "viewed as American Indian" language has been dropped from the revised

regulations. The conclusion that the RMP distinct community met criterion 83.7(b) from 1870 to 1950 at a high level of evidence is based on the more complete data on group endogamy found by BIA researchers in the Ramapo Presbyterian Church Register during evaluation of the RMI Response. The change is consistent with the Proposed Finding since the Proposed Finding did determine that the RMI were a separate community for these years. The pattern of over 50 percent group endogamy is consistent with evidence which indicates close residential patterning for the RMI ancestors for much of the same period. Thus, we agree, in part, with conclusions in the RMI Response that the 1994 revised regulations necessitate a change in the finding for criterion 83.7(b), but only for the period from 1870 to 1950.

The petitioner has not documented that the RMI and their antecedent group, the RMP, have existed as a continuous community from the time non-Indians first established themselves in the New York-New Jersey area to 1870. It remains the conclusion of the AS-IA that the RMI's ancestors have not been shown to have formed a distinct community in the Ramapo Mountains until about 1870. Because the petitioner has not demonstrated community before 1870, the group does not meet criteria 83.7(b) or 83.7(c) prior to 1870. Also, very little acceptable evidence was presented to show that the current members of the RMI have continued to maintain a social community from 1950 to the present.

Therefore, the petitioner has not meet the overall requirements of criterion 83.7(b). The 1994 revised regulations still require that community be in evidence from first sustained contact with non-Indians to the present.

We conclude that under the 1994 revised 25 CFR Part 83, the petitioner does not meet criterion 83.7(b) prior to 1870 or from 1950 to the present. Therefore, the petitioner does not meet criterion 83.7(b).

## Criterion 83.7(c)

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

**Proposed Finding.** The Proposed Finding concluded that the petitioner did not meet criterion 83.7(c) at any point in

time. The RMI Response to the Proposed Finding did not present any new evidence with regard to criterion 83.7(c).

**Impact of the 1994 revised Federal acknowledgment regulations.** The final determination concludes that the RMP community, antecedent to the RMI, met criterion 83.7(c) for a limited period, from 1870 to about 1950. This determination that the RMP met criterion 83.7(c) from 1870 to 1950 is the result of the new, explicit linkage in the 1994 revised regulations between criteria 83.7(b) and 83.7(c). The revised regulations state that a petitioner meeting criterion 83.7(b) at a high level of evidence at any point in time will be assumed to have met 83.7(c) at that same point in time.

Under the revised 1994 regulations, if the petitioner meets criterion 83.7(b), the maintenance of community, at a high level of evidence (for example, 50 percent of the membership lives in an isolated, homogeneous, geographical community, or there is at least 50 percent endogamy among the group's members), then the regulations assume automatically that political authority has also been maintained within the community: "A group that has met the requirements of paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time" (25 CFR 83.7(c)(3)).

Since the AS-IA has concluded that the RMP community antecedent to the RMI met criterion 83.7(b) at the high level of evidence from 1870 to 1950, they therefore met 83.7(c) for the same period. The evidence supporting this conclusion is discussed in detail in the technical report that accompanies this final determination.

This final determination, therefore, concludes that, from 1870 to about 1950, the RMI met criterion 83.7(c) because they met criterion 83.7(b) at the high level of evidence, based on the high rate of endogamy (over 50 percent) and the high percentage of members living in a geographical community (over 50 percent).

**Comment.** The RMI Response did not present any new evidence directly pertaining to criterion 83.7(c). No third-party comments addressed criterion 83.7(c).

**Summary of the Evidence under Criterion 83.7(c).** Continuous exercise of political influence and authority has always been required under the Federal acknowledgment regulations, and this requirement has been met by all successful petitioners. For example, in their original petition and in their response

to their own Proposed Finding, the Mohegan Tribe provided evidence of continuous political authority in the group from 1641 to the present. This requirement has been met by other successful New England petitioners as well (see the Proposed Findings and Final Determinations for the Wampanoag Tribal Council of Gay Head in Massachusetts and the Narragansett Tribe in Rhode Island).

Without the benefit of the assumption of political authority that was made for the period from 1870 to 1950 under the revised regulations, the petitioner needed to present evidence demonstrating political authority for two distinct periods: from the time of first sustained contact with non-Indians to 1870, and from 1950 to the present. This would have included evidence that: political authority was vested in the membership as a whole; that the members and leadership maintained a bilateral political relationship; that the leaders represented their members on matters of importance to the group as a whole; that the members communicated to their leaders their opinions on issues of importance to the group, that members were able to influence their leaders on such issues; and that the leaders in whom the authority is vested were able to influence the behavior of group members.

The petitioner did not present such evidence, nor was such evidence located by BIA researchers.

**Summary Conclusion under Criterion 83.7(c).** The RMI petition did not present evidence that the RMP maintained any political influence or authority from historical times (from the time of first sustained contact with non-Indians) to 1870. The petition also did not present evidence that established a reasonable likelihood that the RMI had maintained political authority from 1950 to the present. Without the linkage to criterion 83.7(b) for a high level of evidence for the maintenance of community, the regulations do not assume that the RMP maintained political influence or authority before 1870 and from 1950 to the present.

Therefore, the conclusion of the Proposed Finding stands: the petitioner does not meet the requirements of criterion 83.7(c).

## Criterion 83.7(d)

**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.**

**Proposed Finding.** The Proposed Finding concluded that the petitioner had met criterion 83.7(d).

**Comment.** A comment received from the office of the Attorney General of the State of New Jersey, as an interested party, challenged the conclusion, on the grounds that the RMI did not have clearly established membership criteria to which the organization adhered.

**Summary of the Evidence under Criterion 83.7(d).** The Federal regulations for acknowledgment do not compel a petitioner to meet prescribed standards regarding membership or to follow its own membership criteria and governing procedures. Criterion 83.7(d) requires only that the petition provide a copy of its governing document, and that either this document or a separate written statement must provide a full description of the governing procedures and membership criteria. The RMI provided this information.

**Summary Conclusion under Criterion 83.7(d).** The conclusion of the Proposed Finding that the petitioner meets criterion 83.7(d) stands.

## Criterion 83.7(e)

**83.7(e) 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.**

**(1) Evidence acceptable to the Secretary which can be used for this purpose incudes but is not limited to:**

**(i) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes;**

(ii) State, Federal, or other official records of evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

(iii) Church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

(iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants f a historical tribe or tribes that combined and functioned as a single autonomous political entity.

(v) Other records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

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

**own defined criteria, as well as a statement describing the circumstances surrounding the preparation of the current list and, insofar as possible, the circumstances surrounding the preparation of former lists.**

**Proposed Finding.** The Proposed Finding concluded that the RMI did not meet criterion 83.7(e) of the Federal acknowledgment regulations because the petitioner had not presented and BIA staff had not located any evidence that the earliest proven ancestors of the four core families, DeFreese, Van Dunk, Mann, and DeGroat, were Indian, were of Indian descent, or were affiliated with any of the tribes in the New York-New Jersey border area at the time of historic contact.

Historians, anthropologists, and journalists have mentioned many tribes as possible precursors of the RMI: Munsee, Minisink, Tuscarora, Creek, Lenape (generically), Hackensack, and Delaware. However, none of the documentation submitted by the petitioner or any other documents reviewed for the proposed finding connected the earliest documented RMI ancestors with any of the tribes that once resided in New York or New Jersey.

The provisions of the 1978 25 CFR Part 83 regulations under which the Proposed Finding was prepared were essentially the same as the 1994 revised regulations regarding tribal ancestry under criterion 83.7(e). They read:

> (e) A list of all known current members of the group and a copy of each available former list of members based on the tribe's own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity. Evidence acceptable to the Secretary of tribal membership for this purpose includes but is not limited to:
>
> (1) Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;
>
> (2) State, Federal, or other official records or evidence identifying present members or ances-

> tors of present members as being an Indian descendant and a member of the petitioning group;
>
> (3) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity;
>
> (4) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant of the tribe and a member of the petitioning entity;
>
> (5) Other records or evidence identifying the person as a member of the petitioning entity (43 F.R. 172, 39363).

The November 17, 1992 membership list of the RMI contained 2,815 names, including 122 names marked as deceased. For acknowledgment purposes, names of deceased persons were subtracted from the 1992 list, leaving the petitioner with an estimated membership of 2,693. The petitioner did not submit an updated membership list in its Response to the Proposed Finding. Therefore, the 1992 list was referred to for this final determination. The BIA has no reason to believe that the membership of the RMI changed in any significant manner since the Proposed Finding.

The Proposed Finding concluded that the earliest proven RMI progenitors were John DeFreese, born before 1790, James DeGroat, born about 1792, William R. DeGroat, born about 1814, John DeGroat, born about 1821, William Mann, born about 1827, John Van Dunk, probably born about 1780, and possibly, a second man named John DeGroat, born about 1797, and their wives. The Proposed Finding concluded that virtually every current RMI member descends from at least two of the four families of Van Dunk, DeFreese, DeGroat, and Mann because of a high rate of endogamy which could be documented beginning in the early 1800's.

**Comment.** The RMI Response did not present any new evidence under criterion 83.7(e), but reanalyzed evidence that had been presented with the original petition. The RMI Response emphasized attributions of Indian "characteristics" that were ascribed by outside observers to some RMI ancestors, and to collateral relatives of direct RMI ancestors, in the late 1800's and early 1900's as proof of Indian "descent."

Third-party comments also failed to present new genealogical evidence. Both the RMI Response and comments by interested and informed parties referred to long-standing traditions of Indian ancestry as "evidence" that the RMI descend from a historical tribe of Indians. However, no documentary evidence

was submitted to connect the earliest known RMI ancestors with any 18th century progenitors, be they Indian or non-Indian.

**Summary of the Evidence under Criterion 83.7(e).** None of the evidence submitted by the petitioner or uncovered during the research process identified the parentage or origin of the proven early 19th century progenitors of the RMI.

The petitioner presented no claims, allotment, or annuity rolls prepared by the Secretary (83.7(1)(i)). The petitioner presented no State, Federal, or other official records or evidence identifying the earliest known ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity (83.7(1)(ii)). The petitioner presented no church, school, or other similar enrollment records identifying the earliest known ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity (83.7(1)(iii).

The petitioner's response cited two DeGroat men, one of whom has no known descendants in the modern RMI, who were referred to as "7/8th's Indian" on a New York State census entry in 1875. Neither man was referred to as Indian on any other census record, nor were their parents or other siblings ever identified as Indian or of Indian descent in their own lifetimes. The 1875 New York census provided no tribal identification.

In like manner, the petitioner's response cited the identification of a man named Florence Maguiness as Indian on the 1870 Federal census. The 1870 Federal census provided no tribal identification. The immediate family members of Florence Maguiness, who was identified as Indian on the 1870 Federal census, were not identified as Indian or of Indian descent on any other census, church or civil record in their own lifetimes. None of Florence Maguiness' known descendants are in the RMI, although there are a few descendants of his collateral relatives in the membership.

The Federal regulations for the acknowledgment of a tribe of American Indians do not permit acknowledgment on the basis of the petitioner's assertion that the group's unknown and unnamed 18th century ancestors were Indian. Beyond "Indian" ancestry, which in itself has not been shown to exist for the RMI, the petitioner has not demonstrated specific tribal ancestry as required by the Federal regulations in order to meet criterion 83.7(e).

In making this Final Determination, the BIA has reviewed the evidence used to prepare the Proposed Finding, the RMI response to the Proposed Finding, and additional research conducted for the Final Determination by BIA staff. None of the interested party or third party comments were directed to the specific genealogies of the RMI progenitor families. None of the interested party or third party comments provided substantive proof that the earliest proven RMI ancestors descended from a historical tribe of North American Indians. Therefore, the third-party comments were not directly pertinent to criterion 83.7(e).

None of the outside observers cited in the RMI Response provided documentation of actual tribal descent. Statements of generically "Indian" characteristics are not equivalent under the 25 CFR Part 83 regulations to documented descent from "a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity." Statements concerning more general "Indian" descent are not in themselves adequate to meet criterion 83.7(e), and must also be evaluated in the full context of the available evidence.

Neither the petitioner nor BIA staff researchers were able to identify the ancestors of the earliest known RMI progenitors or to trace them to a historical 18th century tribe with a continuous existence in southeastern New York or northeastern New Jersey from the colonial period until the present. This situation offered a clear contrast to other petitioners from the eastern United States that have received Federal acknowledgment through the 25 CFR Part 83 process, such as the Narragansett, the Gay Head Wampanoag, or the Mohegan. In those cases, a clear historical and genealogical record tied the petitioner's modern membership to a specific historical tribe.

**Summary Conclusion under Criterion 83.7(e).** In conclusion, the origins and parentage of the earliest genealogically proven ancestors of the petitioner are not known. The petitioner has not demonstrated that their earliest documented ancestors were members of a historical North American Indian tribe, nor has the petitioner documented that their earliest proven progenitors descended from any known historical tribe of North American Indians. Without documentation, the BIA cannot make an assumption, on the basis of late 19th-century and early 20th-century ascriptions, that these unknown RMI ancestors were members of a historical North American Indian tribe. The petitioner has not presented acceptable evidence that the RMI descend from a historical Indian tribe, or from

tribes which amalgamated and functioned as a single unit, either as individuals or as a group.

Therefore, the Proposed Finding that the RMI had not documented descent from a historical tribe stands. The Final Determination concludes that the petitioner does not meet criterion 83.7(e).

### Criterion 83.7(f)

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.**

**Proposed Finding.** The Proposed Finding concluded that there was no evidence that the membership of the RMI was composed principally of persons who were members of other federally acknowledged Indian tribes.

**Comment.** No comments pertaining to this conclusion were received during the comment period.

**Summary of the Evidence under Criterion 83.7(f).** No evidence to refute the conclusion of the Proposed Finding was received during the comment period.

**Summary Conclusion under Criterion 83.7(f).** The conclusion that the petitioner meets criterion 83.7(f) stands.

### Criterion 83.7(g)

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

**Proposed Finding.** The Proposed Finding concluded that there was no evidence that the RMI petitioner represented an Indian group which had been the subject of congressional legislation that expressly terminated or forbade the Federal relationship.

**Comments.** No comments pertaining to this criterion were received during the comment period.

**Summary of the Evidence under Criterion 83.7(g).** No evidence to refute this conclusion was received during the comment period.

**Summary Conclusion under Criterion 83.7(g).** The conclusion that the petitioner meets criterion 83.7(g) stands.

# FINAL DETERMINATION

# RAMAPOUGH MOUNTAIN INDIANS, INC.

January 18, 1996

United States Department of the Interior

Bureau of Indian Affairs

Branch of Acknowledgment and Research

(202) 208-3592

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IN SUPPORT OF FINAL DETERMINATION

RAMAPOUGH MOUNTAIN INDIANS, INC.

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## EVALUATION PROCEDURE UNDER 25 CFR PART 83

### Purpose of the Federal acknowledgment regulations.

> **The purpose of the acknowledgment process is to acknowledge that a government-to-government relationship exists between the United States and tribes which have existed since first contact with non-Indians** (25 CFR Part 83, "Standards of Evidence and Stringency of Requirements," 59 F.R. 38, 1981).

The purpose of the regulations for Federal acknowledgment of American Indian tribes (25 Code of Federal Regulations Part 83) is the establishment of a government-to-government relationship between the United States and Indian groups that have existed continuously since first sustained contact with non-Indian settlers. In 1994, revised Federal acknowledgment regulations were published in the Federal Register (59 F.R. 38 (February 25, 1994), 9280-9300), after a lengthy period of dialogue with the unrecognized Indian groups, recognized Indian tribes, scholars, and other interested parties. The revision of the regulations in 1994 did not alter either the basic purpose of the acknowledgment procedure or the standards of continuity of tribal existence. The revised regulations in some circumstances reduced the burden of evidence to be provided.

The revised acknowledgment regulations provided a choice to petitioners whose petitions were already under active consideration. They could opt either to continue having the petition evaluated under the 1978 regulations or to change to the revised 1994 regulations. The Ramapough Mountain Indians, Inc. (RMI) exercised their option to have their petition evaluated under the revised regulations.

**Acceptable evidence and unacceptable evidence in the RMI Response and in third party comments.** A number of written comments on the RMI Proposed Finding from third parties (both interested and informed; for definitions and roles of third parties, see 25 CFR 83.1 and 83.10(i)) were submitted. Most of them were one- or two-page letters, either expressing support for, or opposition to, the acknowledgment of the RMI. Most of these letters did not address the seven mandatory criteria or provide new evidence. Those letters which did not address the criteria (25 CFR 83.7(a-g)) were not influential in the evaluation of the evidence and preparation of the Final Determination. A letter of this nature

was received from Roy Scheulen, President of the Genealogical Society of Rockland County (Scheulen 1995/6/18, RMI Response Ex. 5). The same form letter was signed by Marie Koestler, Past President of the Genealogical Society of Rockland County (Koestler 1995/6/18, RMI Response Ex. 5) and by Craig H. Long, Town Historian of Ramapo, New York (Long 1995/6/30, RMI Response Ex. 5). A single, joint letter was received from Jeffrey Keahon and Debra Walker of the Historical Society of Rockland County (Keahon and Walker 1995/6/22, RMI Response Ex. 6).

The BIA also received a number of letters from town officials and other local sources concerning the denial of tribal acknowledgment to the RMI. Under the acknowledgment regulations, town officials and councils, like other interested parties living in the vicinity of the petitioner, are allowed to submit evidence concerning whether or not the petitioner meets the mandatory criteria in 25 CFR Part 83. Most of the letters from town officials, both pro and con, did not include any evidence that was pertinent to the criteria in the acknowledgment regulations. They usually consisted of simple and unresearched statements of support for, or opposition to, RMI acknowledgment. Letters of this nature also did not carry any weight in the evaluation process.

Because they did not address the requirements of the acknowledgment criteria, the following letters from the public, letters from town councils and their members, a newspaper editorial (Rockland Journal News, September 9, 1993, RMI Response Ex. 25) and a community petition (RMI Response Ex. 21; labelled "Petition in Favor of Recognition for the RMI Tribe") were not considered as evidence in formulating the recommendation of this Final Determination: Maia Wojciechowska (Wojciechowska 1995/6/6 and Wojciechowska 1995 6/24, RMI Response Ex. 8; also Wojciechowska 1993/7/26, RMI Response Ex. 25); Herbert Reisman, Supervisor, Town of Ramapo, New York (Reisman 1995/6/15, RMI Response Ex. 22); Robert Frankl, Mayor of the Village of Wesley Hills (Frankl 1995/6/12, RMI Response Ex. 22).

One letter dated May 8, 1995, from the Office of the New Jersey Attorney General, was submitted as "comment" under the meaning of the Federal regulations (25 CFR 83.10 (i)):

> Please accept this comment, on behalf of the State of New Jersey, supporting the Bureau of Indian Affairs' (BIA) proposed negative finding denying acknowledgment of the petitioner, Ramapough Moun-

> tain Indians, Inc. (RMI), federal [sic] acknowledgment as an Indian tribe (New Jersey. Office of the Attorney General 1995/5/8).

According to this letter, the State of New Jersey concurred with the BIA proposed finding, with one exception regarding criterion 83.7(d). The State of New Jersey contended that the RMI did not meet criterion 83.7(d) regarding providing a full description of its membership criteria and current governing procedures, on the grounds that the document submitted was not an accurate reflection of the petitioner's practices.

The Proposed Finding stated:

> The petitioner has submitted copies of its governing documents which describe the membership criteria and the procedures by which the petitioner governs its affairs and its members. Although it is not clear how the membership criteria is applied, we conclude that technically the petitioner meets criterion d [sic] (RMI PF, Summary Under the Criteria 18).

The Federal regulations for acknowledgment do not compel a petitioner to meet prescribed standards regarding membership or governing procedures. Criterion 83.7(d) simply stipulates that the petitioner meet a technical requirement of the regulations by submitting a copy of its governing document which describes the group's membership criteria and governing procedures.

A letter indicating political support for the RMI petition for acknowledgment was received from the Stockbridge-Munsee Community, Band of the Mohican Indians (Murphy 1995/6/29, RMI Response Ex. 17). Also submitting letters were The Six Nations Council (Williams 1995/7/10, RMI Response Ex. 20) and the Munsee-Delaware Nation (Dolson 1995/6/28, 1995, and a tribal resolution, RMI Response Ex. 19), both Canadian Indian tribes. None of these tribes submitted any new evidence. Instead, they simply expressed their "support" for RMI acknowledgment. Because they provided no new evidence, these letters were not considered in the evaluation of the evidence and preparation of the Final Determination.

In a letter from United States Congressman Robert Torricelli to Secretary of the Interior Bruce Babbitt (Torricelli 1993/5/4, RMI Response Ex. 25), Mr. Torricelli indicated his support for Federal acknowledgment of the RMI unless the RMI made plans to do Indian gaming. This was another example of

support for the petitioner which was not based on evidence that addressed the mandatory criteria for acknowledgment of an Indian tribe.

If a group of people exists as an Indian tribe, the group does not cease to be an Indian tribe if the tribe's members decide to enter into Indian gaming. Because this letter provided no new evidence, it was not considered in the evaluation of the evidence and preparation of the Final Determination.

Letters from informed parties such as anthropologists, historians, and genealogists were also received during the comment period. Generally, these letters were supportive of the RMI efforts to become acknowledged by the Federal government, though few of them presented evidence that addressed the mandatory criteria. Those comments from scholars that did address the criteria are discussed in the Summary of the Evidence for this Final Determination.

A number of comments were received that did not present any new evidence from scholars. For example, a letter was received from anthropologist Dr. Susan Greenbaum which maintained that the BAR researchers were prejudiced against the "Ramapo" [sic] because they would build a casino if they were acknowledged. According to Dr. Greenbaum, this alleged bias against the RMI was revealed in the history and anthropology reports by the discussions of RMI minutes (Greenbaum 1995/6/24, RMI Response Ex. 14; see also Grabowski 1995/7/6, RMI Response Ex. 15). The same issue was raised by the petitioner in several technical assistance meetings.

Indian gaming is legal and benefits many Indian tribes. The policy of the BIA is to support the development of Indian tribes, including Indian gaming. The BIA does not treat petitioners negatively because they intend to enter Indian gaming if recognized. This would be contrary to Federal law and to BIA policy and practice. The Government has recognized other petitioners who openly discussed their interest in Indian gaming, when they met the seven mandatory criteria.

There was a good reason why the Proposed Finding considered Indian gaming as evidence under criteria 83.7(b) and 83.7(c). Gaming was considered in the Proposed Finding because the RMI council minutes were dominated by discussions concerning gaming and there were numerous newspaper articles about the group's plans to build a casino (RMI PF, Historical Technical Report 95-101; RMI PF, Anthropological

Technical Report 28; BAR FD 1993). This led the anthropologist to consider the possibility that gaming might be a serious political issue within the group; that is, that gaming was of concern to a large number of RMI members, across extended family lines. This possibility also appeared to be reasonable given the larger context of tribal politics in the United States, where Indian gaming has become a lively political issue for many recognized Indian tribes.

If the anthropologist's field work had confirmed that the RMI membership showed widespread concern about this issue (or other issues), it would have been considered positive evidence for the existence of bilateral political influence within the modern group. The anthropologist followed this up while in the field by asking interviewees about the issue, but found that gaming was not important to the RMI outside of a few council members. Therefore, the issue could not be used as positive evidence for political authority within the group. In fact, gaming was repeatedly played down by the council members as not being very important.

The petitioner has expressed concern that the BAR researchers were "caving in" to pressure from non-Indian gaming interests, naming, most often, Donald Trump. The BAR has not been lobbied by gaming interests generally, nor have the BAR researchers been contacted either by Mr. Trump or by anyone who identified himself as Mr. Trump's representative more specifically. The BAR staff members do typically keep up with current events in Washington, D.C., and they are aware that Mr. Trump has lobbied the United States Congress against the acknowledgment of some unrecognized Indian groups. In addition, the petitioner has submitted information on Donald Trump's activities to the BAR.

The BIA does not deny acknowledgment to petitioners on the grounds that they contemplate Indian gaming. For example, the BIA acknowledged the Mohegan Indian Tribe of Connecticut in its 1994 Final Determination, even though it was known that they were planning to build a casino and theme park. The recommendation to acknowledge the Mohegan was forwarded to the Assistant Secretary - Indian Affairs (AS-IA) in spite of strong political opposition from the state and local governments over the issues concerning the construction of a gaming facility. The recommendation was based on the new evidence pertaining to the mandatory criteria submitted by the Mohegan Tribe which, like the RMI, had received a negative Proposed Finding.

The letter from John A. "Bud" Shapard, a former BAR Branch Chief who currently acts as consultant to unrecognized Indian groups, can also be considered in this context. Mr. Shapard asserted that the Mohegan petition was interpreted more "leniently" in light of the regulations than the petition of the RMI (Shapard to Ada Deer 1995/7/5, RMI Response Ex. 13; see similar argument in Grabowski 1995/7/6, RMI Response Ex. 15). The letter did not specify any evidence to support this assertion. The major difference between the RMI and Mohegan petitions was the evidence submitted by the respective petitioners, supplemented by the evidence found by the BIA during its evaluation of the petitions. The Mohegan Tribe had extensive primary source documentation concerning its members' Indian tribal ancestry, as well as reliable, satisfactory evidence demonstrating the continuous maintenance of their social community and the exercise of leadership within that community from first contact with Europeans (1641) to the present. For example, the Mohegan lived on a Connecticut State Indian reservation before 1871, and traced their genealogies to an official State 1861 allotment roll. Prior to the allotment of the reservation, the tribe could be traced through official Connecticut State overseers' reports and censuses. The Mohegan petition and the RMI petition differed in the kind and quality of evidence presented.

The petitioner did not submit nor did the BAR researchers locate any primary source documentation demonstrating tribal Indian ancestry for the RMI, from the Munsee or any other historical tribe of Indians. There was also no primary source documentation presented establishing a reasonable likelihood that the Ramapo Mountain People (RMP) were a distinct community before 1870 or that the RMI membership had remained a distinct community since 1950.

A letter from Henry Bischoff (Professor of History and Urban Studies, Ramapo College) was included as an exhibit in the RMI Response to the Proposed Finding (Bischoff 1995/6/5, RMI Response Ex. 7). Professor Bischoff stated that he had no specialization in Native American studies and that, therefore, the book he co-authored on the growth of Mahwah, New Jersey (Bischoff and Kahn 1979) should not have been used as evidence against the RMI in the Proposed Finding. He also said that his book should not have been used against the RMI because it had not used primary sources. In contrast, the RMI Response, and the letters of several third parties (Sessions 1995/6/19, RMI Response Ex. 9), had indicated that the BAR researchers had not adequately considered the work of local historians who had written about the RMI, citing

Bischoff among the local historians whose work should be considered in evaluating the RMI petition (Sessions 1995/6/19, RMI Response Ex. 9).

The BAR researchers regularly consult local histories, including the work of local amateur historians, as potentially valuable secondary sources of information on a petitioning group. The BIA does not assume that all local histories are reliable on their face: rather, the BAR researchers evaluate each book and/or article for the soundness of primary source evidence drawn upon for the history and the consistency of the internal logic in drawing conclusions recorded in it. So-called "historical" accounts, based purely on speculation, are given no weight in preparing the recommendations.

In the case of the book co-authored by Bischoff, the BAR researchers concluded that the authors had done careful, primary source research, particularly on Civil War records of some of the RMI's ancestors. Therefore, his book was consulted as a potential source of information on some RMI member families. It was used as a neutral source of historical background information on the RMP, and the RMI more specifically. The information on the RMI ancestors in the book was sparse, so it was in no way critical to the recommendation made by the BAR on any of the seven mandatory criteria (25 CFR §83.7(a)-(g)).

One of the comments received from an interested party seemed to imply that there was a new, more strict requirement for the community criterion applied to the RMI than used in prior proposed findings (25 CFR 83.7(b); see Cantrell, 1995/7/5, RMI Response Ex. 16). Dr. Cantrell distinguished the Proposed Finding terminology "community" and "social community," assuming that the latter concept was more strictly defined and therefore required a different kind of evidence. This is not the case.

Finally, a letter from Stewart J. Rafert (historian and author of the Miami Nation of Indian's Petition for Federal acknowledgment) (Rafert n.d. [c1995], RMI Response Ex. 10) maintained that the BAR genealogist who evaluated the RMI petition was not qualified " . . . to make judgements [sic] on ethnic boundaries and what constitutes an Indian" (Rafert n.d. [c1995], RMI Response Ex. 10). Judgments on "ethnic boundaries" are more the domain of the anthropologist and the historian than that of the genealogist. The data collected by the genealogist can sometimes be used by the anthropologist and the historian who determine if there are

boundaries between ethnic groups in an area. It is part of the genealogist's task to evaluate material concerning the petitioning group's ancestry and descent from a historical Indian tribe. The genealogist's primary role is to determine whether the petitioning group descends from a historical American Indian tribe by finding documents, analyzing them, and drawing conclusions about a group's ancestry based on them, in order to evaluate the claims in a petition for Federal acknowledgment.

The letter from Dr. Rafert implied that some researchers in the BAR have more influence than others in the recommendation-making process. When evaluating a petition, the BAR researchers work in teams of three: a historian, a genealogist, and an anthropologist. However, the recommendations of the BAR are the recommendations of at least seven professionals, who conduct an extensive peer review before a recommendation is reached on the basis of consensus. The peer review process includes the three researchers assigned to evaluate the petition, three peer reviewers from the same disciplines, and the Branch Chief of the BAR. Other staff members are sometimes called into the peer review sessions when their technical expertise is needed. The reports submitted by contractors to the BIA are not accepted without evaluation and are submitted to the same process of peer review. Contractors do not evaluate the petition and evidence under the mandatory criteria. The use of peer review eliminates the potential for any one person to unduly influence a recommendation.

Once a consensus is reached by the BAR, the recommendations are forwarded to the AS-IA through the BIA review process, adding to the list of knowledgeable professionals who review the decision before it is finalized and published. No one person formulates recommendations unilaterally concerning any of the criteria. Through the peer review process, the BIA submits its own research and conclusions to the same rigorous evaluation that it performs on the research of others. The peer review team helps the BIA research team to question assumptions about the evidence in each petition and in the BIA reports. Peer reviewers look for logical and factual inconsistencies in the technical reports, to make sure that the three primary researchers are in agreement on the facts in the petition. Peer review also ensures that BIA's recommendations comply with the standards in the regulations, and that they are consistent with standards used in and precedents set by prior Federal acknowledgment decisions.

## Historical Methodology

**Primary source documentation essential under 25 CFR Part 83.** The petitioner contends in the RMI Response that the Proposed Finding established an excessive requirement, beyond the regulations and guidelines, by maintaining that the continuous existence of a petitioning group as an Indian tribe since the time of first sustained contact with non-Indian settlers must be shown through the use of contemporary primary evidence (RMI Response 1995, B-3). Specifically, the RMI Response said:

> **Nowhere in the regulations or the guidelines does it state that a petitioner must use primary and/or contemporaneous source material to prove anything** [emphasis in original] (RMI Response 1995, B-3).

The requirement for contemporary primary evidence was not specifically stated in the regulations because it is universally regarded as a component of standard scholarly research methodology. The evaluation of evidence by the BIA under the 25 CFR Part 83 regulations is consistent with this standard scholarly research methodology, as evidenced by previous decisions. As examples of the standard requirement for contemporaneous source materials, we cite the following:[1]

> By a "source" the historian means material that is contemporary to the events being examined . . . The term is meant to be restrictive rather than inclusive, in that it attempts to indicate that works of secondary scholarship, or synthesis, are not sources, since the data have been distilled by another person (Winks 1970, xx).

Conversely, non-contemporary material is not direct evidence:

> Source often means what we call evidence; but as combined in the term "secondary source" it means just the opposite (i.e., material not produced by a witness). The words contemporary, original, or

[1] All historical research methodology manuals discussed in this section are in standard use in undergraduate and graduate training in the United States. Editions were chosen which had publication dates which would have made them available to the petitioner's researchers at the time the RMI documented petition was in preparation.

> primary are often combined with "source" to mean evidence. Note that what may be nonevidence ("secondary source") for one purpose, may be evidence ("primary source") for another: Mao Tse Tung's opinions of Karl Marx are not evidence for the life of Marx, who died before the Chinese communist was born, but Mao's views are evidence for studies of modern Marxism or modern views of Marx the man (Shafer 1980, 78 n2).

Standard manuals on historical research methodology, whether prepared for the training of undergraduate or graduate students in the discipline, emphasize the requirement that historians must use contemporary, primary sources in order to obtain valid results. Examples from two such manuals follow:

> The value of a piece of testimony usually increases in proportion to the nearness in time and space between the witness and the events about which he testifies. An eyewitness has a good chance of knowing what happened; a reporter distant from the event by only a few years has a better chance than one separated by a century (Barzun and Graff 1970, 149-150).

> The most important distinction is between material (written or other) produced by a *witness or participant* in events, and material produced by others, meaning (a) persons living at the time the events occurred but who did not witness or participate in them, and (b) historians living after the event. To be sure, nonwitnesses contemporaneous with the events often leave us a record of their conversations with witnesses, or relevant evidence on encircling events or environment. Thus "contemporary evidence" is a useful category to bear in mind, encompassing witnesses, nonwitnesses, and a third class of nonpersonal documents (e.g., constitutions) and artifacts (e.g., bludgeons, coins, feather capes) produced at the time. It is suggested, therefore, that the most useful categorization with this purpose in view is into "contemporary materials" ("materials" is more neutral than "sources") and "studies" (Shafer 1980, 77-78).

Therefore, it was not considered necessary to mention the point in the regulations. All prior Federal acknowledgment

decisions have required the petitioner to submit primary source documentation, generated at a time contemporary with the events under consideration.

**Verification and evaluation of historical documentation.** In addition to the basic distinction between contemporary evidence (primary sources) and secondary narratives produced at a later period, it is also necessary to verify the material used and evaluate its reliability. This is generally acknowledged as another basic--indeed, "central"--responsibility of historical method: "The central methodological problem for the historian, then, is to know how to interrogate witnesses, how to test evidence, how to assess the reliability and the relevance of testimony" (Winks 1970, 39). According to Boyd Shafer, at this point in the process of historical research, "We are . . . concerned with the different *forms* of evidence, and with the social and individual psychological factors that determine the *quality* and *credibility* of evidence" (Shafer 1980, 73).

The basic techniques for evaluating the reliability of historical evidence are well-established. Barzun and Graff stated the requirements in straightforward English:

> Faced with a piece of evidence, the critical mind of the searcher for truth asks the fundamental questions:
>
> Is this object or piece of writing genuine?
> Is its message trustworthy?
> How do I know?
>
> This leads to an unfolding series of subordinate questions:
>
> 1. Who is its author or maker?
> 2. What does it state?
> 3. What is the relation in time and space between the author and the statement, overt or implied, that is conveyed by the object?
> 4. How does the statement compare with other statements on the same point?
> 5. What do we know independently about the author and his credibility? (Barzun and Graff 1970, 149).

Shafer used somewhat more technical terminology, but to precisely the same effect:

> Using evidence requires knowledge of (1) external criticism, which determines the authenticity of

> evidence; (2) internal criticism, which determines the credibility of evidence;[2] (3) the grouping of evidence in relationships of various sorts; (4) the interpretation of evidence in the light of many factors and in the absence of others; and (5) exposition or the communication of evidence to others (Shafer 1980, 127).

Any one document must be collated with and corroborated by other evidence in order to determine in so far as possible if it is consistent.[3] If only one piece of evidence exists, it cannot be accepted on its face: its worth must still be evaluated.[4]

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[2] "What can be learned about the author's life and character helps make up our judgment . . . Was he there? Had he the expertness to appreciate the facts? Was he biased by partisan interest? Did he habitually tell the truth?" (Barzun and Graff 1970, 150).

[3] When we come to the problems of corroboration and contradiction, we . . . are now comparing evidence. It is proper to think of this either as a more complex type of analysis than that involved in the single document, or as a low level of synthesis. A major part of historical method relates to efforts to find corroborative evidence and weigh its quality, or to resolve problems arising from contradictory evidence, by corrobation [sic] for one explanation or another (Shafer 1980, 167-168).

[4] Difficult as this process [collation of various pieces of evidence] can be it occasions less doubt than the problem of the single source, where we have neither corroboration nor contradiction. . . . How much corroboration is required to make us feel comfortable in our interpretation? The answer is that it depends on (1) the problem (i.e., on what is being investigated--an entire culture, the location of a ford over a stream, a man's motives), and (2) what evidence is available (a three-line diary, 6,000 pages of legislation, no eyewitness reports, or the observations of 3,000 witnesses). It is foolish and simplistic to fix a number of corroborators, even of stated quality; e.g., two or more reliable and independent witnesses. We are not in a court of law. Reliability and independence are highly desirable in evidence, but two witnesses may give us no more of either than one witness. It depends both on the types of witnesses and on the types of problems (Shafer 1980, 168).

**Standard of proof under 25 CFR Part 83.** The RMI Response states that the standard of proof required under 25 CFR Part 83 is "reasonable likelihood" (RMI Response 1995, B-3). This takes a part of the regulations out of context. The full passage in 25 CFR Part 83, Sections 83.6(c), 83.6(d), 83.6(e), and 83.6(f) reads:

> (c) A petitioner must satisfy all of the criteria in paragraphs (a) through (g) of Section 83.7 in order for tribal existence to be acknowledged. Therefore, the documented petition must include thorough explanations and supporting documentation in response to all of the criteria. The definitions in Section 83.1 are an integral part of the regulations, and the criteria should be read carefully together with these definitions.
> (d) A petitioner may be denied acknowledgment if the evidence available demonstrates that it does not meet one or more criteria. A petitioner may also be denied if there is insufficient evidence that it meets one or more of the criteria. A criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. Conclusive proof of the facts relating to a criterion shall not be required in order for the criterion to be considered met.
> (e) 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 shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time. Fluctuations in tribal activity during various years shall not in themselves be a cause for denial of acknowledgment under these criteria.
> (f) The criteria in Section 83.7(a) through (g) shall be interpreted as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity (59 FR 38, 9295).

In order to evaluate the evidence under the criteria, the BAR historian employs the historical method, which requires

meticulous, detailed investigation of the provenance and credibility of statements found in the primary sources themselves. Additionally, it is necessary that, in historical research, close attention be paid to the basic chronology of the subject under study: "It is expected, of course, that the researcher into any subject will approach it with a well-developed sense of time . . ." (Barzun and Graff 1970, 116).

A census taken in 1870 or 1875 is only a secondary source for the ethnicity of the parents of a man or woman being enumerated. It cannot be relied upon, in and of itself, as showing "reasonable likelihood" of such ethnicity, and does not in itself provide a floor of adequate "evidence" from which further conclusions may be derived. It is not an axiom on the basis of which further postulates may be stated, any more than the statement in the blank for "birthplace" on a man's death certificate is primary evidence of his place of birth. If an 1850 census which enumerates the parents themselves does not accord with the 1870 or 1875 statement, then the full concatenation of available documentation pertaining to that family must be brought to bear in order to determine the reliability of this one piece of documentation, or "evidence."

A local history written in the 1880's, which does not cite its sources, cannot be relied upon as evidence for what was happening in the region a century earlier, although it may be useful as an indication of what documents the historian should look for. An article written in the 1890's describing a settlement does not provide primary evidence for circumstances in 1810, or in 1840. Residential patterns, population, and economic circumstances may have changed drastically in the interval. In the United States in the 19th century, they certainly did. No reasonable scholar would accept a description of northern New Jersey and southern New York in 1890, however accurate, as providing a description of the population distribution of the same area a half-century earlier.

**Evaluation of folkloric material.** In addition to keeping a close focus on chronology, both of the events under study and of the documentation pertaining to those events, the historian needs also to investigate the possible folkloric component in the written record. Researchers, while

utilizing oral tradition, remain aware that it cannot be accepted without independent confirmation:

> Consider the sort of inquiry that leads to the exploding of a legend. Legends abound and flourish despite the verifiers. But this does not lessen the importance of verification, . . . . (Barzun and Graff 1970, 116).

A recent, excellently documented, example of the deconstruction of such a very elaborate historical legend, which had previously been accepted by both state-issued materials and National Park Service materials, is Carl A. Brasseaux's tracing of the development of the Acadian "Evangeline" myth in Louisiana (Brasseaux 1988).[5] Analysis of this type of historical legend reinforces the researcher's awareness that when one secondary source simply quotes a prior secondary source, or compiles information from several prior secondary sources ("scissors and paste history"), without having done independent research, this repetition in no way adds to the weight of the evidence.

Manuals on methodology also warn beginners explicitly that no historical researcher can rely unquestioningly on "standard" published reference works. For example,

> Occasionally, one of these reference works will unwittingly mislead, as when *Who's Who in America* printed in good faith the "facts" (complete with a Heidelberg medical degree) about a drug manufacturer who was an ex-convict living under a false name. Again, the nineteenth-century *Appleton's Cyclopaedia of American Biography* contained at least forty-seven sketches of persons invented by one or more unscrupulous contributors (Barzun and Graff 1970, 84).[6]

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[5] Examples of such historical legends are too numerous to recite: a very familiar one is that of the alleged love affair between Abraham Lincoln and Ann Rutledge (Angle 1929 *in* Winks 1970, 127-141), which also indicates how such a legend can continue to flourish even though the evidence is clearly against it. See also the analysis of the Horn papers, also republished by Winks (Middleton and Adair 1947 *in* Winks 1970, 142-177).

[6] For a fuller discussion, see Allan Nevins, The Case of the Cheating Documents [excerpt from The Gateway to History 1962] (Winks 1970, 202).

**Summation:**

> Elsewhere HONESTY may be the best policy, but in research it is the only one. Unless you put down what you find to be true with complete candor, you are nullifying the very result you aim at, which is the discovery of the past as embedded in records. You may have a hypothesis that the new fact shatters, but that is what hypotheses are for--to be destroyed and remolded closer to the reality. The troublesome fact may go against your moral purpose or prejudice, but nothing is healthier for the mind than to have either challenged. You are a searcher after truth, which should reconcile you to every discovery (Barzun and Graff 1970, 60).

## Genealogical Methodology

**Genealogical Research Methodology.** The BAR researchers follow standard genealogical research practices.

There are significant similarities between historical research methodology and genealogical research methodology, including the distinction between primary and secondary sources (Greenwood 1983, 95). Noel C. Stevenson's discussion of genealogical evidence (Stevenson 1979) indicated clearly that genealogy as a discipline is subject to all of the general cautions on the use of "evidence" discussed above as part of the section on historical methodology. For example, "compilations should be used, but only with the greatest searching scrutiny, subject always to verification of references (if any) and careful analysis of the compilers' interpretation of facts . . . ." (Stevenson 1980, 42). He noted that one recurring research hazard was:

> THE PERPETUATION OF MISTAKES copied time after time and republished in genealogies and local histories throughout the years. Just because four or five family genealogies agree factually is often an indication that successive compilers borrowed from previous writers and thus perpetuated the same error or errors (Stevenson 1980, 41).

Stevenson is particularly useful for his analysis of the legal standards of genealogical evidence. While a manual such as that by Val D. Greenwood's widely used The Researcher's Guide to American Genealogy (Greenwood 1983) focused on

introducing the researcher to various types of records that have been created in the past, where to locate them, how to use them, and common hazards in interpreting them, Stevenson concentrated on analyzing the comparative evidentiary value of the information contained in such records:

> Evidence is simply "information." The information may be correct or false, but it is that which you must consider in genealogical research and then decide whether you should accept the information or facts totally or partially, or reject them totally or partially (Stevenson 1980, 39).

The weighing of the evidence by individual genealogists is to some extent dependent on its context (Stevenson 1980, 40). The standards used by the BIA to evaluate evidence do not differ from those universally accepted by genealogists. How BAR researchers handle genealogical evidence is clear from the precedents set in earlier BIA acknowledgment decisions. These precedents are not the product of one individual, but of peer review of the evidence.

There are two levels of genealogical methodology: techniques for locating documentation, and evaluation of the evidence located. While "how to do it" research manuals train the researcher in the existence of census records, the location of census records, how to abstract census records, etc., this is not the end of the process. Stevenson warned:

> The purpose of census records is not genealogical, therefore statements regarding relationship, names, ages, places of birth, etc., cannot be assumed to be without error. Although records of birth, marriage and death disclose relationships, they were not prepared for genealogical purposes but have sociological and statistical functions (Stevenson 1980, 42).

Similarly, for legal purposes, Stevenson noted that many important types of original documents may have limitations as legal evidence:

> The custodians of official records, such as a clerk of the court, recorder of deeds, and others, simply file or record documents presented to them; they do not possess any personal knowledge of the truth or accuracy of such documents (Stevenson 1980, 42).

Even the value of eyewitness testimony depends "on the *competency and credibility* of the witness" (Stevenson 1980, 48).

> CONCLUSIVE PROOF is not possible in genealogical research. It is impossible to "prove" ancestry to an absolute certainty . . . . Unfortunately, there are no witnesses to a birth present today to testify regarding a birth of a child born in 1800. In genealogy, since *personal knowledge* (except in rare instances) is lacking the rule is that ancestry may be established *by a preponderance or greater weight of the evidence*. This term does not mean physical weight, such as ten books stating the same facts against one book which states a different fact. It means quality, not quantity. For example, the genealogical facts stated in a valid last will and testament will be considered very reliable and, if the ten books disagreed, you would reject the ten printed volumes (Stevenson 1980, 40).[7]

**Because a positive determination in the matter of Federal acknowledgment of an Indian tribe results in legal obligations on the part of the Federal Government, the techniques to be used in determining the ancestry of the members of a group petitioning under the 25 CFR Part 83 regulations must provide a high level of evidence in the aggregate. Unspecified "Indian ancestry" is not an adequate showing under criterion 83.7(e): the petitioner must document direct ancestry from a historical American Indian tribe (or amalgamation of tribes) which existed at the time of first sustained contact with non-Indian settlers. However, the regulations do not demand "conclusive proof" of every specific fact.**

**Stevenson pointed out that under the technical rules of evidence, most available genealogical documentation is**

[7] Stevenson is here stating a general principle: that an original will is normally <u>better</u> evidence than a printed, secondary, compilation. Of course, even the "evidence" of a will may not be genealogically accurate (Stevenson 1980, 42-43): a man may have had what he privately regarded as good and sufficient reason to publicly acknowledge as <u>his</u> child an individual whom his wife had conceived by another man during the time of their marriage. Additional genealogical complications may be introduced by adoptions, or by a grandfather referring to a grandchild whom he had reared, or an uncle referring to a niece whom he had reared, as his "child" in his will.

"hearsay" (Stevenson 1980, 48-49). To quote Stevenson directly:

> There is a body of rules already in existence which applies to genealogy. These are the rules of evidence applied in court proceedings involving pedigree, ancestry or heirship cases. . . If you are compiling a genealogy which will be presented in a court proceeding, careful attention to the instructions of the lawyer you are assisting is extremely important as the technical rules of evidence will be in effect (Stevenson 1980, 39).

**Specific Federal acknowledgment concerns in genealogy.** In conducting research for Federal acknowledgment decisions, the first responsibility of the genealogist is to determine the veracity of the evidence, as discussed above. Greenwood manual emphasizes that:

> Regardless of what you find, your first responsibility is to the truth. A true report, regardless of the nature of the facts, is the responsibility of the genealogist as it is the responsibility of any historian or scientist (Greenwood 1983, 9-10).

However, there are some additional considerations in preparing a genealogical technical report for the BIA. Although the standard of evidence applied in Federal acknowledgment cases is high, it does not meet the legal standard for heirship. For example, to a strictly genealogical study, it is crucial for the researcher to determine whether John Doe is the particular John Doe who was the son of Robert Doe and Mary Ann, or the particular John Doe who was the son of Albert Doe and Mary Kay, if only because the determination of the mother opens new lines of ancestral research.

However, under 25 CFR Part 83, only American Indian ancestral lines are relevant. If it can be shown that both Robert Doe and Albert Doe were the sons of Hubert Doe, and it is through Hubert that the tribal ancestry derived, either set of possible parents would be acceptable as John Doe's parents: the precise parentage can be left undetermined as long as it is clear from the evidence presented that the John Doe whom the petitioning group claims as a progenitor was Hubert Doe's grandson.

However, if Hubert Doe and his wife were Scottish, Mary Ann was Ottawa, and Mary Kay was Filipino, it is necessary that the genealogist determine the precise parentage of John Doe,

if the petitioner's members are claiming American Indian ancestry through him. The dispositive question is: is this genealogical fact relevant to a determination of whether or not the petitioning group meets the criteria?

## Specific Aspects of the Proposed Finding

**The evaluation of David Cohen's research.** The RMI Response to the Proposed Finding stated that:

> BAR chose to follow Cohen's [David Cohen] bizarre theory (*i.e.* that the Ramapough have no Indian ancestry, but are descended solely from Afro-Dutch pioneers) blindly and used his work as the centerpiece of its Proposed Findings (RMI Response A-15).

The work of David Cohen, which did discuss evidence pertinent to the issue of social community for the (RMP), was evaluated in the same manner as all material that is presented as evidence. The BAR researchers read the book, The Ramapo Mountain People (Cohen 1974), carefully evaluated the methods used in gathering the data presented, and questioned the assumptions. The BAR staff conducted additional research to verify or reject the conclusions he reached. The book was not accepted uncritically (RMI Response A-15). Points of disagreement with Cohen were specified in the historical, anthropological, and genealogical reports that accompanied the Proposed Finding. Consider, for example, the following excerpts from the Historical Technical Report:

> The culturally Dutch settlers of southeastern New York and northeastern New Jersey included a number of families who were in part of African ancestry. In 1974, David Steven Cohen, in his book The Ramapo Mountain People, made an effort to link the modern RMI community with these Afro-Dutch pioneers (Cohen 1974, 25-42). His efforts at making the linkages were not fully successful, as demonstrated by the following analysis of possible RMI ancestry (RMI PF, Historical Technical Report, 14).
>
> Cohen's research on the ancestry of the de Vries family of the Tappan Patent, however, has not significantly advanced an understanding of RMI ancestry. Further research indicates that the

> Tappan Afro-Dutch family died out in the male line (RMI PF, Historical Technical Report, 16).

The Proposed Finding attempted to provide a full analysis of Cohen's book. It was taken seriously, as the only book-length monograph on the RMP based on extended fieldwork. In the interest of scholarly objectivity and fair-mindedness, it was not excluded from consideration, even though it is evidence which petitioner finds offensive or with which the petitioner disagrees.

In the final analysis, Cohen's book was not pivotal in the evaluation of the RMI petition (RMI Response, A-15; see also, Shapard to Ada Deer 1995/7/5, RMI Response Ex. 13). The BIA continues to agree with Cohen's conclusion regarding the lack of primary source evidence for Indian ancestry among the RMI. This conclusion is not based on an uncritical acceptance of Cohen's work, but on the BIA's own analysis of data presented by the petitioner and data found by BIA staff.

The research conducted by the BIA anthropologist did not produce evidence that established social or political continuity of the RMI with an Indian tribe from colonial times to 1870. The anthropologist also found the evidence for social community and political leadership among the RMI to be much less convincing for the period from 1950 to the present, though anecdotal evidence was found during the research trip and noted. This is also consistent with the recommendation in this Final Determination.

**Anthropologists and the origins of the RMI.** The writings of anthropologists who have written about the RMI's ancestors were also considered carefully. The early twentieth century articles and correspondence by archaeologist Max Schrabisch and ethnographer Frank Speck assumed that the RMI's ancestors were part Indian, but their work was not based on any primary source documentation, or historical research of any kind (Schrabisch 1909, 1919, 1922; Speck 1908a, 1908b, 1911). Consider the opinion of Julian Salomon, a local historian:

> From his reading, Schrabisch knew that the Tuscarora Iroquois had been driven by the settlers from their homeland in North Carolina and in a long series of migrations had come north to join the main body of Iroquois in central New York. Yet he never produced a shred of archeological evidence to prove Tuscarora presence at the site on the

> Ramapo River; neither has anyone else (Salomon 1982, 65).

Speck only cited "local tradition" as the source of his information on the Indian ancestry of the RMP. The same is true of the articles written by William Harlen Gilbert on what he considered "tri-racial" groups in the United States (Gilbert 1946, 1947, 1948). Their ascriptions of specific tribal ancestry varied widely and were not based on any reliable evidence. They were repeating the widely held belief of the non-RMI inhabitants of the Mahwah area regarding the people who inhabited the Ramapo Mountains.

Assertions of Indian ancestry, among other ancestries, for the RMI began in the late 1800's and gradually grew into the "Jackson White" legend (see the lengthy analysis in the RMI PF). An elaborated version of the folk legend was printed by J.C. Storms in the 1930's, and became accepted by local non-RMI as history. As shown by a number of researchers (Merwin 1963, Stamato 1968, Cohen 1974, and the RMI PF), the legend was not founded on fact or evidence of any kind, and reflects the racial prejudice that existed (and still exists) against the Ramapo Mountain People in the local area. In general, the petitioner agrees with and applauds the search for primary sources that has debunked the racist views in the Jackson White legend (RMI Response A-12). These same historical research and evidentiary standards are used regarding Indian ancestry.

The petitioner asserts that they are entitled to the assumption that the RMI descend from the Munsee Indian tribe. This is based on the following argument:

1. Some of the Munsee Indians inhabited the region around the Ramapo Mountains at the time of first sustained contact with non-Indians;
2. It has been asserted, since 1870, that some of the RMI ancestors were descendants of a variety of Indian tribes;
3. Today, the RMI live in the Ramapo Mountains;
4. Therefore, the RMI are Munsee descendants.

This seems to be the same assumption underlying the opinion of archaeologist Herbert C. Kraft. In his book, The Lenape: Archaeology, History and Ethnography, Kraft stated his opinion that the RMI descended from the Delaware Indians who

remained in the region after most of the Delaware Tribe was removed to the west as follows:

> The origins of these people are very controversial, but it is clear, that some are descended from local Munsee-speaking Indians who moved into the isolated Ramapo Mountains seeking a haven from the Dutch and English settlers in the latter half of the seventeenth century. They were joined later by multiracial settlers of varied backgrounds who intermarried with the Indians (Kraft 1986, 241-242).

Dr. Kraft also wrote that "Indians doubtless also remained undisturbed, in relatively isolated parts of the Ramapo Mountains, in the New Jersey Pine Barrens, and in other places where they perpetuated some of their ancestral ways" (Kraft 1995/6/19, RMI Response Ex. 1, 2).* Yet in his letter to George N. Rover, Deputy Attorney General of New Jersey, Kraft stated that he had, "limited knowledge of these specific peoples" (Kraft 1995/6/19, RMI Response Ex. 1, 1-2). And again, Kraft said:

> At no time did I profess an in-depth knowledge concerning the Ramapough Mountain Indians. My expertise is in prehistoric archaeology and in the Indian/European contact period; I have no training in or expertise as a genealogist and only limited experience as an ethnologist . . . ." (Kraft 6/19/1995, RMI Response Ex. 1, 1-2).

Neither the letter nor the book included any references to evidence considered by Dr. Kraft in concluding that Indians generally had continued to live in the Ramapo Mountains around Mahwah. He also cited no evidence supporting his conclusion that the RMI were descendants of the Munsee. It must, therefore, have been an assumption on his part.

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* Archaeologist Edward Lenik made a similar argument in his letter (Lenik 1995/6/20, RMI Response Ex. 12). This line of argumentation is consistent with the theory of Mexican anthropologist, Gonzolo Aguirre Beltran, who wrote a book called Regions of Refuge (Aguirre Beltrán 1963). His theory is that indigenous people tended to end up living in marginal, less desirable areas (mountains, deserts, etc) after the arrival of Europeans in the Americas, due both to pressure from the Europeans and because the Indians wanted to be left alone so that they could preserve their way of life. The problem is that there is no primary evidence supporting this theory in the case of the RMI.

A problem with the petitioner's analysis is precisely in the assumptions that it makes, assumptions that cannot be made by the BIA in the context of Federal acknowledgment decisions. Given the very fluid social and political situation during and after the colonial period, most specifically the voluntary and forced resettlement of Indian groups and the migration of isolated Indian individuals and families, in the absence of primary source evidence, Indian ancestry or tribal origins of the RMI or any other petitioner cannot be assumed. Added to this fluid social situation is the evidence that most Indian tribes were removed from New Jersey soon after the Treaty of Easton. There is little evidence for any Indian communities in northern New Jersey after that time, although there were some individual Indians left in the area after the treaty was signed. The Appendix to the RMI Response included a reference to Catoonah (Rockwell 1927), with no explication of its significance to the petitioning group; see the evaluation of evidence concerning Catoonah, the "Ramapoo sachem" from Connecticut, in this technical report under criterion 83.7(a).

The only citation that might be construed as primary evidence for a continuing Indian community in the Ramapo Mountains was found in a letter of the French naturalist Victor Jacquemont, which he wrote from the Mahwah area in 1827 (Chinard 1959; see also translation by Christine Jones, RMI Response, Appendix). Although the RMI Response states that Jacquemont was definitely referring to the RMI ancestors, it is not certain that this was the case. In his letter, Jacquemont did not give the names of any of the mixed-blood Indians to whom he referred. He gave no specific information regarding the location of the Indians' homes, and he did not refer to the Indians as a community or give any characteristics of their living places that indicated they were a community. There was no other information in his letter which can be used to further identify the Indian descendants to whom he referred. With these limitations, and without corroborating sources, this letter is inadequate to establish Indian ancestry, community, and a tribal linkage for the RMI.

Some third party comments on the RMI Proposed Finding subscribe to the theory that the RMI descend from multiple Indian tribes. The petition materials submitted by the RMI alternated between assertions of Munsee ancestry on the one hand, and multiple tribal ancestry on the other, in an attempt to accommodate conflicting data contained in the various unsubstantiated assertions about the RMI's tribal origins since the late 1800's. Field data collected under

contract with the BIA indicated that different individual RMI members claimed that their Indian ancestry came from a variety of tribes (BAR FD 1993). Examples of the third party comments that referred to the hypothesis of multiple tribal origins for the RMI include the following.

Linda Stamato stated:

> The Algonquin and Iroquois Confederacies, consisting of several sub-tribes among which were the Lenni-Lenape, Tappan, Haverstraw and Tuscarora, have generally been regarded as the primary groups constituting the Ramapo Mountain people . . ." (Linda Stamato, letter, dated July 3, 1995, RMI Response Ex. 11).

The comment by Ms. Stamato accurately reflects what has been printed about the RMI's ancestry since the late 1800's. As the Jackson White legend grew from the late 1800's to the 1950's, a number of assertions about possible tribal origins were made. Eventually it became "common knowledge" that the RMI's Indian ancestry came from more than one tribe. The folk legend version of RMP origins was never questioned until the 1970's research of David Cohen.

Dr. Christine Grabowski stated:

> The second problem with BAR's handling of the Ramapo [sic] petition stems from its misinterpretation of its own codified regulations. Although criterion (e) clearly states that a petitioner's membership must include those who descend "from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous entity," BAR ignored substantial historical and anthropological documentation that the Ramapo [sic] are descendants of the remnants of several Indian tribes and groups who at one time inhabited the southern New York-northern New Jersey regions (Grabowski 1995/7/6, RMI Response Ex. 15).

The finding of the AS-IA was that no acceptable, reliable documentation, whether historical, anthropological, or genealogical, demonstrated that the RMI descend from a historical American Indian tribe or tribes which amalgamated and functioned as a single unit. The technical reports noted that since 1870, there had been repeated attributions of Indian ancestry for the RMP by journalists and local

residents, and later by anthropologists, historians, genealogists, social workers, and medical doctors. These were analyzed in the Proposed Finding and rejected as unsubstantiated assertions. Unsubstantiated assertions are not the same as reliable evidence. The "substantial historical and anthropological documentation" (Grabowski 1995/7/6, RMI Response Ex. 15) includes only one primary source (the letter of Victor Jacquemont) and thus does not establish a "reasonable likelihood" of tribal descent.

The inclusion in criterion 83.7(e) of the qualification concerning tribes which have combined and functioned as a single tribal entity applies to tribes, not individual Indians. The BIA has found no primary source evidence for an amalgamation of tribes to which the RMI can trace their ancestry and social community. Neither has the BIA found any evidence that individual Indians from a variety of tribes settled in the Mahwah, New Jersey, area, and over time came to form a single Indian community. The petitioner has not presented any primary source evidence that such a settlement of Indians from several tribes ever developed in the vicinity of Mahwah. Even if there were evidence of such a community, it would still not meet the requirements for criterion 83.7(e). The provision of the criterion concerns the amalgamation of tribes, not individual Indians. If there had been evidence presented that two or more tribes joined forces politically or socially, and that the RMI were the descendants of this newly amalgamated tribe, this evidence would have been evaluated by the BIA under criterion 83.7(e). No such primary evidence was presented.

**Blood quantum, phenotype, and the acknowledgment criteria.** Herbert Kraft stated, as many people have done before him, that he perceived that some of the RMI had the physical features of Native Americans: "... I knew some of the members of the RMI group who also impressed me with their phenotypic Indianess" (Kraft 1995/6/19, RMI Response Ex. 1, 1). A similar opinion was expressed by Thomas C. France in his letter to Ronald Van Dunk (France 1995/6/12, RMI Response Ex. 22). Many other outside observers for more than a century have made similar statements regarding the physical appearance of some of the RMP. The physical appearance of some of the "Jackson Whites" was the grounds for the Vineland Study's assertion that they had Indian ancestry.

The RMI Response stated that "BAR policy" was based on racist principles. They, along with several third parties, commented that the BAR (as distinct from the BIA) seemed to have a standard of "racial purity" for demonstrating Indian

ancestry. This is not the case. The Federal regulations governing acknowledgment (25 CFR Part 83) do not include physical appearance as evidence demonstrating that a person has or does not have Indian ancestry. Such principles are not applied by the BIA researchers in evaluating petition evidence.

The BIA does not use the concept of phenotype in its evaluation of petitions. There are several practical reasons why phenotype is not included in the regulations as evidence under the seven mandatory criteria. Requiring people to "look Indian" would be a subjective standard, based on personal perceptions of selected physical features usually used in racial typologies (for example, copper colored skin; long, straight black hair; and high cheek bones). It would be impossible to implement such a standard because of the fact that intermarriage between some American Indians and non-Indians did occur.

Also, the migration of individuals from Indian groups outside the territorial boundaries of the United States, who were not from tribes whose aboriginal territory lay wholly or partly within what is now the United States, could account for a stereotypical "Indian" appearance within an isolated group. Marriage into a group of non-Indians by such immigrant individuals who are not North American Indians as defined by the 25 CFR Part 83 regulations would clearly not entitle the group into which they married to Indian tribal status under the criteria established by the Federal government.

The RMI Response stated:

> Indeed, the outrageous standard uniquely designed for the Ramapough by the BAR staff (i.e., "part-Indian" means "non-Indian") [emphasis in original] could not be met by those tribes already recognized (RMI Response A-3).

No such standard was imposed in the RMI case. Previous Federal acknowledgment decisions clearly show that intermarriage with non-Indians is not a barrier to Federal acknowledgment. However, primary source documentation of descent from known American Indian ancestors, rather than phenotype or tradition, must demonstrate descent from a historical Indian tribe. Unsubstantiated attributions of blood quantum and descriptions of physical appearance cannot be used to establish the specific tribal origin of a petitioner. The

essential element is tribal entity, not individual phenotype.

A similar concern was expressed by anthropologist Dr. Susan Greenbaum:

> There are very disturbing aspects of the Ramapo [sic] decision, and the language contained in the declination. The alleged racial identity of the members of this community, in which African ancestry appears to invalidate claims of Indian ancestry, is dangerously inconsistent with the legal meaning of federal [sic] Indian status. If the existence of other ancestries were considered sufficient to deny recognition, no tribes would be recognized. It matters not at all if in-marrying ancestors were European, African, Asian, Australian, or from any other continent (Greenbaum 1995/ 6/24, RMI Response Ex. 14).

Previous BIA decisions have extended Federal acknowledgment to petitioners with mixed racial heritage (in all of the following combinations: Indian and European; Indian and African; Indian, European, and Asian; Indian, European, and African). The presence of mixed racial ancestry in a group does not rule out the possibility of Federal acknowledgment for a petitioner. However, failure of a petitioner to document Indian ancestry and demonstrate descent from a historical tribe, as in the case of the RMI, does eliminate the possibility of acknowledgment.

Dr. Greenbaum indicated that in the Proposed Finding:

> The apparent emphasis on African ancestry overruling Indian ancestry can only be interpreted as a vestige of the racist notion that "one drop" of black "blood" defines an individual as Negro (Greenbaum 1995/ 6/24, RMI Response Ex. 14).

The point of difference between the BIA's position and that of Dr. Greenbaum is not acceptance or rejection of the "one drop rule." Rather, when considering the establishment of a government-to-government relationship with a petitioner, the BIA cannot accept "claims of Indian ancestry" (Greenbaum 1995/6/24, RMI Response Ex. 14) as proof of Indian tribal ancestry dating back to the time of first sustained contact with non-Indians.

Dr. Greenbaum made an assumption that there once existed an ancestral tribal American Indian community from which the RMI descend, and that Europeans and Africans married into this ancestral tribal community: "It matters not at all if in-marrying ancestors were European, African, Asian, Australian, or from any other continent" (Greenbaum 1995/6/24, RMI Response Ex. 14). However, she presented no primary source documentation of the existence of such an ancestral tribal community. Without acceptable, primary source evidence for ancestry from a historical tribe, or tribes which amalgamated and functioned as a single political entity, the BIA cannot assume Indian ancestry or tribal origin. This has been the standard used by the BIA under the 1978 regulations, and continues to be so under the 1994 revised regulations.

If there had been specific evidence linking the RMI to the "mixed blood" Indians spoken of by Victor Jacquemont in 1827, or any known Indian entity, the recommendation on criterion 83.7(e) in the RMI Proposed Finding may have been different. However, no evidence linking the RMI to a historical Indian tribe was submitted by the petitioner or found by the BAR researchers.

**The process for writing technical reports for proposed findings.** The RMI Response indicates that the BAR anthropologist said that "if it were up to *him* they [i.e., the RMI] would be **recognized** [emphasis in original]" (RMI Response B-5). The BAR anthropologist did not make such a statement. The same paragraph states that the anthropology report "was originally written to find in favor of recognition and later was edited to change the outcome" (RMI Response B-5 - B-6). This is not true. An anthropologist went to the RMI area to conduct fieldwork in 1993, for the specific purpose of researching "modern community." Specifically, the research was to focus on the continuing existence of social community and political leadership among the RMI, mainly during the period from around 1960 to 1993.

The RMI council members and their representatives were told by the BAR in technical assistance meetings that the biggest hurdle the RMI faced with the BIA was the lack of evidence for Indian ancestry and continuity with a historical Indian tribe. The evidence available at the time of the Proposed Finding (the documentation submitted in the petition materials and the BIA field research) demonstrated the reasonable likelihood that there was a distinct social community based in the three traditional RMP settlements (Mahwah/Stag Hill, New Jersey; Hillburn, New York; and Ringwood, New Jersey),

from around 1850 to 1950.[9] The Proposed Finding was favorable regarding the existence of a distinct community (25 CFR 83.7(b)) and maintaining political authority (25 CFR 83.7(c)) from about 1850 to 1950, and the Anthropological Technical Report reflected that. The recommendation to the AS-IA was consistent with the anthropological technical report that accompanied the Proposed Finding. This Final Determination is also consistent with the Proposed Finding anthropological technical report.

The RMI Response has suggested that the anthropological technical report was written to "favor" recognition. This revealed two misunderstandings concerning the purpose and character of the technical reports. First, contract employees, such as the anthropologist in this case, are not hired to make recommendations on Federal acknowledgment cases or comment on their merits. The contractor's role is limited to objectively reporting the data that he or she collects. For the anthropologist, this data concerns the maintenance of social community and the exercise of political authority.

Second, the technical reports are not written to favor or disfavor the acknowledgment of a particular petitioning group. The technical reports are a summary of all the evidence discovered during the petition evaluation process. The argument for or against extension of Federal acknowledgment to the petitioner is contained in the Summary Under the Criteria. It is this part of the proposed findings and final determinations issued by the AS-IA that weighs the evidence and analyzes the significance of the data under 25 CFR Part 83. In keeping with this pattern, the Anthropological Technical Report was not written to "favor" acknowledgment of the RMI, nor was it written to "disfavor" acknowledgment.

**The RMI and social discrimination.** One third party commenter on the RMI Proposed Finding, Maia Wojciechowska, suggested that the RMI had been discriminated against for a long time and should therefore be recognized. She wrote, in part:

> I know the Chief and many of the members of the Council, and in all the years that I had known them there had been a single minded desire for

[9] In the process of evaluating the petition, the historian found evidence that refined the date at which the RMI community started living on the Houvenkopf to around 1870, rather than 1850.

> recognition for the sake of pride as much as anything else. I've lived around these parts for over forty years and have seen how very much these people suffer from local prejudice and disdain. Their recognition is, I believe, not only their right but a matter of their survival (Wojciechowska 1995/6/6, RMI Response Ex. 8).

The Proposed Finding discussed the fact that the RMI and their ancestors had been discriminated against in the past, and that this discrimination continues at present. In the Proposed Finding, this was treated as supporting evidence for the petitioner having a distinct community under criterion 83.7(b). The fact that the petitioner has been discriminated against in the past and in the present, however, does not mean that they meet the requirement for continuous existence as an Indian tribe from first contact with non-Indians to the present. The 25 CFR Part 83 regulations do not provide for acknowledging a petitioner as an Indian tribe based on the presence of racial discrimination alone.

**The responsibility of the BAR and the roles of research team members.** The BAR prepared the technical reports which accompanied the Proposed Finding. The BAR has also prepared this technical report which accompanies the Final Determination. The report is based on both information submitted by the petitioner and research conducted by the BAR. This research is conducted as part of the evaluation of data included in the petition, the RMI Response, substantive comments from informed and interested parties, and the petitioner's response to comments from third parties.

The historian, the genealogist, and the anthropologist each have a specific role in the petition evaluation process. While each team member has primary responsibility for evaluating certain kinds of data, the team members work cooperatively and share data that may be relevant to their respective tasks. Team members also share their thoughts about how to evaluate and interpret data during the evaluation process.

In light of some of the letters submitted in the "Response to Comments" by the RMI, it should be stated that cross-qualification among the disciplines is not required in the BAR job descriptions. For example, there is no expectation that the historian should also have an advanced degree in anthropology, or that the anthropologist should have also obtained genealogical certification. Nevertheless, the BAR is fortunate to have some professional staff members who are

professionally trained and experienced in more than one discipline.

Role of the BAR historian.

> . . . the historian recognizes that his first duty is to be sure of his facts, let their meaning be what it may . . . To establish the facts is always in order, and is indeed the first duty of the historian . . . . (Becker 1932 *in* Winks 1970, 17-18).

It is the additional duty of the BAR historian to present the facts so that the AS-IA may functionally use the technical report as a basis of a determination as to whether or not the petitioner qualifies for Federal acknowledgment as an Indian tribe under 25 CFR Part 83: the data presented must be relevant to and focused on the criteria.

The historical technical report is not intended to explore all facets of the petitioner's history or produce a comprehensive study of all facets of the development of the petitioning group through time. It necessarily concentrates on establishing those facts and determining those aspects of the petitioner's history which are pertinent to formulating a decision on Federal acknowledgment.

The RMI Response indicated that the BAR researchers did not research historical land deeds "to determine the exact locations of RMI families" in the course of evaluating the RMI petition (RMI Response, B-11). According to the regulations, it is the responsibility of the Federal Government to verify and evaluate what the petitioner submits, not to conduct research for the petitioner. As stated in the regulations:

> The Department shall, upon request, provide petitioners with suggestions and advice regarding preparation of the documented petition. The Department shall not be responsible for the actual research on behalf of the petitioner (25 CFR 83.5(c)).

As part of the technical assistance process, the BAR did recommend deed research to the RMI. For the preparation of the Final Determination, BIA researchers did obtain and review a recently published book of abstracts of Bergen County, New Jersey, deeds (Davis 1995). No relevant evidence was identified from this additional source.

Role of the BAR anthropologist. The role of the anthropologist is to evaluate evidence in the petition concerning the maintenance of social community and the exercise of political authority by the petitioner. The anthropologist also supplements the research of the petitioner, as may be necessary to verify and evaluate information in the petition. This is done through archival research as well as conducting field research using standard anthropological research techniques. The focus of the anthropological field research is usually on the petitioner's "modern community." "Modern community" is used as an analytical term to designate, roughly, the last 20 to 40 years, depending on the historical circumstances of the petitioner. The anthropologist works cooperatively with the genealogist and the historian on interpreting data for the period from first sustained contact with non-Indians to the present.

Role of the BAR genealogist. The BAR genealogist is required to evaluate and verify the petitioner's documentation, and to apply the unique characteristics of the genealogical discipline to research additional records as needed and analyze available evidence. The genealogist is responsible for evaluating the evidence to determine if the petitioner's membership descends from a historical tribe of American Indians. This is done using standard genealogical research methods beginning with the current generation, using primary documentation and reliable secondary evidence to identify each preceding generation back through time to a historical Indian tribe.

The genealogical technical report reflects the nature of the evidence as it relates to the petitioner and focusses on criteria 83.7(d), 83.7(e), and 83.7(f) to complement, but not overlap with, the reports prepared by the historian and anthropologist.

## Preparation of the Final Determination

**Efforts of the BIA to supplement the petitioner's research.** Under the regulations, the AS-IA has the option of conducting additional research if necessary to evaluate and supplement the record (83.10(l)(1)). Several sources were suggested to the petitioner by the BIA as avenues of research in technical assistance letters, technical assistance meetings, and the Proposed Finding itself. To ensure that obvious sources had not been overlooked, the BAR conducted additional research both in the field and in repositories in the Washington, D.C. area. The research focused on locating

the ancestors of the earliest proven RMI progenitors, on evaluating possible sources at Rutgers University, and on identifying any additional sources that might prove that a historical tribe had remained in the Ramapo Mountain area after 1758 and that the RMI descended from any such remaining tribal entity.

The BAR conducted field research at the Rutgers University Library Special Collections and the Reformed Church in America Archives in New Brunswick, New Jersey; the Johnson Free Public Library in Hackensack, Bergen County, New Jersey; the Orange County, New York Genealogical Society; the Orange County, New York Courthouse; and the Goshen, New York, Town Historian's office.

Daniel DalCais submitted an informed party comment that suggested several sources that might be profitably pursued for information on the RMI during the crucial period before 1820 (DalCais to BIA 1995/4/19). In response to his suggestion, the BAR researchers visited the Special Collections at Rutgers University's Alexander Library during the field trip undertaken in August 1995, guided by a priority list prepared from Donald A. Sinclair's A Guide to Manuscript Diaries and Journals in the Special Collections Department Rutgers University (Sinclair 1980). DalCais' letter listed as sources "requiring review" the following diaries and journals:

Joseph Bloomfield, 1703-1792
Lucy H. Eddy 1796-?
Samuel Kirkland 1741-1808
John Neilson 1745-1833
George Reyerse [sic] 1703-1792
Peter Thompson 1802-1845

The majority of the diaries and journals listed by DalCais (DalCais 1995) were determined to be irrelevant to the RMI petition. The Joseph Bloomfield journal applied to New York's Mohawk Valley in 1776, rather than to the Ramapo Mountain region (Sinclair 1980, 11). The diary of Lucy H. Eddy, who was born in 1796, was written by a member of the Society of Friends who lived in Rahway, Essex County, New Jersey, and in New York City: it covered her "household, social, and religious life," including visits to Hyde Park, New York, and to Elizabeth, New Jersey (Sinclair 1980, 20). The missionary journal of Samuel Kirkland pertained to his work among the Oneida Indians in central New York in 1803-1804 (Sinclair 1980, 15), a date earlier than any collateral relatives of the petitioner's ancestors are known to have

settled near the Onondaga reservation. The travel journal of Peter Thompson was a description of a trip taken from New York City to Michigan, returning to Readington, New Jersey, in 1828; Thompson's itinerary did not include the Ramapo Mountains (Sinclair 1980, 19). The John Neilson travel journals covered trips from New Brunswick, New Jersey, to Albany, New York, in 1795 (Sinclair 1980, 14).

The BIA historian reading the full diary of George Ryerse (Sinclair 1980, 9), a surveyor for the Board of Proprietors of East Jersey in the second half of the 18th century, since Ryerse's work focused on the "Ramapo Tract." Photocopying from this manuscript was not permitted by Rutgers. Throughout Ryerse's work in surveying and collecting rents from numerous named tenants on the Ramapo Tract from the period 1752 to 1771, he made no mention of encountering Indians within the area,[10] which contained "66 square miles, and comprised the present townships of Franklin, Hohokus, and Ridgewood, with part of Orvil in Bergen County," in addition to some territory within modern Passaic County, New Jersey, and Rockland County, New York (Rankin 1932).

The only references to previous Indian occupation of the region were as follow. On August 10, 1753, Ryerse mentioned a piece of "cleared land that one Gerrit accerman [sic] laid claim to by & [sic, "an"] Indian Deed" (Ryerse 1771, [6r]). On May 1, 1766, he surveyed to the old Indian fields in the vicinity of Mahwah: "we . . . toke our Courses from the one top of the mountain to & other and Run that Day so far as above that place Called mawier where the indian field had binn" (Ryerse 1771, [47v]). This 1766 reference used the past perfect tense ("had been") to refer to the Indian field

[10] Testimony taken in 1785 to determine the boundaries of the Wawayanda and Cheesecocks Patents in Orange County, New York, contained one statement that at some unspecified time in the past, when William Thompson, age 62 in 1785, had served as a chain bearer with Col. Clinton in surveying the Cheesecocks Patent, they lodged one night in a wigwam near Wickhams Pond, saw the Indians, and talked with them (Proceedings to Determine Boundaries 1915, 14). Other testimony indicated that the survey for the Cheesecocks Patent was made in the period from 1735 to 1747 (Proceedings to Determine Boundaries 1915, 18), or 1735 to 1738 (Proceedings to Determine Boundaries 1915, 23). There is no demonstrated connection between the Indians referred to in this testimony regarding the Cheesecocks Patent and the RMI petitioner.

Generally speaking, the extensive testimony in these proceedings indicates that the Ramapo Mountain region was well known and frequently travelled by non-Indians in the 18th century. Therefore, the lack of reference to Indians in the area tends to confirm that they had left the region.

at Mahwah, indicating that the site was not inhabited by Indians at the time of his writing, but had been in the past. In fact, this well-known, early 18th-century Indian archaeological site near Mahwah was discussed in the Proposed Finding (RMI PF, Historical Technical Report 13; RMI PF, Anthropological Technical Report 7). There is no demonstrated connection between this archaeological site and the petitioner.

DalCais also referred to manuscripts written by the eighteenth century Moravian missionaries C. Heckewelder, C.J. Loskiel, C.D. Rauch, and D. Zeisberger, and the diary of Presbyterian missionary David Brainerd, as being of special interest, since all of these men worked with the Lenape Indians. The Moravian records which DalCais recommended for consultation--Heckewelder, Loskiel, Rauch, and Zeisberger (DalCais 1995)--did not pertain to the region of Bergen and Passaic Counties, New Jersey, or Rockland and Orange Counties, New York. The Moravian missionary work among the Indians during the 18th century was focused in Pennsylvania and, to a lesser extent, in Ohio and Indiana.

Although the Moravian records did not pertain to the petitioning group, the BIA historian did additional research to determine whether or not additional church records from the second half of the 18th century and the 19th century for the region of northeastern New Jersey and southeastern New York, which might provide insight into the antecedents of the RMI petitioner, still existed, beyond those which had been used in preparation of the Proposed Finding. This involved consultation of Leiby's The United Churches of Hackensack and Schraalenburgh New Jersey 1686-1822 (Leiby 1976), Old Paramus Reformed Church, Ridgewood, New Jersey (Old Paramus 1975), and Randall Balmer's A Perfect Babel of Confusion: Dutch Religion and English Culture in the Middle Colonies (Balmer 1989). While these provided insight into the congregational development and expansion of the Dutch Reformed and Lutheran denominations in the area, none of these historical works indicated that the churches hold records beyond those which have been abstracted and published. Neither did the Reformed Church in America Archives located at the Sage Library, covering congregational records and transcriptions of congregational records, indicate the existence of extensive additional relevant Dutch Reformed Church parish-level documents (Gasero 1991).

The journal of Presbyterian missionary David Brainerd, and monographs on his career, had already been consulted for the Proposed Finding (Edwards 1822). Aside from the fact that

David Brainerd worked in central New Jersey rather than in northern New Jersey, the comparatively early date of his death (October 9, 1747) meant that most of his records were not critical to an analysis of the development of the petitioning community. The Proposed Finding did not question that Indian groups remained resident in New Jersey until the Treaty of Easton era, nor did it question the continuation until a later date of Brainerd's Brothertown settlement in central New Jersey (RMI PF, Historical Technical Report 7-9). The BIA, however, was unable to determine any connection between this well-documented historical group and the antecedents of the RMI petitioner. Neither David Brainerd nor his younger brother, John Brainerd, who also acted as a missionary to the Indians in New Jersey and New York, made mention of individual Indian families or of a tribe of Indians in the Ramapo Mountains (Sherwood 1884; Presbyterian Publishing Committee 1865; Presbyterian Board of Publications 1843).

Additional church record transcriptions which were located and consulted during the field trip did not provide relevant information to the RMI petitioner (True Dutch Reformed Congregation n.d.; Burman 1981), with the significant exception that BAR researchers located, in the holdings of the Orange County Genealogical Society, Goshen, New York, an indexed photocopy of the manuscript register of the Ramapo Presbyterian Church (Ramapo/Hillburn/Brook Chapel) of Rockland County, New York, covering the years 1868-1918 (Ramapo Presbyterian Church Register 1994).

According to the introduction by Marjorie Smeltzer-Stevenot, the Ramapo Presbyterian Church was begun 1810 by Jeremiah H. Pierson and associates at Ramapo Works and was dedicated in 1812. From 1841 to 1846 it was served by the pastor of the Lutheran Church at Saddle River, New Jersey. From 1851 to 1857 the pulpit was generally supplied by the pastor of the Dutch Reformed Church in Mahwah. As far as is known, there is no church register for the period 1812 to 1857. The Ramapo Presbyterian Church closed in 1857 and reopened in 1862. In 1893, the Hillburn Presbyterian Church (now known as Ramapo Presbyterian) was built in the center of the village (Ramapo Presbyterian Church Register 1994, ii). Concerning the discovery of the Ramapo Presbyterian Church Register for the years 1868 to 1918, Smeltzer-Stevenot wrote, "Believed 'lost' for a number of years, the Ramapo register was returned to the Hillburn church about a year ago" (Ramapo Presbyterian Church Register 1994, ii). She included a brief description of Brook Chapel:

> Ramapo Presbyterian welcomed all races as members. Some of the families in the mountains, who belonged to the church, had been holding prayer meetings in private homes. Under the guidance of Rev. Ford, a log chapel was built by the volunteer labor of church members of both Ramapo and the mountain community. A Sunday Schol [sic] was conducted by E. R. Pierson in homes in the mountains until the log chapel opened in 1877. Dedicated in 1893, the Brook Chapel building was presided over by the assistant pastor of Ramapo. Records of the churches in Ramapo Works, Hillburn and Brook Chapel are included in the Ramapo Parish register (Ramapo Presbyterian Church Register 1994, ii).

Evaluation of the details contained in the Presbyterian Church Register relevant to RMI families appears later in this technical report under criteria 83.7(a), (b), and (c).

The BAR researchers visited the Reformed Church in America Archives in New Brunswick looking for original manuscripts of early church records. Although the Archives had a sizeable collection of published transcripts or abstracts of church registers, those same published sources had been previously reviewed and where appropriate, had been cited in the Proposed Finding. The BAR researchers did not find additional church registers or consistory (vestry) minutes from churches in the Ramapo Mountain region. The BAR researchers also found no new evidence from the key time period of 1750 to 1820.

The Johnson Free Public Library in Hackensack, Bergen County, New Jersey houses the Bergen County Historical Society collection. One of the items in the collection was a reprint of the 1876 Atlas of Bergen County, New Jersey.[11] The atlas had one reference to possible descendants of the Hackensack Indians, which is discussed below in the Technical Report. This one brief reference did not name any actual descendants of the Hackensack Indians. It implied that any possible connection to an Indian tribe had long been forgotten by the people themselves. This sketchy

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[11] The Atlas of Bergen County 1776 - 1876 was published by C.C. Pease, successor to A.H. Walker. The preface, dated June 1, 1876 was simply signed, "The Author." The preface states that the historical descriptions were compiled by J.F. Cowan, Esq., of Englewood, [New Jersey]. No other biographical information could be found on Mr. Cowan.

secondary reference was not viewed as substantive evidence of tribal relations or of descent from a historical tribe.

For all petitioners, the acknowledgment regulations require evidence that the members of the modern petitioning group are the actual descendants of a specific historical Indian tribe, or tribes that have combined historically (for example, see the kind of evidence included in the Mohegan petition for acknowledgment, linking their modern day members to the historical Mohegan tribe, as discussed in the Mohegan Proposed Finding).[12]

A concerted search of the Bergen County Historical Society collection did not reveal any information to identify the ancestors of the proven RMI progenitors or to connect the RMI ancestors with a historical tribe of Indians.

The BIA researchers also investigated the genealogical collections and references to sources for Bergen and Passaic County, New Jersey in the Alexander Library at Rutgers University. Although there was one Mann family Bible record in the Genealogical Society of New Jersey file, there was no evidence that the family connected to the RMI Mann family (GSNJ Bible). The church records for two eighteenth century churches were reviewed for references to Mann, VanDunk, DeFreese, and DeGroat families. Neither the records of the Protestant Dutch Reformed Church at Acquackanonk 1692-1944 nor the "Kercken-Boeck 1703-1783" for the Evangelical Lutheran Church New York City, New York revealed any information relating to the known RMP families or to missions to Indians in the Ramapo Mountain area.

A search of the records in Orange County, New York was also made. The Genealogical Society of Orange County in Goshen, New York maintains a card file, the Helen Predmore Collection, and the Elizabeth Horton collection of family files, transcripts and newspaper articles on families and subjects relating to Orange County and the surrounding area. None of

[12] This is also required of petitioners claiming previous unambiguous Federal acknowledgment as descendants of a treaty signing tribe. In such a case, the modern petitioner must show that its members are the actual descendants of the Indian tribe or band whose representatives signed the treaty. It would not be sufficient, for example, for the Huron Potawatomi Indian petitioner to point to a treaty signed by a different group of Potawatomi Indians in the 1800's. They would be required to show that their members are descendants of the particular Potawatomi Indian group whose chiefs or leaders signed the treaty.

the three files contained new or substantive information on any of the known RMI ancestors.

The index to the records of the Surrogate Court, Orange County cited one reference to the will of a Catherine E. Mann who died in 1869. There were no references to RMI names Mann, DeFreese, DeGroat, or Van Dunk prior to the late 1800's.

In 1788, a man named Johannes DeVries, yeoman, of Haverstraw obtained a mortgage from Elihu Smith, also of Haverstraw Precinct for 50 acres in the Kackiat patent. A note in the margin said that the mortgage was paid in full in 1797 (Mortgage Liber B, 200). Johannes DeVries was not identified as Indian or of Indian descent. There were no other references to mortgages for RMI family names in the pertinent time period.

The original 1825, 1835, and 1845 New York State censuses were in the offices of the Orange County Clerk. Each of these censuses were examined for RMI family names. Additional research was conducted in the Civil War pension records in the National Archives (NARS), Washington, D.C. and the National Society Daughters of the American Revolution Library (DAR) in Washington, D.C. The results of the BAR's investigation of these sources of information will be discussed later in this technical report under criterion 83.7(e).

## TECHNICAL REPORT

## INTRODUCTION

**The RMI Response to the Proposed Finding.** The RMI Response submitted very little new evidence, but rested primarily on new analysis of the data submitted in the 1993 petition. Most of the new data presented was irrelevant to the four mandatory criteria that the RMI had not met at the time of the Proposed Finding. The same is true of most of the third party (informed and interested parties) comments, both the comments of persons who favored RMI acknowledgment and those who were opposed to it. The issue of relevance and acceptability of evidence is discussed at length below.

**Procedural handling of the RMI Response to the Proposed Finding.** Material in the RMI Response that is not relevant to the case at hand is not addressed to in this Final Determination. For example, the individual referred to as "William Starner" and as "Stoner" by the RMI Response (RMI Response A-16) is presumed to be Dr. William Starna (Starna 1991). Dr. Starna's article represented a criticism of a 1990 academic publication, in the journal, The American Indian Quarterly, by a former BAR ethnohistorian. The article does not reflect the intent of the 1994 revision of Federal acknowledgment regulations (25 CFR Part 83). Dr. Starna did not document his generalization when he stated that, "[Quinn's] behavior, and **possibly** [emphasis added] that of other BAR personnel, *does* represent a particularly inimical form of 'pre-decisional bias'" (Starna 1991, 498). The Starna article did not mention the RMI Proposed Finding, and the RMI Response made no connection between the Proposed Finding and the article. Therefore, it is only noted that none of the BIA researchers or managers involved in preparing this Technical Report have ever met Dr. Quinn.

The 25 CFR Part 83 regulations are the product of notice and comment rulemaking and are based on Federal Indian law, judicial precedent, and the history of tribal recognition. It is not necessary to defend the regulations in this report. The accusations of racism were addressed in a separate inquiry by the Deputy Commissioner of Indian Affairs and will not be responded to in this technical report. Because the issue of outside political interference has been raised by the petitioner, as well as by some informed parties, it is addressed in this report.

This technical report addresses the research methods and standards used by the BAR in evaluating a petition, responding to the arguments and data in the RMI Response and third-party comments that address the criteria, and discusses any new evidence found by the BAR in its evaluation of the petition, the RMI Response, and third party comments.

## DISCUSSION OF CRITERION 83.7(a): IDENTIFICATION AS AN AMERICAN INDIAN ENTITY BY EXTERNAL SOURCES

**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.**

The 1994 revision of the 25 CFR Part 83 regulations reduced the burden of proof on the petitioner. It did not change the standards for Federal acknowledgment as an Indian tribe.

Under the 1994 regulations, criterion 83.7(a) considers evidence as to whether or not the petitioner has been identified as an American Indian entity from 1900 to the present. The term "American Indian entity" is not defined under 25 CFR 83.1. Nevertheless, the word "entity" was chosen intentionally, instead of the word "tribe," in recognition of the difficulty that some unrecognized Indian groups might have in providing evidence of having been identified specifically as an "Indian tribe" by outsiders. For example, it might be easier for some petitioners to demonstrate that outsiders have thought of them as a distinct Indian "community" or "group," rather than as a tribe. For this criterion, the particular label that is used to represent the "American Indian entity" is irrelevant. To meet this criterion, the petitioner must demonstrate only that external sources have identified them as an American Indian entity; that is, that they have been perceived by outsiders as a distinct social unit that is American Indian.

This criterion does not require factual, historical accuracy of the identification by external sources. As will be

demonstrated below, the complete lack of primary source evidence documenting that the RMI are descended from a historical Indian tribe has not deterred external sources from asserting that the RMI, and their RMP ancestors, were Munsee descendants (and Tuscarora, Mohawk, Creek, Seneca, Hackensack, et cetera descendants). The assertions of Indian ancestry for the RMP began in the late 1800's and have continued to the present. Such assertions could be considered as "identification" of the group as an American Indian entity by an external source, even if they were based on an unsubstantiated folk tradition.

With a few exceptions, the petitioner was characterized by external sources, from 1900 to 1978, as a distinct community of mixed race people, some of whom had Indian ancestry, or who had some Indian ancestry. The Proposed Finding concluded that this was not the same as being directly identified as an American Indian entity, stating:

> Since the third quarter of the 19th century, anthropologists, social workers, journalists, and others have consistently described the RMI precursor community as a distinct group of mixed race, or as an entity whose members were said by tradition to have some Indian ancestry. The petitioner's ancestors were never described as an American Indian group per se. Occasional references which used such terms as "tribe" or "clan" to describe the community were essentially using these words as synonyms for "a kinship-based, non-white community distinct from the surrounding society (RMI PF, Summary Under the Criteria, 4-5)

For the last two decades (1978 to 1995), the RMI have been consistently identified by external sources as an American Indian entity. The Proposed Finding concluded:

> Only since organizing as the "Ramapough Mountain Indians, Inc." in 1978 has the petitioner been identified as an American Indian entity. The RMI were recognized as American Indian by resolutions of the New Jersey and New York State legislatures in 1980. Since that time, the RMI have been repeatedly identified as an "Indian" group in newspaper accounts and have received Indian Education funding from the Federal government (RMI PF, Summary Under the Criteria, 5).

The RMI commented in the petition and press reports frequently stated that the group had been acknowledged as an Indian tribe by the New Jersey and New York legislatures. The petitioner submitted a copy of a resolution as printed by the New Jersey legislature, filed with the Secretary of State January 8, 1980 (RMI Pet. Ex. 18). During the preparation of the Final Determination, the BIA received information that a bill to acknowledge the RMI had been introduced into the New Jersey legislature on January 14, 1980, but withdrawn by its sponsors two weeks later, on January 29, 1980. The informant, speaking by telephone, said that the bill in question was never voted on and that no other legislation regarding the RMI had ever been voted on by the New Jersey legislature.

As part of the research undertaken in preparing the Final Determination, the BIA requested from the State of New Jersey all available information pertaining to state recognition of the RMI (Reckord to Haytaian 1995/9/20). In reply, in October and November 1995, the BIA received information concerning a recognition resolution of a different date, 1979 ACR 3031, introduced May 21, 1979. The information submitted by the State of New Jersey and by the bill's original sponsor, W. Cary Edwards, indicated that the resolution had been passed by both houses of the New Jersey legislature, being approved January 7, 1980; filed January 8, 1980 (Edwards to Reckord 1995/11/3; Edwards Declaration 1995/11/3; Joyce to Kingston 1995/10/27; McCulloch to Kingston 1995/11/16; Kingston to Reckord 1995/11/17). A newspaper article dated January 17, 1980, tended to confirm that the resolution had been passed (New York Times 1980/1/17, B1, B10).

A BIA request to the Speaker of the New York General Assembly for background information on the resolution concerning the RMI passed by that body in 1982 (Reckord to Silver 1995/9/20) had not been answered by the time the Final Determination became due. Technically, the New York resolution memorialized the Federal government to extend acknowledgment. The resolution did not recognize the RMI as a tribe, but asked the President to "do what he could to see that the RMI were recognized by the United States Government."

**The RMI Response.** The "Summary of the Evidence" section of the Proposed Finding (RMI PF, Historical Technical Report 1) drew the following conclusion after considering all of the evidence available at that time:

> **Identification as an American Indian Tribe.** The Ramapough Mountain Indians, Inc. (hereafter referred to as RMI) are a group of people whose members have been vaguely identified by journalists, social workers, and local historians as of partially Indian ancestry, of Indian appearance, and/or of Indian lifestyle since the third quarter of the 19th century. At no time prior to the group's incorporation in 1978 was it the subject of any separate series of Indian documents in the records of either the States of New York and New Jersey or the Federal government. Throughout the 20th century, anthropologists consistently described it as a mixed-blood or tri-racial group[13] (Speck 1911; Gilbert 1948; Collins 1972) (RMI PF, Historical Technical Report 1).

Much of what the petitioner included in the RMI Response under criterion 83.7(a) was more appropriate to criterion 83.7(e). Criterion 83.7(a) requires identification of the petitioner by external sources as an Indian entity. It does not take into consideration the actual genealogy of the petitioner or the ancestry of the individuals making up the group's modern day membership. For this reason, the portions of the RMI Response under criterion 83.7(a) that addressed the group's genealogy are considered under the technical report section on criterion 83.7(e).

Under the regulations, identification as an American Indian entity under criterion 83.7(a) is not acceptable genealogical evidence under criterion 83.7(e). The RMI Response under criterion 83.7(a) stated that the ancestors of the RMI were Indians because several individuals in the group, from 1870 to the present, were described by external sources as

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[13] The definition of a tri-racial group for purposes of academic study was given clearly by Edward Thomas Price, Jr. in 1950:

> (1) The people must be racial mixtures of white and nonwhite groups, Indian and/or negro peoples presumably providing the latter blood in the absence of evidence to the contrary;
> (2) they must have a social status differing from that accorded whites, Indians, or negroes in the area in such a way as to throw them generally together in their more personal social relationships;
> (3) they must exist in such numbers and concentration as to be recognized in their locality as such a group and usually to be identified by a distinguishing group name (Price 1950, 5).

having stereotypical Indian physical features and/or as possessing stereotyped Indian personality and social traits such as basket-making. This manner of projecting backwards, from modern day assertions about Indian ancestry to the colonial past, does not prove Indian ancestry under the Federal acknowledgment regulations.

**The RMI Response's criticism of the BIA's evaluation of the evidence in the Proposed Finding.** The RMI Response stated that "The BAR Staff's Proposed Finding On Criterion (a) Is Arbitrary and Capricious Because It Has No Rational Nexus To The Facts in the Record" (RMI Response A-1)." The BIA disagrees. First, a proposed finding is not issued by the "BAR Staff," but by the AS-IA. The technical reports are prepared by the BAR staff members and are sent, with a recommendation, through the BIA review process, to the AS-IA, by whom the proposed finding is issued. Second, the evidence on which the Proposed Finding was based and the way in which the evidence was weighed are clearly delineated in the Summary Under the Criteria section of the Proposed Finding. The RMI Proposed Finding was consistent with the standards set in previous acknowledgment decisions made by the AS-IA.

The RMI Response reasserted that "The Ramapough Mountain Indians Have Been Identified As An American Indian Entity On A Substantially Continuous Basis Since 1900," but it did not present any new evidence supporting this contention. The RMI Response listed numerous articles and studies published between 1890 and 1969 to support its contention that the RMI have been identified as an American Indian entity since 1900 (RMI Response A-6 - A-12): the same evidence which the RMI submitted with their original petition, but with a new analysis of its significance. Each of the items listed in the RMI Response had been analyzed for its value as evidence demonstrating external identification as an American Indian entity for the Proposed Finding. The conclusion of the Proposed Finding was that the RMI did meet criterion 83.7(a) from 1978 to the present (1993). The analysis that follows constitutes a reconsideration of the quotations included in the RMI Response and further explication of why Proposed Finding did not conclude that this evidence demonstrated identification by external sources of an American Indian entity before 1978.

The RMI Response selectively quoted excerpts from the sources it cited and many of the partial quotations were taken

out of context. These selective quotations were presented as "evidence" that the petitioner had been regularly identified as an American Indian entity, and that the BIA had acted in an arbitrary and capricious manner by not accepting this "evidence." In the technical reports to the RMI Proposed Finding, the BIA attempted to be sensitive to the concerns of the petitioner by avoiding, in so far as possible, the repetition of unsubstantiated allegations as to the group's origins, and ethnic nicknames and slurs. Because the RMI Response did not accurately reflect the evidence, the statements must be quoted more extensively in order to be accurate in this Technical Report for the RMI Final Determination, though some of the quotations will be offensive to the RMI and to other readers.

The RMI Response stated that "The BAR Staff's Insistence On Characterizing the Ramapough As 'Tri-Racial Isolates' Is Racist and Illegal" (RMI Response A-4). The RMI Response states that a published article written by BAR historian Dr. Virginia DeMarce,[14] allegedly revealed her personal opinions regarding tri-racial isolates and "Indianess," because she characterized a work by William H. Gilbert (Gilbert 1948) as being about tri-racial isolates rather than Indian groups. First, Dr. DeMarce's article was written for the purposes of orienting persons descended from such groups in order that they could efficiently research their individual family histories. Second, the term "tri-racial isolate" was used in the technical reports to the Proposed Finding because it is a concept used for researching and analyzing mixed race social isolates around the United States. Finally, the recommendations made by the BAR to the AS-IA are based on the consensus of at least seven professional staff members from three disciplines. The implication that the historian unduly influenced the conclusions in the Proposed Finding are inaccurate.

Federal Government identifications of the Ramapough Mountain People (RMP). No evidence was submitted to indicate that the Federal Government at any time had a treaty with the RMI or with the RMP as a predecessor group of the RMI, or attempted to negotiate such a treaty. No attempt was ever made to place the RMP on a Federal reservation. The Federal Government never conducted a military action against the

[14] The full citation of this article is in the bibliography of this Final Determination (DeMarce, 1992).

RMP. The RMP were not included on the Indian Population Schedules of the 1900 or 1900 Federal censuses. No evidence was submitted to show that members of the RMP attended boarding schools conducted by the BIA.

One item cited by the RMI Response as indicating that the Federal Government identified the RMP as a distinct American Indian entity was the Works Progress Administration's Federal Writers Project book on New Jersey (Federal Writers' Project 1946). The actual passage, based on the popular historical work of J.C. Storms (see below) read:

> Few isolated racial groups have had so tragic a history as the Jackson Whites. Hessian, English, West Indian, Dutch, Portuguese, Negro, Spanish, Italian, and American Indian by blood . . . (Federal Writers' Project, New Jersey, New Jersey (New York: The Viking Press, 1939, 505); cited in Price 1950, 2).

Another work cited in the RMI Response (RMI Response A-5), as a Federal Government identification of the RMP as an American Indian entity was that of William Harlen Gilbert, Jr. In 1948, Gilbert included the "Jackson Whites" in a reference work entitled "Surviving Indian Groups of the Eastern United States," 1948 Annual Report of the Smithsonian Institution (Gilbert 1948).[15] The inclusion of the RMP in this publication must be considered in the light of the full context of Gilbert's work. In his introductory paragraph to Surviving Indian Groups of the Eastern United States, Gilbert stated that, "Any attempt to estimate the total amount of this Indian and mixed population must be based on an arbitrary classification of mixed-bloods as Indian who may frequently be more white or Negro in appearance" (Gilbert 1948, 407). Clearly, Gilbert did not himself regard the title of his work as "evidence" that all of the

[15] As indicated in the RMI Response (RMI Response 1995, A-5) in 1948, William Harlen Gilbert, Jr. included the "Jackson Whites" in a reference work entitled "Surviving Indian Groups of the Eastern United States," 1948 Annual Report of the Smithsonian Institution (Gilbert 1948). The evidentiary value of the title of Gilbert's 1948 article must be considered in the light of the full context of Gilbert's work. One year earlier, Gilbert titled an earlier version of this work, "Synoptic Survey of Data on the Survival of Indian and Part-Indian Blood in the Eastern United States" (Gilbert 1947). Two years earlier, he had also included the "Jackson White" group in a study entitled "Memorandum Concerning the Characteristics of the Larger Mixed Blood Racial Islands of the Eastern United States" (Gilbert 1946; RMI Pet., Ex. 16). These are not the same as being directly identified as American Indian.

mixed race groups discussed in his article were distinct American Indian entities. In the instance of the RMP, for whom he used the term "Jackson Whites," he noted that they were not included as Indians in census reports, although he referred to them in the same paragraph as "a mountain people with a strongly marked Indian background" (Gilbert 1948, 411).

In the fuller description of the petitioner's antecedent group, Gilbert wrote:

> *Jackson Whites.*--These people are located in an area roughly extending from Goshen to Nyack along the New Jersey borders [sic] in Orange and Rockland Counties. In some parts they show a predominance of Indian physical characteristics and in others of white or a mixture of white and Negro. The Indian blood is said to be derived from the Tuscarora and Munsee tribes, but the traditions and customs of the Indian are now difficult to find. A Negro Presbyterian church at Hillburn, N. Y., has carried on mission work among the Jackson Whites . . . Living on the margins of society, as they have been forced to do, the Jackson Whites have been a somewhat neglected class of people (Gilbert 1948).[16]

There is nothing in this article to indicate that Gilbert was directly describing the RMP as a distinctly American Indian entity.

In 1978, the Smithsonian Institution's Handbook of North American Indians, Volume 15, Northeast (Trigger 1978) did not mention "Ramapo Mountain Indians," though it classified the "Ramapo Mountain People" as among the "Marginal Groups" discussed in the section written by Brewton Berry (Berry 1978). Berry stated that:

> Their history goes back to the seventeenth century, when free mulattoes of Dutch-Negro origin, with perhaps some Indian ancestry also, began buying farms in the Hackensack River valley. A century later, harassed by their White neighbors, they sold their farms and sought refuge in the

[16] Note that this entire description amounts to a paraphrase of Speck (Speck 1911), whom Gilbert elsewhere cites as his source (Gilbert 1948, 429).

> Ramapo Mountains. There, and in the nearby towns, their descendants have remained (Berry 1978, 291).

In this instance, it is clear that Berry categorized the RMP's ancestors as a distinct social group of Dutch--Negro people with some possible Indian ancestry. This is not the same as direct identification of the petitioner as an American Indian entity.

Ives Goddard's article on the Delaware in the Smithsonian Handbook of North American Indians said only, "There were scattered remnants in Ulster and Orange counties, New York, who provided the Indian heritage among the triracial groups later found in the area" (Goddard 1978, 222). The assertion that there were scattered remnants of the Delaware remaining in these two counties is not the same as identifying the RMP as an American Indian group.

The area around Mahwah, New Jersey was included as a special Indian area in the 1990 Federal census.

New Jersey State identifications of the RMP. The state of New Jersey never established a state reservation for the RMP, nor did any series of state records exist that were based on a relationship between the RMP as an American Indian group and the state.

The RMI Response cited the Vineland Study (see extensive discussion elsewhere) and an article published in 1931 (Jones 1931) as evidence that the State of New Jersey, by way of Dr. Charles T. Jones' authorship of this article and superintendency of the New Jersey State Colony at New Lisbon, "adopts the findings of the Vineland Study" (RMI Response A-9). In this citation, an article written by Dr. Jones for another publication was quoted in a 1931 column in Eugenical News.[17] The original article was not submitted in evidence, but the terminology of the notice in Eugenical News indicates Jones wrote the article as a private individual rather than as an official of the State of New Jersey as purported in the RMI Response. The RMI Response's claim that "Dr. Jones made these findings after reviewing the Vineland Study and studying the group independently for *almost two decades*" (RMI Response A-9) is apparently an interpretation of a sentence in this one-column notice which

[17] The Response incorrectly attributed the Eugenical News article to Dr. Jones. Actually, the Eugenical News article quotes from a different item that Jones had written for another publication.

stated that Dr. Jones had "in his possession a report of a special study started on this interesting group in 1913. He has also continued his investigations on these people from time to time since 1918" (Jones 1931, 218). The article submitted in evidence reads:

> In the *Pathfinder* for September 5, 1931, Dr. Jones supplied that paper with the following note in answer to the question "Who are the Jackson Whites?"
>
> "The Jackson Whites are a settlement of mixed-blood Indians, negroes and whites in the Ramapo mountains in the northern part of New Jersey and the adjoining section of New York. They are the descendants of freed negro slaves who, due to economic and social forces, were crowded back into the mountains where they intermarried with white outcasts and a remnant of Algonquin Indians, supposedly members of the Minsi or Wolf clan. These people themselves do not like the name "Jackson Whites" and they insist that it is of comparatively recent origin. Several traditions regarding its origin are current, the most probable being that the freed slaves were contemptuously called "Jacks." After they intermarried with the white outcasts and Indians they were spoken of as "Jacks and Whites," which in time was contracted into Jackson Whites (Jones 1931, 218).

Jones did not speak of the "Jackson Whites" as an American Indian entity, but as a distinct settlement that originated from a variety of racial origins.

Scholars and journalists. The petitioner suggests that Frank G. Speck, an ethnographer who visited the Ramapo Mountain area in 1908 to learn more about the "Jackson Whites," considered the group to be an American Indian entity. Speck wrote:

> According to current tradition the tribe, so-called, seems to have been founded by the blending of a few families of native Algonquian Indians, probably Minisinks of the Delaware, with some of the Tuscaroras who lingered for a rest in the Ramapo Valley on their way from Carolina in 1714 to join their colleagues, the Iroquois, in New York State. To this small nucleus became added from time to time runaway Negro slaves and perhaps freedmen from the Dutch colonial plantations in

> the adjoining counties in New Jersey. Vagabond white men of all sorts also contributed a share to the community from the early days until now. The Jackson-Whites may be regarded, therefore, as a type of triple race mixture (Speck 1911, 104-105).

Speck continued his description by saying of the group in his own day that:

> Absolutely no semblance of an organization exists among them, nor do they recognize any bonds of union other than those of direct kinship . . . As regards vestiges of native culture, the Jackson-Whites are quite barren . . . . Though I heard from time to time of some old person who was reported to know a few Indian words, I never encountered one (Speck 1911, 105-106).

This 1911 article by Speck clearly was tentative in the attribution of origin for the ancestors of the petitioning group. Again, it must be re-emphasized that identification as a "triple race mixture" (Speck 1911, 105) was not direct identification as an "Indian entity." While numerous observers clearly identified the group as a distinct entity, their words do not clearly indicate that they perceived it as an American Indian entity.

The RMI Response quoted the following statement from John C. Storms, a local writer and publisher who adopted and extensively embellished folklore concerning the origins of the "Jackson Whites":

> It is known that to this day there are occasional visits paid to this region by representatives of the tribes from the central part of New York State. They seek certain places and conduct ritual services, probably in relation to some of their tribe who are buried there (RMI Response A-10; citing Storms 1936).

No documentation for such visits has ever been presented. Another researcher commented that if they took place, the members of the petitioning group, at that time, were not aware of them (Price 1950, 254).

The petition submitted only an abstract by Miriam B. Lernerd, Division Classification & Education, Department of Institutions and Agencies, Trenton, New Jersey, 1942 of a

1940 MA thesis submitted at New York University by Constance Crawford.

> Set apart from other isolated groups by their historical setting, important in the development of America, the Jackson-Whites maintain their unique distinction. Whether it will ever be possible to prove fully their complete racial origin, is a problem for social research.
>
> Two well known ethnologists and anthropologists, who have spent considerable time in the Ramapo region, hold that there is no proof of the origin of the Jackson Whites (Crawford 1942, 13).

Because the abstract of the thesis does not provide citations to the two anthropologists to whom Crawford referred, their identities are unknown. Nevertheless, Crawford did identify the "Jackson Whites" as a distinct, isolated group. And she expressed her opinion that they were likely tri-racial (meaning that they were, in her opinion, part-Indian). Again, this is different from specifically identifying the group as an American Indian entity.

Edward T. Price's discussion of the petitioning group appeared in a University of California Ph.D. dissertation in geography which was submitted and accepted in 1950. Price stated:

> The society of colored people in the area is nearly as complex as that of the whites. Many colored families of the area date from the time of the first census. Some light-colored negroes live on the Houvenkopf (the summit region of the Ramapos near Hillburn, New York); many of their relatives are found on the lowland, especially in and around Hillburn and Mahwah, as well as at Ringwood to the west. Other negroes, usually with other family names, live in the vicinity and work in the shops and other places (Price 1950, 245).
>
> It is the first of these colored groups [that is, the ones on the Houvenkopf, near Hillburn] who will be considered as Jackson Whites in this discussion (Price 1950, 245)
>
> Most of the Jackson Whites are light in color; most of them bear the names of DeFreese, DeGroat, VanDunk, and Mann; and evidence is that until

> recent years they lived on the Houvenkopf (Price 1950, 245).

Price's description of the "Jackson Whites" did categorize them as an isolated racial group. As to the petitioner's ancestors, he did not identify them as an American Indian entity.

More recent external scholarly authorities have also refrained from identifying the petitioner explicitly as an American Indian entity. In 1972, Daniel Collins published an article in The American Anthropologist entitled "The Racially-Mixed People of the Ramapos: Undoing the Jackson White Legends" (Collins 1972). Collins' opening statement read:

> A review of the literature fails to validate the Jackson White legends which traditionally have accounted for the presence of a racially mixed collectivity in the Ramapo Mountain area (Collins 1972, 1276).

He then continued by saying:

> That a people known as "Jackson Whites" inhabit the rugged Appalachian foothills called the Ramapo Mountains is true; whether or not they constitute a "race of people" and what the historical components of that people are until most recently have been open questions (Collins 1972, 1276).

While debunking the Storms legend of "Jackson White origins," Collins' descriptions of views of the group held by local non-Indians does not confirm that he regarded them as an American Indian entity (Collins 1972, 1283-1284).

The next portion of the RMI Response on Criterion 83.7(a) (RMI Response A-12 - A-15) addressed the genealogical portion of David Cohen's book, The Ramapo Mountain People (Cohen 1974). Criterion 83.7(a) is not concerned with genealogy, but with identification by external sources. This portion of the petitioner's Response is discussed elsewhere in the Technical Report.

In summary, external descriptions of the RMP since 1900 have used tentative adjectives and adverbs that indicate a lack of sureness. As late as 1978, local historians wrote:

> It seems likely that some poor whites, poor blacks, and even a few descendants of the Indians probably were living in the mountains by the 1790s when the proprietors started to sell land in that area (Bischoff and Kahn 1978, 96).

These descriptions do not demonstrate clear identification of the petitioner as an American Indian entity. Rather, they were tentative, ambivalent, and ambiguous.

**Evaluation of church records.** As a result of the assertion in the RMI Response that the BAR researchers had ignored church records in the Technical Reports to the RMI Proposed Finding, while relying heavily on such church records in positive proposed findings such as Poarch Creek (RMI Response B-23 to B-24), the BIA undertook additional research in preparing the Technical Report to accompany the RMI Final Determination. The specific purpose of this additional research was to look for church records relevant to the RMP. What follows is a summary of that new evidence, along with a reexplication of the evidence considered at the time of the Proposed Finding.

The petitioner stated that the Proposed Finding had ignored evidence, in the form of church records, that indicated the RMI's ancestors were thought of as an Indian entity (RMI Response B-23 to B-24). The RMI Response cited a 1926 letter from George A. Ford, a former pastor of the Presbyterian Brook Chapel (1876 to 1880), who stated his belief that the RMP in the congregation were, in part, of Indian descent (Ford 1926, RMI Response Appendix). The Ford letter was a single item. In relation to criterion 83.7(a), church records were consulted to establish whether or not the RMI ancestors were identified as an American Indian entity, not to establish the genealogical ancestry of the members.

Neither the race of the ministers to the churches, whether Indian or non-Indian, nor the denominational affiliation of the churches that the RMI and their ancestors attended, were issues per se. The Proposed Finding did not reason that if the RMI ancestors belonged to a church affiliated with the A.M.E denomination that they were non-Indians. For example, it was common for non-Indians to establish missions to Indians. If the ministers had been considered Indian, or if the ministers thought of themselves as missionaries to an Indian community, this might have led to evidence identifying the RMP as an American Indian entity. No such evidence was found. This is very different from the evidence that was located during the evaluation of the Mohegan, Huron

Potawatomi, and Poarch Creek petitions, for example. In each of those cases, there was clear evidence that the ministers serving the churches in these communities were considered by the denomination as serving distinct American Indian entities.

Denominational records were considered important in the case of the RMI petition, not as labels that would disprove the Indian ancestry of the RMP, but to see if the denominations that established missions to the RMI ancestors left any records that indicated they viewed the RMP as an Indian entity. If such evidence had been found, this would have been considered as evidence that the group was being identified as an American Indian entity. No such evidence has been found.

Church records are handled as evidence in a manner parallel to how other types of secular, non-ecclesiastical, evidence are used. Documentation contemporary with the event is regarded as more significant than documentation produced at a later date. For example, a marriage record entered into a church register in 1840 identifying the bride, the groom, or the witnesses, as members of a certain tribe is primary evidence. A set of 1850 minutes identifying a certain church then in existence as an Indian mission is primary evidence. Histories of the denomination written a century later, or recollections and memoirs recorded long after the fact, are secondary evidence. Thus, a letter written by the Rev. George A. Ford some 50 years after his ministry at Brook Chapel referring to American Indian blood coming down from the early days (RMI Response, Appendix, unnumbered), was not the equivalent of the types of church records upon which the BIA has "relied heavily" in other cases such as Poarch Creek, Mohegan, or Huron Potawatomi (RMI Response A-9).

Presbyterian records. During the period of the Rev. Ford's actual ministry at the Ramapo Presbyterian Church (1876-1880), during which he assisted in the founding of Brook Chapel, and throughout the period to 1918, the original registers of the church did not identify any member of the petitioning group as American Indian: they either were described as "colored" or given no ethnic description, i.e., the column was left blank (Ramapo Presbyterian Church Register 1994). There is nothing in the Ramapo Presbyterian Church Register that indicates Brook Chapel was classified as an Indian mission or that the ancestors of the RMI were identified as an Indian entity.

From colonial times to the present, American missionary agencies sometimes, though not always, trained American Indians as lay preachers and ministers to Christianize their fellow Indians. The BAR researchers attempted to locate evidence that the ministers who served Brook Chapel were Indian, as a potential basis for demonstrating that the Presbyterian Church treated the RMI ancestors as an American Indian entity. The Ramapo Presbyterian Church Register identified most of the ministers during the period it covered as "colored." Some of the ministers' race was not marked which, in the context of the record itself, is interpreted to mean that they were "white." None of the ministers were identified as American Indian (Appendix A). This method of trying to show that the petitioner was identified by the Presbyterian Church as an American Indian entity was, therefore, not successful. However, the fact that the ministers were not Indian does not establish that the petitioner was not an Indian entity.

Some churches also established special facilities for training American Indians and others for doing mission work with American Indians. Since several of the ministers assigned to Brook Chapel in the late 19th and early 20th centuries were identified by the records of Ramapo Presbyterian Church as having been trained at Lincoln University in Pennsylvania, the BAR researchers made an effort to determine whether or not one of the functions of this institution was the education of American Indians, or the training of missionaries to American Indians.

This search led to a major history of Lincoln University, Education for Freedom, which was prepared at the time of the American Revolution Bicentennial (Bond 1976). It discussed the background of this Presbyterian institution, established in 1854 as "the first institution founded anywhere in the world to provide a higher education in the arts and sciences for 'youth of African descent'" (Bond 1976, 3), exclusively from the perspective of its efforts on behalf of African-Americans and missions in Africa (Bond 1976, xi).[18] The Introduction referred to Lincoln University as a "black college" (Bond 1976, xvi). There were no index entries pertaining to American Indians or Native Americans. This evidence indicates that the Lincoln University was not used

[18] Lincoln University was the alma mater of, among others, Langston Hughes, Thurgood Marshall, and Kwame Nkrumah. American Indians are mentioned only in a discussion of the 18th-century ancestry of the Bustill family of Philadelphia (Bond 1976, 1837).

as an institution to train American Indians for ministry or to prepare missionaries to Indian communities.

At the turn of the century, the Presbyterians published two surveys of the denomination's mission work among American Indians. The first was a general survey of home missions, which contained a 33-page chapter on Indian missions (Doyle 1902, 63-96). It began with the colonial period and continued until the time of writing, including a complete list of "Indian Churches and Sabbath Schools and Mission Schools, With Their Ministers and Teachers" (Doyle 1902, 85). The only mention of Presbyterian Indian mission work in the state of New Jersey was in connection with David Brainerd (Doyle 1902, 69). David Brainerd did not work with Indians in the vicinity of Mahwah, New Jersey, but in the central part of the state.[19] Doyle's book covered the activity of the "New York Missionary Society," beginning in 1796, among the Tuscaroras and Senecas, and indicated that there was still a mission among the Iroquois in 1902 (Doyle 1902, 71, 85). Doyle did not mention Brook Chapel.

The second survey was specifically on Indian missions (Brain 1904). It covered work being done by the Presbyterian Church among 33 tribes in 15 states, and also mentioned previously discontinued missions (Brain 1904, 28). The only mission mentioned in the state of New York was that to the Seneca (Brain 1904, 140). The book did not mention Brook Chapel.

Methodist records. In searching for church records that might identify the petitioner as an American Indian entity, the BAR researchers examined not only the Brook Chapel records, but also those which might pertain to the other, Methodist, chapel attended by the RMP. In connection with the mid-19th century Methodist chapel attended by the RMP, the Historical Technical Report to the Proposed Finding drew the following information from local historians:

> The first church intended specifically for members of the RMI was founded in 1857, when a Methodist chapel was constructed at the entrance to the RMI settlement at Green Mountain Valley (at that time a RMI residential center, but not one of the three modern RMI communities). At that time, it was named "The John Wesley Chapel of Darlington, New

[19] See discussion of the Brotherton Reservation in Burlington County (RMI PF, Historical Technical Report, 9).

> Jersey" and was located across the Ramapo River from the Ramapo Dutch Reformed Church at the foot of the Ramapo Mountains (Cohen 1974, 63; Bischoff and Kahn 1978, 98; RMI Pet., Ex. 32; see Map No. 8) [see Appendix C, Map of the RMI Area] (RMI PF, Historical Technical Report 47-48).

The RMI Response said that Cohen identified the John Wesley Chapel at Darlington, New Jersey, founded in 1857 for the RMP, as "associated with *white* Methodist missionaries" (RMI Response A-16; citing Cohen 1974, 114). The cited passage from Cohen concerning the church's early history reads:

> In Mahwah the history of the local African Methodist Episcopal (A.M.E.) church reveals the strained relationships between the Mountain People and blacks. The church was founded in 1857 and was named The John Wesley Chapel of Darlington, New Jersey. It was originally located back of the Havemeyer estate at the foot of the mountains. Later it was moved farther into the mountains to Green Mountain Valley, where there was a settlement of Mountain People. In 1876 Elliot Mann was the local preacher and William Mann the licensed exhorter. In 1904 this Green Mountain Valley church withdrew from the Union Conference and joined the A.M.E. Zion Conference. In 1915, the church was moved to its present location on Grove Street in West Mahwah (Cohen 1974, 114-115; citing the 1970 church anniversary program).
>
> The small congregation of about twenty-five today consists of both blacks and a few Mountain People. The singing style is distinctly black gospel. The pastor is a black who comes from out-of-town every week to conduct services. He gave me a different version of the history of this church. He said that the Mountain People applied for but were refused membership in the white Methodist church. So they reluctantly became affiliated with the A.M.E. Zion church, a black denomination (Cohen 1974, 115).

The two persons identified by the RMI Petition as serving the Green Mountain Valley Church were Mr. Jackson from Paterson (April, 1877) and Mr. Green (January, 1895) (Bischoff and Kahn 1978, 209-210). BAR researchers attempted to identify these men. The 1876-1878 Paterson, New Jersey city directories did not identify any minister with

the surname of Jackson. As the given name of this individual was not provided, it remains a possibility that he was a lay elder or deacon rather than a full-time ordained minister, and therefore identified in the directory under his secular vocation. The 1894-1895 city directory for Paterson did not contain any entry for the Rev. Green who, the petition said, began to minister to this church in 1895, so he apparently did not represent a continuation of the supply ministry from Paterson. Again, the RMI Petition did not provide Rev. Green's given name.

The full statement in the Historical Technical Report to the RMI Proposed Finding read as follows:

> The founding of this chapel did not indicate the introduction of full-scale segregation. Several RMI ancestral families continued to attend Ramapo Dutch Reformed Church long after the Methodist chapel was founded and continued to be buried in a separate section of its churchyard (RMI Pet., Ex. 32). However, the founding of this chapel does represent the first time that some portion of the RMI population attended a separate church of their own rather than churches open to the general population.
>
> No documentation pertaining to the history of the chapel was provided by the petitioner. However, some information has been obtained. In 1876, this chapel was moved about a mile farther back into the mountains, to the Green Valley RMI settlement itself. The preacher at this Methodist chapel in 1876 was Elliott Mann; the licensed exhorter was William Mann. According to Bischoff and Kahn, the local historians of Mahwah, it was apparently this chapel to which the April 8, 1877 report in the Bergen Democrat and a similar one in the Ramsey Journal applied. These indicated that the mountain congregation met every Sunday in the log cabin of Johnnie De Groat, with a Reverend Mr. Jackson from Paterson, New Jersey, preaching on Sunday mornings, followed by Sunday school in the afternoon and prayer meeting in the evening (Bischoff and Kahn 1978, 209-210) (RMI PF, Historical Technical Report 47-48).

The RMI Response (RMI Response A-16) stated that, "there is no evidence to show that the Church become [sic] affiliated with the African church until 1895" (RMI Response A-16).

For the purposes of the acknowledgment regulations, the denominational affiliation of the petitioner's church, whether associated with whites or African Americans, is not of importance. The Historical Technical Report to the Proposed Finding indicated that the chapel became affiliated with the A.M.E. Zion denomination in 1904, after the church building was moved into the mountains (1895). However, the Historical Technical Report also noted that the chapel, before joining the A.M.E. Zion denomination in 1904, was affiliated with the Union Conference, an African-American denomination.

> As the population moved from Green Mountain Valley toward Stag Hill (the Houvenkopf) near Mahwah, the church moved with it, quite literally--they moved the building. In 1904, the Green Mountain Valley church withdrew from the Union Conference and joined the A.M.E. Zion[20] Conference (RMI PF, Historical Technical Report 49, citing to Cohen 1974, 114-115).

This change in denominational affiliation was mentioned in the anniversary booklet on the history of the church (A.M.E. Zion Church, Mahwah, New Jersey, 113th Anniversary Program, January 25, 1970). The 1895 transfer was not a move from a "white" Methodist Conference to a "black" Methodist Conference, as the Petition indicates. The Union Church of Africans was founded in 1813, and its successor group is now known as the Union African Methodist Episcopal Church (Lincoln & Mamiya 1990, 48; see also Shaw 1954, 88-91; Shockley 1991, 31). The nature of the Union Conference within the Methodist Church prior to 1895 is historically clear. In 1878, Bishop Matthew Simpson wrote that the:

> **Union African Methodist Episcopal Church** is an organization founded by Rev. Peter Spencer, in Wilmington, Del., in June, 1813. It was composed of colored members of the Methodist Episcopal Church, who seceded from it and established an independent congregation. Its original chartered title was "The African Union Church," which continued to be its title until after the Civil War, when the present name was adopted (Simpson 1878, 876).

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[20] The African Methodist Episcopal Zion Conference is not the same organization as the African Methodist Episcopal Conference.

In 1876, the Union African Methodist Episcopal Church had six congregations in New Jersey, with 300 members, 103 Sunday School scholars, and church property worth $35,000 (Simpson 1878, 877). More extensive information on the Union movement can be found in Lewis Baldwin's "Invisible" Strands in African Methodism: A History of the *African Union Methodist Protestant* and *Union American Methodist Episcopal* Churches, 1805-1980 (Baldwin 1983).

In an attempt to obtain further information about the transfer of this congregation from one synod to the other, the BAR wrote a letter of inquiry on July 7, 1994, to the A.M.E. Zion archives located at Livingstone College in North Carolina (BAR, Reckord to Archivist 07/05/1994, BAR Files). No reply was received. Several telephone inquiries directed by the BAR historian to Dr. Baldwin at Vanderbilt University were not returned.

An encyclopedia of Methodism published in 1878 (Simpson 1878) provided a survey of Methodist missionary work among American Indians by both the Methodist Episcopal Church South (Simpson 1878, 471-472) and the Methodist Episcopal Church (Simpson 1878, 472-474). It made no mention of the New Jersey area: work among the Delawares began in the Sandusky, Ohio, area in 1815 (Simpson 1878, 472). In the northeastern United States, in 1878, the Methodist Episcopal Church had missions at Onondaga, Oneida, St. Regis, and Cattaragus, all in central, northern, and western New York State (Simpson 1878, 474).

The minutes of the conferences of the Methodist Episcopal Church in the northern New Jersey and southeastern New York area for the period 1856-1865 make no mention of a mission in Darlington, New Jersey, or in Green Mountain Valley. These Conference minutes were very detailed, listing not only churches, pastors assigned, church property held, etc., but also the individual names of members and the amounts contributed by individuals who made contributions to mission work. The only "Wesley Chapel" within the Newark Conference was in New York, often combined as a charge with Mechanicsville. The only mention of a church for non-Caucasian communities within the Newark Conference was that of the Zion Church, "Colored," in Nyack, New York (Methodist Episcopal Church 1856; Methodist Episcopal Church 1857; Methodist Episcopal Church. Newark Conference 1858; Methodist Episcopal Church. Newark Conference 1859; Methodist Episcopal Church. Newark Conference 1860; Methodist Episcopal Church. Newark Conference 1861; Methodist Episcopal Church. Newark Conference 1862; Methodist Episcopal Church. Newark

Conference 1863; Methodist Episcopal Church. Newark Conference 1864; Methodist Episcopal Church. Newark Conference 1865).

The "Reverend Jackson," who was mentioned by local historians as a Methodist minister who worked among the RMP in the 1870's, could not be identified in records of the Newark Conference of the Methodist Episcopal Church. The published minutes of the Newark Conference's annual sessions from 1876 through 1885 did not mention Jackson as a preacher, elder, or deacon (Methodist Episcopal Church. Newark Conference 1876-1885).

Neither was there evidence to support the RMI Response's statement that "white" missionaries were working among the RMP at this period of time. The minutes of the Newark Conference did not mention the John Wesley Chapel at Darlington, New Jersey, or at Green Mountain Valley. The white Methodist churches at Darlington, Monsey, and Suffern were under the charge of Elder Millard F. Warner of Monsey, New York (Methodist Episcopal Church. Newark Conference 1877, 56). The only "Wesley Chapel" was still, at this date, a combined charge with Ladentown and Mechanicsville, under the charge of James H. Robertson of Suffern, New York (Methodist Episcopal Church. Newark Conference 1877, 56). Darlington fell within the bounds of the Jersey City District of the Newark Conference. In 1878, the Conference minutes contained a three-page report of activities within the Jersey City District. It made no mention of missionary activity among the RMP or of the John Wesley Chapel at Darlington (Methodist Episcopal Church. Newark Conference 1878, 13-15).

Relationship of the Methodist chapel to other religious denominations. Neither Cohen nor Bischoff and Kahn's From Pioneer Settlement to Suburb made any statement at all about the ethnicity of the ministers who served the Methodist chapel at the time of its founding (Bischoff and Kahn 1978, 209-210). The only "white missionaries" mentioned by Bischoff and Kahn were the Wheatons, who were not Methodist, were not associated with this particular church, and did not begin their work among the RMP until 1902 (Bischoff and Kahn 1978, 211-213).

Discussing the separate graveyard section for the RMI predecessors maintained at the Ramapo Reformed Church, Bischoff and Kahn commented: "The symbolism of this physical reality is clear, and it is not surprising that some of the mountain people built their own Methodist chapel in 1857 across the

Ramapo River at the entrance to Green Mountain Valley" (Bischoff and Kahn 1978, 98). In this instance, Bischoff and Kahn simply cited to Cohen (Bischoff and Kahn 1978, 414 n45). The RMI Response did not present any primary evidence relating to the beginnings of this chapel.

**Summation.** Generally, the additional research undertaken on the church affiliation of the RMP during the 19th century and early 20th century did not provide any information to support the single letter by a former missionary written in 1926 and identifying the group's ancestry as having included a significant Indian component.

## DISCUSSION OF CRITERION 83.7(b): DISTINCT COMMUNITY

**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.**

**Regulatory definition of "community" used for the Proposed Finding.** The criterion for community in the 1978 regulations which governed Federal acknowledgment at the time of the Proposed Finding required the following:

> Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area and that its members are descendants of an Indian tribe which historically inhabited a specific area (25 CFR §83.7(b)).

The Proposed Finding concluded that the RMI did not meet criterion 83.7(b) at any point in time, because although "community" was found to exist from approximately 1870 to 1950, it was not "a community viewed as American Indian" whose members were "descendants of an Indian tribe which historically inhabited a specific area." The Proposed Finding reached this conclusion because there was no evidence that the RMP ancestors existed as a distinct social community, Indian or non-Indian, before 1870, or that the petitioner's membership had continued to exist as a distinct social community since 1950.

At the time the Proposed Finding was issued, there was no evidence that the RMI descended from an Indian tribe which historically inhabited a specific area. The evidence submitted by the petitioner, and that found by the BAR researchers, showed that a few of the ancestors of the RMI petitioner, who later coalesced into a community in the vicinity of Houvenkopf Mountain around 1870, were living in and around the Ramapo Mountain area by the early 1800's. But there was no evidence that they came to form a distinct community before 1870.

**Endogamy as evidence under 83.7(b)(2)(ii).** The RMI Response states that:

> The BAR acknowledges that the petitioning group "does represent a distinct community with significant continuity from the early 19th century to the present." (H-2). This is confirmed by the Joslyn Report submitted with this response that shows a high degree of endogamy (greater than 50%) from colonial times to the present (RMI Response B-6 - B-7).

The full passage from the Historical Technical Report to the Proposed Finding reads:

> The petitioning group does represent a distinct community with significant continuity from the early 19th century to the present, but it is not a community that has resided in the Ramapo Mountains since colonial times. On tax lists of the later 18th and early 19th centuries, ancestors of the RMI (the DeFreese, DeGroat, Mann, and VanDunk families) are found clustered in other localities in Bergen County and Passaic County, New Jersey, and Rockland County, New York, in the valleys rather than in the mountains. Their places of residence are identifiable by the names of neighbors when household heads were not themselves landowners, or by such indicators as the residences of the Justices of the Peace who performed civil marriage ceremonies for some of the couples (RMI PF, Historical Technical Report, 2-3).

The RMI Response states that the RMI have demonstrated community at a sufficient level under criterion 83.7(b)(2)(ii) by showing a high degree (more than 50 per cent) of endogamous marriages from colonial times to the present. The RMI Response cites the Joslyn Report as providing evi-

dence that the RMP met criteria 83.7(b) at a sufficient level of evidence from 1750 to 1850:

> Joslyn demonstrates how the families of Ramapough "base ancestries," clearly identified as Indian by a number of credible sources, have married among themselves consistently from the late 1700s forward (RMI Response B-7).

The BIA has not accepted that the "base ancestries" were clearly identified as Indian (see the discussion below under criterion 83.7(e)). Joslyn described the methodology for his study on endogamy as follows:

> The following list covers all RMIs found for the genealogy study who are known to have married, arranged by the birth date of the male, for those born up to and including 1850 (RMI Response, Joslyn Report).

The list included 163 marriages where the bride or groom's surname was one of the surnames common to the RMI (Van Dunk, De Groat, Mann, De Freese.) The list included the groom's name and birthdate (many were approximated), the bride's name (the maiden name was not always known), and in many cases a marriage date. The compiler did not cite any documentation for the information presented. The names and dates were apparently compiled from various sources.

This list of marriages does not establish endogamy among the RMP prior to 1870. It is a list of individuals, some of whose descendants formed an endogamous RMP community in later generations, but some of whom have not been documented to be ancestors of the petitioning group. The RMI Response assumes endogamy based on a faulty evaluation of incomplete evidence.

One such example is the January 25, 1763, marriage of Sara DeGroat. The source appears to be the Schraalenburgh Reformed Dutch Church records of Bergen County, New Jersey, which state that Sarah Groot [sic], who was born in Kindergemek, married Albert Cornel (Schraalenburgh, New Jersey, Reformed Dutch Church 1891, 56). This Sara DeGroat was baptized in Tappan, New York in 1741, a daughter of Joost DeGroat and Ariantje Sloove (Cole 1884, A17). Sara DeGroat and Albert Cornel are not known to have any descendants in the RMI, nor is the Cornel family otherwise ancestral to the RMI. If the BIA accepted the records of Sara DeGroat's baptism and marriage as evidence indicating the existence of

an endogamous community of RMP ancestors in the mid-18th century, then it would have to accept the evidence from the same sources that the family of Sara DeGroat was Afro-Dutch. The RMI have rejected the Afro-Dutch connection.

As the above example indicates, it has not been established that all of the individuals in the Joslyn list were ancestors of the current RMI. As stated in the Proposed Finding and elsewhere in this report, the progenitors of the proven RMI ancestors are not known. For example, the earliest documented RMI DeGroat ancestor was James De Groat, who was born about 1792. The RMI Response lists eleven marriages for DeGroat men before 1792 without identifying if or how those men were related to the known RMI ancestors or where the marriages took place (RMI Response, Joslyn Report).

In 42 instances in the list of 163 marriages, the maiden name of the wife is not given, nor is her association with or descent from any of the RMP families indicated. Without proof of the wife's family of origin, it cannot be assumed that the bride lived in the same community as the groom, nor does the marriage show that any such community was endogamous. Since the list is incomplete, undocumented, and includes the marriages of persons who are not shown to be ancestors of the petitioning group, the material does not establish the existence of community at a sufficient level from 1750 to 1850 under 83.7(b)(2)(ii) through the use of community endogamy.

**Geographical community as evidence under 83.7(b)(2)(i).** The RMI Response states that the Proposed Finding "Distorted Distances Between Families In The Late 1700s And Early 1800s In Reaching Its Conclusion That the Ramapough Settlements Were 'Spread Out' Over A Wide Area" (RMI Response, B-9). In analyzing the residential patterns of the RMP before 1870, the technical reports to the Proposed Finding used New Jersey tax rolls as a partial substitute for the early Federal census records that no longer exist (Proposed Finding, Historical Technical Report, 27 n25). The RMI Response describes these as "sterile tax lists" (RMI Response, B-11). However, the Proposed Finding did not "tell where families are living in relation to one another simply by looking at a tax list" (RMI Response, B-11), nor were the tax lists "viewed and analyzed in a vacuum" (RMI Response, B-13). The BAR researchers did not use the pre-1850 New Jersey tax rolls in isolation, but supplemented them with all available Federal and state census records from both New York and New Jersey, with church records, with such civil vital statistics records as were kept at that time, and with as many

deed records as were available, such as the history of the Kakiat Patent (Durie 1970).

The narrative of a tax collector's trip through the Ramapo Mountain area of Bergen County, New Jersey, published in The Sun in 1905 (RMI Response, B-12) is not primary evidence concerning population distribution in the period prior to 1870. It was treated in the Proposed Finding as an item of primary evidence for RMP population distribution in 1905. The population distribution in 1905 accorded fully with the description in the RMI Response (RMI Response, B-13 - B-18). The 1905 tax collector's narrative was confirmed by the other primary evidence pertaining to the early 1900's. The Proposed Finding based the conclusion that the RMI petition had documented the existence of a distinct RMP geographical and social community from 1870 until approximately 1950 upon such primary evidence.

The Final Determination's conclusion that the RMI meet criterion 83.7(b) from 1870 to 1950 is a result of changes in the wording for criterion 83.7(b) of the revised regulations. The new wording only requires the petitioner to maintain a distinct social community, not a distinct community "viewed as American Indian" (as had been the case under the original 1978 regulations). In addition, the BAR also found new, more complete evidence establishing a high level of group endogamy from 1878 through 1918. This evidence, coupled with evidence establishing the existence of a separate, distinct geographical community from 1870 to 1950, was found to be convincing that the petitioner had met criterion 83.7(b) for this specific period.

The 1994 revision of the 25 CFR Part 83 regulations was designed to reduce the burden of proof on the petitioner. It is no longer necessary to show the existence of a distinct community "viewed as American Indian" at a particular point in time, but only the existence of a "distinct" community. On the basis of this reduced burden of proof, the RMP distinct community between 1870 and 1950 is accepted as having met criterion 83.7(b) for this limited period of time.

**The RMI Response's comments on the Anthropological Technical Report.** A footnote in the RMI Response to the Proposed Finding (RMI Response B-6 n6), referring to the Anthropological Technical Report, read as follows: "The opening paragraph states the 'RMI' ancestors were first documented in the Ramapo Mountains along the border between New York and New Jersey around 1800" (RMI Response C-1). "Since then they -- the Ramapough Mountain Indian ancestors as a group -

- have been referred to by various names" (RMI Response C-1). This sentence is misquoted by the petitioner. The opening paragraph of the Anthropological Technical Report reads:

> The ancestors of the Ramapough Mountain Indians (RMI) were first documented in the Ramapo Mountains, along the border between New York and New Jersey, around 1800. Since then they have been referred to by various names, each with a different meaning (RMI PF, Anthropological Technical Report, 1).

The part that is inserted by the RMI Response, "----the Ramapough Mountain Indian ancestors as a group---", changes the meaning of the sentence. The Anthropological Technical Report referred to the RMI ancestors, not, "ancestors as a group." The remainder of the report clarified and elaborated the introductory statement, showing that the anthropologist had found no evidence indicating that a RMI ancestral community existed before 1870.

The RMI Response said that the "BAR anthropologist" "knows" that the RMI are culturally distinct (RMI Response, B-5; RMI Response B-42 - B-43). The conclusion that there was no cultural distinctiveness was a consensus decision by all of the BIA staff members involved in deliberating the merits of the RMI petition.

There was no heavy-handed editing of the Anthropological Technical Report, as alluded to in the RMI Response (RMI Response B-6 n6). The distinction made in the opening paragraph between Ramapo Mountain People (RMP) and Ramapough Mountain Indians (RMI) was a necessary analytical distinction. Analysis of the data without such a distinction would have been impossible, since the RMP and the RMI share the same ancestry, but not all of the RMP are members of the RMI. Also, not all of the RMP claim to be Indians or to have Indian ancestry.

**Cultural distinctiveness not a regulatory requirement.** The RMI Response stated that the regulations have been interpreted to require cultural distinctiveness as evidence for a distinctive community (RMI Response B-42 to B-43). The regulations do not require petitioners to maintain a distinctive Indian culture. However, the maintenance of Indian cultural heritage by a petitioner is a high level of evidence that a group has continued to maintain its community

from colonial times to the present. For example, maintenance of the indigenous language, religious practices, and beliefs, and patterns of social organization are evidence for a culturally distinct community (see Proposed Finding for the Jena Band of Choctaw).

The issue of cultural distinctiveness was considered in the Proposed Finding because the petitioner stated that the RMI had maintained a distinct indigenous culture. The evidence presented in the original petition to support "cultural distinctiveness" as demonstrating continuing existence as a social community was rejected. Much of the same evidence is repeated in the RMI Response. For example, the RMI Response states that some of the RMI's ancestors continued to speak Jersey Dutch as late as 1910 (Prince 1910), and that this demonstrates their continued isolation as an Indian community.

The petitioner asserted that the use of Jersey Dutch was evidence that the RMP had maintained their Indian culture. Jersey Dutch is not an Indian language; it is a European language which borrowed a few Munsee words as a result of culture contact between Munsee Indians and the Dutch that lived in the area during the colonial era (Prince 1910). Jersey Dutch was spoken by everyone in the Bergen County vicinity, European and Indian, as the lingua franca. The fact that the RMI's ancestors spoke Jersey Dutch until such a comparatively late date is evidence of their isolation as a social group. But it does not constitute cultural distinctiveness under criterion 83.7(b) (compare this with the Jena Band of Choctaw, some of whom continue to speak Choctaw to this day).

The point that the petitioner's ancestors spoke Jersey Dutch, a non-Indian language, was not considered as evidence that the petitioner did not meet the requirements of criterion 83.7(b). The fact that Jersey Dutch was still spoken by the RMP on the Houvenkopf as late as 1910 is not evidence that a distinct Indian culture was maintained from the time of first sustained contact with non-Indians. The conclusion that the RMI did not meet criterion 83.7(b) was based on the lack of evidence, linguistic and otherwise, for continuous existence of the RMP as a social community from first sustained contact with non-Indians to 1870.

Other evidence from the late 1800's and early 1900's which the petitioner said supported their cultural distinctiveness included: living in log cabins, making baskets and wooden spoons, folk medical beliefs and practices, and folktales.

These characteristics, while culturally distinctive, were not distinctively Indian. They were cultural traits which the RMP shared with other mountaineers in that region (for example, the Pitts and Conklins of the Pine Meadows region near Ladentown), even though the other mountaineers did not share a common ancestry with the RMI. Similarly, the petition said that other evidence from more recent times, including the RMI members' love of hunting and the outdoors (RMI Pet. A-30 - A-31, B-28 - B-29), provided supporting evidence that the group had maintained a distinct Indian culture. However, these characteristics are widely shared by many non-Indian American citizens.

The Proposed Finding stated that the RMP had not demonstrated the maintenance of a community viewed as American Indian from the time of first sustained contact with non-Indians. That conclusion was primarily based on the lack of evidence before 1870. However, the cultural traits mentioned in the foregoing paragraph could not be weighed as positive evidence of the maintenance of tribal community.

The RMI also created "clans" after the 1978 incorporation, one for each of the three primary RMI settlements (Mahwah/Stag Hill, New Jersey; Hillburn, New York; and Ringwood, New Jersey). They were not organized as nor did they function as clans based on lineal descent. Rather than mediate social and personal behavior in diverse social aspects of personal and community life, they are part of the formal RMI structure and operate like subcommittees of the RMI council. According to council members, they were, in part, designed to increase participation by the RMI membership in RMI activities. There is no evidence that the clan structure has increased participation. The Anthropological Technical Report noted that, while most RMI knew their "clan," there was no evidence that it was more than a reference to one's place of residence (or family's origin place, for those who no longer live in the core area). Earlier references to "clans" and "tribe" in newspaper accounts about the RMI's ancestors were found to be generic (Donoghue 1942; Speck 1911; Sweet 1935a, 1935b).

Linda Stamato, in her Master's thesis, contended that the manner in which the RMP governed their own affairs was similar to Munsee Indian tribal councils of the past (Stamato 1968). The description of the political process was extremely vague and based on unstudied notions of Munsee society specifically and North American Indian society in general. The analysis of RMP process as an Indian cultural "survival" was not substantiated through actual study of

historical documents to demonstrate that an actual link existed, or by in-depth comparative analysis of the two systems of governance.

Ms. Stamato's contention that the RMI on Stag Hill governed their own affairs, without appealing to local law enforcement, was consistent with other accounts, and with the conclusions of the AS-IA in the Proposed Finding concerning the nature of the RMP community during the period from 1870 to 1950. The data at hand did not show that the characteristics of the community of the RMI's ancestors on Stag Hill (patriarchal, run by elders, and autonomous) demonstrated the maintenance of Indian culture as evidence for community under 25 CFR Part 83 (1978). Many Indian societies are not patriarchal. A community may be patriarchal, administered by elders, politically autonomous, and culturally distinct without being distinctively Indian.[21]

Whether or not the RMP governed themselves in a manner consistent with the Munsee is irrelevant, for neither criterion 83.7(b) nor criterion 83.7(c) requires that petitioners govern themselves according to traditional "Indian" custom. It is sufficient that the evidence demonstrates that the RMI's ancestors did govern their own affairs. The Final Determination (see evidence considered in the section on criterion 83.7(c) in this technical report) concludes that the RMP did govern themselves during the period when, according to the Proposed Finding, social community was very strong (from 1870 to 1950). Like speaking Jersey Dutch, evidence of political autonomy supports the conclusion in the Proposed Finding that the RMP had maintained a social community from 1870 to 1950, although the Proposed Finding found that it was not "viewed as American Indian" whose members were "descendants of an Indian tribe which historically inhabited a specific area" as required by criterion 83.7(b) (1978).

**Lack of evidence for continuous social community from first sustained contact with non-Indians to 1870.** The RMI did not demonstrate that a distinct RMP community had existed since the time of first contact with non-Indians, as required by criterion 83.7(b). The RMI Response did not present any new

[21] This has been clearly demonstrated by anthropological studies of many European immigrant communities in the United States. After all, there are many societies, most notably in Europe, which would fit these attributes. Conversely, many Indian societies do not fit these stereotypes.

evidence regarding the maintenance of social community before 1870. The following summary discusses what information the RMI did provide concerning the pre-1870 period.

The RMI Response submitted, in the "Exhibits" section, a deed dated September 30, 1708, in which "Catoonah Sachem of Ramapoo Indians and Associates within her Majesties province of New York in America" (Rockwell 1927, 10), along with eight other named Indians (Rockwell 1927, 13), deeded approximately 20,000 acres of land in Connecticut, lying on the west side of the Norwalk River, to a consortium of purchasers (Rockwell 1927, 10-11). The petitioner did not accompany this exhibit with any analysis or explanation as to why they thought this Indian leader was historically connected to the RMI (RMI Response B-37).[22]

The BAR researchers attempted to identify the precise location and tribal allegiance of the "Ramapoo" sachem who made this Ridgefield, Connecticut, deed. Information was provided by a history of the village of Katonah in Westchester County, New York (Duncombe 1961), some 80 miles from the petitioner's geographical center (see map supplement). While Duncombe identified the local Indian group as "Mohegan" (Duncombe 1961, 1), using the spelling of the Montville, Connecticut, tribe, she must have meant, given the geographical location, the Mahican, a Hudson River group closely allied with the Wappinger (Brasser 1978, 198 map). The Mahican spoke an Algonquian language believed to have been closely related to Munsee (Brasser 1978, 198).[23] Goddard treats the Wappinger themselves under the general category of "Delaware" (Goddard 1978, 238).

According to Duncombe, "as we understand it, the Ramapo Sachemdom was part of the Tankiteke Chieftaincy of the Wappinger Confederacy" (Duncombe 1961, 4; citing R. P. Bolton, New York City in Indian Possession, New York 1920,

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[22] The Response says: "Interestingly, a deed dated 1708 in Connecticut specifically refers to a 'Ramapoo Indians and Associates within her Majesties province of New York in America. (See Response to the Proposed Finding, Appendix. The double 'o' spelling is in fact used in documents in the Ramapo area. (Bischoff,460) [spacing and emphasis sic]" (RMI Response 1995, B-37).

[23] By 1698, shortly before the date of the Ridgefield deed, "only 90 Mahican warriors were left on the Hudson, implying a total population in New York of about 300 people" (Brasser 1973, 206). This was followed by considerable additional outmigration to Canada, the Mohawk Valley, and Pennsylvania (Brasser 1978, 206).

246). However, Goddard's synonymy did not mention "Ramapo" and for "Tankitekes" cited only a usage date of 1655 and said "location and synonyms uncertain" (Goddard 1978, 238). Goddard also added that:

> [t]here is no evidence that a 'Wappinger Confederacy' (Ruttenber 1872:77-85; Mooney 1910f; Speck 1928a: map facing p. 212) under this or any other name extended from the Hudson to the Connecticut (Goddard 1971a:20-21) (Goddard 1978, 238).

Katonah (the same man as "Catoonah" in the 1708 Ridgefield, Connecticut, deed) also sold land in the Town of Bedford, Westchester County, New York, between 1680 and 1704 (Duncombe 1961, 3-4; Town of Bedford 1967, 132, 141, 149-150, 160, 172; see also Indian deeds in: Town of Bedford 1969; Town of Bedford 1972) and on a confirmation of a deed in Stamford, Connecticut (Duncombe 1961, 4). Later in the 18th century, most of Katonah's Mahican people left to go to Stockbridge (Duncombe 1961, 12; see also Brasser 1978, 207-209), but some remained in Westchester County, New York, past the mid-18th century (Duncombe 1961, 12) and fought on the American side in the Revolution (Duncombe 1961, 11).

The primary location of the Wappinger Indians was east of the Hudson River in Dutchess County, New York, rather than in Westchester County. In the colonial period, the Wappinger group did have ties into the region now inhabited by the RMI:

> The Westchester Indians [east bank of the Hudson River] sold the bulk of their remaining landholdings to their English allies during the last decades of the seventeenth and first decades of the eighteenth century. The sachem Wessecanow, alternately identified as a Wiechquaeskeck, Wappinger, or Kichtawanck chief, depending on where he happened to be living at the time, served as the primary agent between his people and the English from 1676 to 1690. During this period, his brother, the Tappan sachem Goharius, another Tappan Indian known as Jan Claes or Towachkack, and Oscawana sold their lands along the east bank of the Hudson River (Grumet 1983, 22).[24]

[24] The petitioner presented no primary source material pertaining to direct, documented, connections between the Tappan Indians and the petitioner's ancestral group.

Grumet pointed out that:

> The lower River Indians came to spend more time away from their ancestral homeland as their population and land base in Westchester County dwindled. Those moving to or near Minisink on the western border of northern New Jersey and southern New York came to be known either as Pompton, Oping, or Minisink Indians while living there. Those choosing to live farther west in the Susquehanna and Ohio valleys became known either as Munsee or Mahican . . . Westchester Indians living to the east of the Minisink country around Pompton, New Jersey fled to their settlements at Coshecton along the upper Delaware River valley following such an attack [by relatives of English settlers] in 1745. Their sachem, Nimham, subsequently negotiated an agreement with the New York authorities the following year, enabling his people to return in safety to their homes at Pompton (Grumet 1983, 23).

A later New Jersey connection of potential interest was that the Wappinger chief Daniel Nimham, who prosecuted a New York land claim against a proprietor in the 1760's (Handlin and Mark 1964) appears to have been a relative of the man who signed away the Wappinger and Pompton Indians' New Jersey land interests at the Treaty of Easton in 1758 (Grumet 1983, 23).[25]

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[25] The Historical Technical Report to the RMI Proposed Finding stated:

> In fact, some Indian bands seem to have moved into northeastern New Jersey during this period rather than migrating out--particularly the Mahican-speaking Wappinger from the east bank of the Hudson River who settled for a time prior to 1745--at least until the Treaty of Easton in 1758--around Pompton in modern Passaic County (18th century Bergen County), New Jersey (Grumet 1979, 83-84; Brawer 1983, 23). Grumet noted that on March 16, 1756, a number of these Indians in Bergen County sent three belts of wampum to the New Jersey Council (Grumet 1979, 84-85 citing to NJA 1st Ser 17, 4-7). The actual entry indicates that George Vreelandt Esqr. presented to the council "three Belts of Wampum from Harcop John Keyon and Six Indians in the County of Bergen as A token of their Fidelity to his Majesty & Affection to their Brethren the English & their desire to be included in the Treaty lately held with the Indians at Crosswicks" (NJA 1st Ser 17, 4).

These background materials indicated that if there were a "Ramapoo" or "Ramapough" Indian tribe at any date, it was apparently a subdivision of the Wappinger, and possibly the same as the Pompton, who in the mid-18th century (ca. 1740-1760) resided in Passaic County, New Jersey, to the west (not to the east in Bergen County, New Jersey, and Orange/Rockland Counties, New York) of the petitioner's current geographical focus.

The same basic problem remained in attempting to tie the petitioner to the Wappinger as existed with attempts to connect the petitioner to colonial-era Lenape or Delawarean tribes of New Jersey, such as the Hackensack: namely, that no documentation was discovered to bridge the period between the known Indians of the tribal era (pre-1758) and the earliest documented ancestors of the petitioning group (born ca. 1790-1810).[26] During this period, there are no Indians documented as having remained in the geographical area of southeastern New York and northeastern New Jersey. Additionally, if the petitioner claims Hackensack ancestry and tribal origin (RMI Response B-39; Atlas of Bergen County 1876, 25), there would be no demonstrable continuity of community or political authority with the 1708 "Ramapoo" sachem from the Hudson River Wappinger tribe.

Because of the documented connection between the Wappinger and Mahican Indians of New York and the Stockbridge, Massachusetts, settlement, the BAR historian examined the recent (1995) book by Colin G. Calloway, The American Revolution in Indian Country (Calloway 1995), which contains a full chapter on the Stockbridge group's active participation in the American Revolution (pages 85-107, with extensive citations to prior literature). Calloway focused directly upon the activities of the Massachusetts settlement, and presented no data pertinent to the Pompton subgroup of the Wappinger. There was no mention of Ramapough Indians, or any other Indian tribes around the Mahwah area, in Early American Indian Documents: Treaties and Laws, 1607 to 1789 (Calloway 1994).

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This wording would indicate that the reference does apply to the Pomptons (RMI PF, Historical Technical Report 8).

[26] See below under criterion 83.7(3) for a more detailed genealogical discussion.

The only other "evidence" offered by the RMI to demonstrate that the RMP had continuously existed as a social community, from first sustained contact to 1870, were statements that the RMP were living in the Ramapo Mountains as squatters. The RMI Response suggested that this was the reason why records for the RMI were difficult to find (RMI Response B-12). The RMI Response indicated that, as squatters, the RMP were invisible to the state and local governments, churches, private landowners on whose land they were squatting, and census takers. No substantive contemporary evidence supporting this position that the RMI's ancestors were squatting in the Ramapo Mountains from first sustained contact with non-Indians to 1850 was presented by the petitioner. Considerable evidence to the contrary, showing that the petitioner's earliest known ancestors were living in the valley areas from approximately 1800 to 1850, was located and analyzed in the technical reports to the Proposed Finding.

The Proposed Finding demonstrated that some RMI ancestors were living in the Ramapo River valley, among non-Indian families, by the early 1800's. Between 1800 and 1850, other RMI ancestral families were living at locations further east in Bergen County, New Jersey, and in several towns in Rockland County, New York. When they first appeared in the Ramapo River region, the RMP lived in the valley, moving into the modern settlement area in Ramapo Mountains (Mahwah/Stag Hill, Hillburn, and Ringwood) only after 1850.

During preparation of the Final Determination, BAR researchers located information that supported this analysis. No deed records were found to link the RMP with the Indian descendants whom Jacquemont mentioned as living in the Ramapo Mountains in 1827 (Davis 1995). The map of the Ramapo Valley area in the 1876 Atlas of Bergen County (Atlas of Bergen County 1992 [1876], 116), shows that the land which Jas. [James] DeGroat purchased in 1825 was not in the Ramapo Mountains, as the RMI Response indicated, but on the east side of the Ramapo River (see Appendix B). This, when correlated with the Federal census records cited in the Proposed Finding, demonstrates that some of the ancestors of the RMI were living in the valley as late as 1876, when the atlas was published. Not all were in the mountains where the petitioner said its ancestors have always lived.

The Proposed Finding did not deny that RMP settlement in the Ramapo Mountains began in the period from 1850 to 1870, although many were still working on farms in the valley during that period. The issue is not a lack of evidence for

the RMP generally, but the lack of evidence demonstrating that they were a community that had continued from origins in an Indian tribe that existed at the time of first sustained contact with non-Indian settlers to the present. The RMI were informed in technical assistance meetings that the technical reports accompanying the Proposed Finding had traced the historical movements of the families which the RMI identified as their core ancestors as a basis for concluding that they were not part of a distinct social community which had evolved directly from a historical Indian tribe.

**Evidence for social community from 1870 to 1950.** In addition to the 1876 atlas, RMI ancestors also appeared in church records, census records, and newspaper accounts from about 1870 to the present. The Proposed Finding concluded that there was sufficient evidence to establish a reasonable likelihood that the RMP had been a cohesive community from about 1870 until about 1950, but not sufficient evidence to establish that they had been an American Indian community. The RMI Response asserted that the BIA accepted the work of David Cohen uncritically. The BIA's conclusion was very different from Cohen's. Cohen concluded that the three RMP communities were socially distinct from each other.

The RMI Response submitted as evidence a paragraph from a Bergen County, New Jersey, atlas published in 1876. The description of the group was not documented and contained the following description:

> The once numerous and powerful tribe of Hackensackey [sic] Indians is almost extinct. The only descendants of the tribe probably in existence are a few half-breeds that inhabit the Ramapo Mountains in the western part of the County; but they bear little resemblance to the Indian in habits or physique. They are entirely ignorant, knowing absolutely nothing of who they are, what they are, or where they came from. Even the traditions of their race are forgotten. They live in detached huts on the sides of the mountains, and maintain their existence by hunting, fishing, and an occasional day's work (Atlas of Bergen County 1992 [1876], 26).

As the Proposed Finding concluded, the RMP were thought of as a distinct community by the 1870's. The above citation does not, however, provide any documented evidence of there having been a continuous RMP tribal community from the time

of first sustained contact with non-Indians until the present.

The RMI Response stated that the technical reports to the Proposed Finding "distorted" the distances between RMI families (RMI Response B-9) based, in part, on ignorance of the geography of the area. The Anthropological Technical Report concluded that the distances between the three primary settlements (Mahwah/Stag Hill, New Jersey; Hillburn, New York; and Ringwood, New Jersey) were not sufficient to question the existence of a single community, in spite of the rough terrain separating them. This conclusion was based not only on the experience of driving around the area to interview RMI members in their homes in the three core area settlements, but also on a snowmobile trip through the woods via foot trails that have long-existed, connecting the three settlements. The Anthropological Technical Report emphasized how close the settlements were to each other, and found this to be supporting evidence that the RMP were a community from about 1870 to 1950.

There was evidence that the RMI ancestors maintained social relations with each other, both within and between these three settlements between 1870 to about 1950. This conclusion was based on the partial evidence demonstrating group endogamy, geographical evidence showing that the bulk of the RMI ancestors lived in three communities in close proximity, evidence of patterns of social discrimination against the RMP, and evidence that the RMP participated in racially segregated churches and schools.

New evidence discovered by BIA researchers while evaluating the RMI Response strengthened this conclusion. Specifically, the data on group endogamy recorded in the Ramapo Presbyterian Church Register from 1868 to 1918 supported the conclusion that the RMP formed a community in the late 19th and early 20th centuries, since they married each other at a very high rate. See the discussion under criterion 83.7(c) for the impact of linking the high rate of group endogamy identified under criterion 83.7(b) to the issue of political authority and/or influence under criterion 83.7(c).

**Lack of evidence for social community from 1950 to the present.** For the time period from 1950 to the present, the petition presented very little evidence that the RMP continued to be a social community. The petition presented some limited, anecdotal evidence of social interaction within the traditional three-settlement area. The Proposed Finding concluded that approximately one-third of current RMI mem-

bers continued to live in the three traditional settlements. There was some evidence of social interaction among the RMI members in the three settlements from 1950 to the present, but most of this activity seemed to be within family groups. By way of contrast, significant social interaction within an American Indian tribe involves the maintenance of relationships across family lines as well.

Since more than half of the membership is not still resident in the geographical core area (Hillburn, New York; Mahwah/ Stag Hill, New Jersey; and Ringwood, New Jersey), it was not possible to assume that the RMI, as a whole, continued to constitute a community on the grounds of geographical distribution alone. After 1950, many of the people who are now on the RMI membership list moved away from the three settlements and the immediately surrounding area. According to the RMI 1993 membership list, two-thirds of the membership live outside of the RMP geographical area. Only one third of the membership continues to reside there. In the RMI Response, the petitioner provided no new evidence for the period from 1950 to the present regarding the continuing existence of their community. No new evidence was presented concerning the relationship of the two-thirds majority of the RMI members to the one-third living in the geographical core area.

According to the RMI membership list, two-thirds of the members were living outside this core area in 1993. The petitioner did not provide evidence that these "non-resident members" (those living outside the core area) were socially or politically connected to the one third of the RMI members living in the core area (BAR, FD 1993). There was limited, anecdotal evidence that some of these RMI members continued to maintain social relations with RMI living in the core area. There was no evidence, at the time of the Proposed Finding, that this was a widely shared pattern for the group as a whole, however. There was no reliable evidence that group endogamy has continued at a rate of 50 percent since about 1920. In fact, the limited evidence for endogamy submitted by the petitioner suggests that marriage within the group has steadily and sharply declined since about 1920.

The RMI Response asserted that the Proposed Finding portrayed the RMI as a "Black group" rather than an "Indian group" (RMI Response A-4). The Proposed Finding accepted the petition's anecdote concerning the RMI members' withdrawal from the A.M.E. church when African-Americans started attending in the 1960's as another piece of evidence sup-

porting the social distinctiveness of the RMP; that is, that the petitioner's members in this instance distinguished between themselves and African-Americans in Mahwah. This anecdote was found to be consistent with the way the RMI and their ancestors had always identified themselves, and with the way they had been identified by others: as neither white nor black nor Indian, but mixed.

Linda Stamato's 1968 thesis stated that the RMP had clans that aided in resolving the community's disputes (RMI Response, C-4). There was no corroborating evidence for the existence of these clans in the RMP community. Stamato's data was considered at the time of the Proposed Finding. The Proposed Finding concluded that self-governance in community affairs did indicate some exercise of political influence by the community's leaders, but it was unclear from Stamato's description how extensive that political process was. Basically, there were no specific examples of instances in which disputes were resolved, nor did Stamato include a description of the process by which the clans performed this function. The anthropologist found independent supporting evidence in the course of field work that through the 1950's, the RMP did, in fact, handle their own disputes. However, the independent supporting evidence made to reference to a clan mechanism. The process certainly not through clans as the term is ordinarily understood by anthropologists and specialists in Native American Studies.

The RMI Response did not submit new evidence for the period from 1950 to the present. The RMI Response did not include follow-up on the suggestions made by BAR researchers after the Proposed Finding was issued concerning evidence that might be available to demonstrate social community from 1950 to the present.

## DISCUSSION OF CRITERION 83.7(c): POLITICAL INFLUENCE OR AUTHORITY

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

The Proposed Finding concluded that there was very little data in the petition to demonstrate directly the maintenance of political influence or authority among the RMI. While there was some evidence for leadership within the three

separate RMI communities after about 1950, there was no evidence for a single political leadership that exercised influence over the three communities. The petition asserted that the RMI council had maintained political authority since 1978, but the BIA's research into this matter led to the conclusion that the RMI council was little more than a formal organization with a tenuous political connection to the people on the RMI membership list. The final conclusion of the Proposed Finding was, therefore, that the RMI did not meet criterion 83.7(c).

There was no evidence that the formal leaders of the RMI organization were maintaining a bilateral relationship with their members or that the members communicated with their leaders on a regular basis concerning matters of importance to the group. The Anthropological Technical Report found that there were no political issues of importance to the group as a whole. Several RMI members living in the core area voiced interest in the acknowledgment process, but there was no evidence that acknowledgment was an issue of importance to the group as a whole (including the two-thirds of the membership living outside the core area). Evidence concerning participation in the council meetings and the elections held by the RMI since their 1978 incorporation, and the annual post-1978 RMI powwow, demonstrated a low level of participation when considering the entire membership. There was limited evidence that some individuals living outside the three principal settlements core area continued to maintain contact with leaders in the core area, but there was no evidence that this characteristic was widely shared.

The RMI Response did not present new evidence with regard to criterion 83.7(c). However, under the 1994 revision of the regulations which links criterion 83.7(c) and criterion 83.7(b) when certain levels of evidence exist under criterion 83.7(b), the conclusion of the Proposed Finding for the period 1870-1950 has been modified in the Final Determination on the basis of new evidence obtained by BAR researchers during the evaluation process.

BAR researchers expanded upon the work of the petitioner, utilizing the Ramapo Presbyterian Church Register for the years 1868 to 1918 (Ramapo Presbyterian Church Register 1994). This document strengthened the evidence for the petitioner's claim to group endogamy, with marriage records providing evidence that the petitioner met criterion 83.7(b)

at a sufficient level (83.7(b)(2)(ii)) for marriages which took place between 1901 and 1918. While the BAR had no statistical evidence for the duration of the marriages that took place during this period, it presumed that the majority continued for approximately 30 years on the average, until some time in the period 1930-1950. This evidence, coupled with evidence that 50 percent or more of the petitioner's ancestors lived in a distinct geographical community from 1870 to around 1950 (83.7(b)(2)(i), demonstrated the petitioner met criterion 83.7(b) at a sufficient level of evidence for the period from 1870 to about 1950.

Under the 1994 revised regulations, if a petitioner meets criterion 83.7(b), the maintenance of social community, at a sufficient level of evidence (for example, if 50 percent of the membership lives in an isolated, homogeneous, geographical community, or there is fifty percent endogamy) (83.7(b)(2), then the regulations assume that political authority has also been maintained within the community. "A group that has met the requirements of paragraph 83.7(b)(2) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that point in time" (25 CFR 83.7(c)(3)).

The evidence indicates that, from 1870 to about 1950, the RMI, met criterion 83.7(c) because they met criterion 83.7(b) at the high level based on the high rate of endogamy (over 50 percent) and the high percentage of members living in a geographical community (over 50 percent).

The petitioner has not presented evidence that the RMP maintained political influence or authority from historical times (from the time of first sustained contact with non-Indians) to 1870. As previously stated, there is no evidence demonstrating that the petitioner was a distinct community before 1870. Continuous existence as a social community and continuous exercise of political authority have always been required under the regulations for acknowledgment. For example, in their original petition and in their response to their own Proposed Finding, the Mohegan Tribe provided evidence of continuous political authority in the group from 1641 to the present. This requirement has been met by other successful New England petitioners as well (see the Proposed Findings and Final Determinations for the Wampanoag Tribal Council of Gay Head, Massachusetts, and the Narragansett Tribe of Rhode Island).

Neither the petition nor the RMI Response presented evidence that establishes a reasonable likelihood that the RMP maintained political influence or authority from 1950 to the present. Without the high level of evidence for the maintenance of social community from 1950 to the present, the BIA cannot assume that political authority has been maintained since 1950. The evidence presented by the petitioner, and that found by the BAR, indicates that the descendants of the RMI progenitors began migrating from the social core area after 1900 (Price 1950). This was especially true for the Ringwood community after the Ringwood Mines closed at the time of the Depression in the early 1930's. The mines were reopened briefly during World War II, but closed again after the end of the war. This precipitated further migration by RMI ancestors (and current members) who lived in Ringwood.

Without the benefit of the assumption of political authority that was made for the period from 1870 to 1950, the petitioner needed to present evidence demonstrating political authority for two distinct periods: from the time of first sustained contact with non-Indians to 1870, and from 1950 to the present. This would have included evidence that: political authority was vested in the membership as a whole; that the members and leadership maintained a bilateral political relationship; that the leaders represented their members on matters of importance to the group as a whole; that the members communicated to their leaders their opinions on issues of importance to the group, that members are able to influence their leaders on such issues; and that the leaders in whom the authority is vested are able to influence the behavior of group members.

Neither the RMI Petition nor the RMI Response presented any evidence demonstrating the RMI have met criterion 83.7(c) from first sustained contact with non-Indians to 1870 (see the discussion of Katonah under criterion 83.7(b)) or from 1950 to the present. No such evidence has been found by the BAR researchers.

## DISCUSSION OF CRITERION 83.7(e): DESCENT FROM A HISTORICAL INDIAN TRIBE

**83.7(e) 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.**

**Introduction.** In a letter from the BIA dated March 24, 1994, the RMI were advised that the Proposed Finding was based on extensive evidence concerning their ancestry which concluded the petition had not demonstrated that the RMI members descended from a historical tribe of Indians. The RMI were also informed that the technical reports accompanying the Proposed Finding had traced the historical movements of the ancestors as a basis for concluding that they were not part of a distinct social community which had evolved directly from a historical Indian tribe.

Problems with identifying Indian ancestry for the four main RMI families, Mann, VanDunk, DeGroat, and DeFreese, were specified in both the historical and genealogical technical reports accompanying the Proposed Finding. The technical reports suggested possible additional sources for research, including original church records and deeds. For example, the fact that the Mann family origins had not been explored before 1800 was cited on page 22 of the historical report. The need for a thorough search of the deeds was noted on page 36 of the historical report.

**The RMI Response.** The RMI petition and the RMI Response focused their discussion and analysis on attributions of Indian ancestry and/or what were perceived as "Indian" social and personal characteristics to some RMI ancestors who lived in the late 1800's. These individuals were either direct ancestors of the modern RMI or were collateral relatives of RMI ancestors. These sporadic attributions of Indian characteristics to RMP individuals do not equate with known, demonstrated, tribal ancestry as required by the Federal regulations. The RMI have not demonstrated that there was tribal ancestry for their known progenitors.

The petition and the RMI Response cited as "proof" of RMI Indian ancestry an individual who was first referred to as having Indian ancestry in 1875. This person's known ances-

tors were never identified as Indian, part-Indian, or by a tribal designation. No other evidence was presented regarding who his Indian ancestors might have been. This type of amorphous reference does not constitute satisfactory evidence of a person's Indian ancestry or tribal descent under the provisions of criterion 83.7(e).

**Comparison with genealogical evidence used in other decisions.** The Narragansett Indian Tribe of Rhode Island had a documented history dating to 1614. The membership lists of the Narragansett community prepared after the 1880 Rhode Island "detribalization" act clearly established tribal ancestry for the modern Narragansett by referring to more than 250 years of documents concerning the tribe and its members. The diverse non-Indian ancestry of the Narragansett was not an analytical concern in that Final Determination. Similarly, the Mohegan Tribe of the State of Connecticut also documented an unbroken chain of tribal descent. In weighing the evidence for the three cases--RMI, Narragansett, and Mohegan--the diverse non-Indian ancestry was not considered negative. However, the RMI case lacked the documented tribal ancestry and history that would support a positive finding under criterion 83.7(e).

The RMI Response also compared the RMI's undocumented claims to Indian ancestry to ancestry of the Jena Band of Choctaw, noting that the Historical Technical Report on the Jena Band of Choctaw stated that the precise migratory path of the Jena from Mississippi to Louisiana in the 1870's was not an issue (RMI Response B-34 - B-35). The members of the Jena Band were authoritatively identified as Choctaw by a Federal Indian enrollment (the Dawes Rolls) at a date subsequent to the move from Mississippi to Louisiana. The RMI do not appear on any Federal Indian rolls or treaties. Jena continuity with the Choctaw tribe was independently established by the connection to Choctaw Indians who were removed from Louisiana to Oklahoma, and by the fact that some members of the Jena Band over 45 years of age still speak the Choctaw language, using a specific dialect recognized by the Mississippi Choctaw. The RMI submitted no evidence of equivalent quality and character. Statements made concerning how the evidence is weighed in particular cases must be read in the full context of the case.

By contrast, the Indian ancestry claimed by the RMI cannot be tied to any specific individuals who lived during the 18th or early 19th centuries and who were identified in contemporary documents as being Indian or as part of a specific tribe, or as descended from a specific tribe. The

RMI's claim to Indian ancestry is based mainly on working backwards from post-1870 statements which vaguely indicated that some of the RMP "looked Indian" or had Indian "characteristics." Neither the petitioner's exhibits nor the BIA's additional research provided evidence to confirm those late 19th century assertions of Indian ancestry for the RMP.

The post-1870 statements were in conflict and often inconsistent. A pattern of discrepancies such as this sheds doubt on the veracity and reliability of the evidence. For example, see the RMI Response's analysis of Richard DeGroat, which was based on an 1875 New York state census notation and on a partial recounting of DeGroat's ancestry in his Civil War pension record (RMI Response, Joslyn Report 2-3). The same Richard DeGroat was not identified as an Indian in any other Federal or State census, nor were his parents or siblings, even though they were named and ethnically/racially identified in numerous documents. It cannot be assumed that someone who was identified as an Indian for the first and only time in an 1875 state census, in fact, descended from an Indian tribe, if this conflicts with the balance of the record, which in this case is substantial. It is also noted that neither Richard DeGroat nor Florence Maguiness, who was identified as Indian on the 1870 Federal census, has direct descendants on the 1993 RMI membership roll, although they do have collateral descendants on the current roll.

Roger D. Joslyn, a professional genealogist who contributed detailed genealogical reports to the 1992 RMI petition for Federal acknowledgment, submitted an additional report (RMI Response, Joslyn Report) in the RMI Response. The RMI petition had well-prepared genealogical charts and reports that thoroughly documented the ancestry of the modern RMI to the early 19th century. Joslyn's reports included photocopies of the Federal and State censuses from 1790 to 1925 for the counties in New York and New Jersey where the RMI families lived. Mr. Joslyn also accumulated over 200 photocopies of New York and New Jersey birth, death, and marriage records for the ancestors and collateral relatives of the RMI. These records, as well as a large volume of church, tax, probate, cemetery, Vineland Study (Vineland Training School 1917), and Eugenics Record Office (ERO) reports (Osborn c1914; Osborn c1917), contributed much to the understanding of the RMI family connections. In spite of the thorough research conducted by Joslyn, these records only trace RMI ancestry to around 1800 (Degroat, DeFreese, Mann, and Van Dunk). The ancestors of the RMI before that time are not known. The records submitted by the petitioner do

not establish a genealogical connection of the earliest documented RMI ancestors to any historical Indian tribe, whether Munsee, Tuscarora, or otherwise.

The large volume of the records collected by Joslyn has often been cited (see editorial newspaper article by Joslyn, as well as comments from third parties: Joslyn 1993/7/21, RMI Response Ex. 25; Kraft 1995/6/15, RMI Response Ex. 1; Hoff 1995/6/4, RMI Response Ex. 3). These citations did little analysis of what these records actually demonstrate. For example, on the list of "Ramapough Indians" used to calculate endogamy for the 1700's (RMI Response, Joslyn Report, four unnumbered pages at the end of his report, listing people from the 1700's and 1800's who have the same surnames as the main RMI families), most of the people listed from that period have no proven connection to the petitioner. They merely share the same surnames. The fact that the people extracted from early 1700's marriage records shared the same last names as the petitioner's members does not establish a genealogical relationship between those individuals and the petitioner. This specific evidence was irrelevant to demonstrating tribal ancestry for the petitioner under criterion 83.7(e) because, with the exception of one man, the 18th-century and early 19th-century people bearing these surnames were not identified as members of Indian tribes, as Indians, or as part-Indian.

**The Vineland Study considered extensively in the Proposed Finding.** The RMI Response included a section on the Vineland Study, stating that "The BAR went to great lengths to downplay the importance of this vital source of genealogical data" (RMI Response, Joslyn Report 10). According to the Joslyn Report, the Proposed Finding's statements that the Vineland Study was not limited to the Ramapo Mountain area, that the Vineland Study did not identify the subjects as Indian or part of a tribe of Indians, and that some of the family relationships that it described were unclear, were misinterpretations of the Vineland Study.

The Vineland Study was discussed at length in all three of the Proposed Finding's technical reports (RMI PF, Historical Technical Report 71-75; RMI PF, Anthropological Report 9-10; RMI PF, Genealogical Technical Report 5, 7, 15-16). For example, the genealogical report summarized the relationship of the Vineland Study to the RMI petition.

> The bylaws and amendments of the petitioner refer to an unpublished sociological study titled "The Jackson Whites, A Study in Racial Degeneracy"

> (better known as the Vineland Study) which was an unpublished manuscript researched by [employees of]. . . the New Jersey Training School at Vineland . . . This study was in no way objective as the author(s) were looking for what they called "degenerates" in order to support political beliefs which were precursors to the now debunked national eugenics movement. While it provides some information of genealogical value, the study was not prepared as a genealogical report and the family relationships given are often unclear. Also, the focus of the study was not confined to the Ramapough Mountain area (RMI PF, Genealogical Technical Report 5).
>
> References are made throughout the Vineland study to "Indian characteristics" and "Indian type" that appear as physical descriptions based upon observations and stereotypes rather than on documented Indian ancestry. The strongest statement toward proof of Indian descent is a description of Samuel Smith (born about 1800) who was "possibly the son of Peter Smith and an Indian woman" (Vineland Training School, 1917, 91). However, this is irrelevant to BAR purposes as there are no descendants of Peter Smith on the current RMI membership lists (RMI PF, Genealogical Technical Report 5).

The RMI bylaws regarding membership requirements were quoted on page seven of the genealogical report, under the section on governing documents. The Vineland Study is one of the sources acceptable to the RMI council as proof of American Indian ancestry. Other references to the Vineland Study are cited in the sections on the main RMI families.

The Historical Technical Report of the Proposed Finding stated that before using the Vineland Study to evaluate the RMP community, it was necessary to consider two points. The first point was that the Vineland Study:

> was not an objective study of the RMI community, but rather advocacy or propaganda produced by adherents of the U.S. eugenics movement which was already popular prior to World War I and continued through the 1930's (see in general Kevles 1985) (RMI PF, Historical Technical Report 72).

The other point was that, whether described as having Indian characteristics or phenotype or not:

> . . . the majority of the Jackson Whites cited in the Vineland Study as representing dysfunctional families and degenerate life styles are not claimed as ancestors on the genealogical charts submitted by the RMI group--many of them are collateral lines, but few were RMI direct lines . . . . Many of the people traced by the Vineland Study were living 50 or more miles from the RMI central settlements: they were in Orange, Flanders, and Newark. There is actual overlap between the RMI ancestors and the Vineland Study subjects only in three small family groupings (RMI PF, Historical Technical Report, 73).

In summary, if the early 20th-century families specifically discussed in the Vineland Study left direct descendants, those descendants were not on the RMI membership list.

In the Anthropological report, the intent and scope of the Vineland Study were also evaluated:

> The report on the "Jackson White" community was initiated because the researchers believed that it offered one of the best possible natural laboratories for testing the influence of genetics on intelligence. . . . Coming down on the nature side of the nature versus nurture controversy, the now discredited report concluded that environmental factors do not influence intelligence. Similar conclusions were reached in Kite's study of the Piney's, another group purported to have partial Indian ancestry, in Burlington County, New Jersey (Kite 1913). At the end of this report, Ms. Kite tells the governor that the best way for the state to take care of such mental and moral "defectives" was to institutionalize them before they reached an age when they could produce offspring. Such studies formed the foundation of the national eugenics movement and ultimately Nazism in Germany. Groups such as the "Jackson Whites" were victimized by the pseudo-scientific research performed among their populations (RMI PF, Anthropological Technical Report 9-10).
>
> The Vineland Study said that there were 2,611 "Jackson Whites" living in the United States.

> Though no supporting evidence is cited and the author expresses some doubt in the matter, Algonquian (Minsi) and Tuscarora ancestry is alluded to in the report. It does not give any information as to whether or not all of these people shared kinship ties to the DeGroat and/or Conklin families. It also does not say how the census estimates were established. The author estimated that in 1913 a total of 875 "Jackson Whites" were to be found in the seven towns that now lie within a 5-mile radius of the RMI core area, with the balance of the 1,736 living spread out in another 67 small towns all over New York and New Jersey, in state institutions, and living in other states. This enumeration represents a further change in meaning for "Jackson Whites;" they are no longer geographically restricted to the Mahwah region, but are living all over New York and New Jersey (RMI PF, Anthropological Technical Report 9-10, and RMI PF, Appendices A and B).

Thus, the Vineland Study was carefully reviewed and quoted in the Proposed Finding. It was evaluated and it was found wanting as a reliable source of evidence for documenting descent from a historical tribe. The Vineland Study's assertions about the supposed Indian ancestry of the "Jackson Whites" were not based on primary source evidence. The Vineland Study simply repeated unfounded assertions regarding tribal origins that had been made by other authors for twenty years or more by local people concerning the origins of "Jackson Whites."

The Vineland Study quoted local historians and journalists whose unsubstantiated assertions were also evaluated in the Proposed Finding. For example, one of the citations for reputed Indian ancestry referred to in the preceding paragraph was partially quoted in the RMI Response's Joslyn Report:

> The J.-W. [sic] are a race of people of mixed Negro, Indian and white blood...(VS 3); the Indian blood found in the J-W...is supposed to have belonged to a remnant of the Algonquin Tribe - to the Minsi or Wolf Clan, who were natives of the Upper Delaware Valley in Pennsylvania, New Jersey and New York. The Minisick [sic], or Minsi indicates that they were known as the people of the Stony Country, or Mountains, who roamed from place to place as did the wolf. There were also a few

> families of the Tuscarora Indians who remained in the Ramapo mountains after their tribe had made there a three years sojourn, from 1710 to 1713, on its way to join the five nations in New York State (VS, 24) (RMI Response, Joslyn Report 11).

A more complete quotation of the Vineland Study reads:

> But how account for the Indian blood that shows itself so conspicuously among this race today? Undoubtedly a large part of it comes from Indians who were formerly held as slaves. . . . the Indian blood found in the Jackson Whites whether it came down though individuals held as slaves or through isolated free Indians who intermarried with the emancipated negroes, is supposed to have belonged to a remnant of the Algonquin Tribe - to the Minsi or Wolf Clan, who were natives of the Upper Delaware Valley in Pennsylvania, New Jersey and New York. The Minisick, or Minsi indicates that they were known as the people of the Stony Country, or Mountains, who roamed from place to place as did the wolf. There were also a few families of the Tuscarora Indians who remained in the Ramapo mountains after their tribe had made there a three years sojourn, from 1710 to 1713, on its way to join the five nations in New York State. . . the care-free nature and the desire for physical freedom which appears in many of the J-W's [sic] and which may be a sign of their inherited Indian traits, for they are born lovers of nature, fond of walking, hunting and fishing (Vineland Training School 1917, 24-27).

This lengthier quote shows that the author was only assuming Indian ancestry for some of the RMI ancestors. No primary source data that demonstrated that the RMI were descendants of the Munsee or Tuscarora was cited.

The Proposed Finding concluded that the Vineland Study only speculated that the assumed Indian ancestry of the RMP came either from Indian slaves, from "isolated free Indians," or from a "remnant" of the Algonquin or Tuscarora tribes. This speculation was not corroborated by supporting evidence at the time of the Vineland Study, either by records contemporary to the lives of the ancestors purported to be Indian, or by subsequent research. The occasional references to some of the RMI ancestors as being of "Indian type" were either based on notions of phenotype (see the section at the

beginning regarding phenotype and blood quantum as "evidence" of Indian ancestry) or stereotypical social behaviors attributed to Indians by many non-Indians at that time (migratory, without laws, illiterate, and degenerate).

The Proposed Finding stated that the Vineland Study had some genealogical value, but that some family relationships were unclear. The focus of the Vineland Study was not confined to the Ramapo Mountain area. The lack of clarity of a few late 19th century family relationships was immaterial, however, since there was no evidence that the progenitors of the known RMI ancestors were descended from an Indian tribe. As can be seen from the quotations cited in this report, the Vineland Study included many people who were not ancestors of the RMI. Therefore, observations of their "Indianness" cannot automatically be assumed to apply to their collateral relatives who may be ancestors of some of the RMI. The Vineland Study did not name the 18th century ancestors of the genealogically proven RMI progenitors and did not provide proof that the earliest identified RMI ancestors were descended from a tribe of Indians.

Therefore, the Final Determination finds that the Vineland Study does not document that the RMI descends from a tribe of Indians. The RMI Response did not provide any new evidence to substantiate tribal descent of the RMI and none has been found by the BAR researchers, nor is there acceptable evidence that the RMI represent an amalgamation of Indian tribes as allowed under criterion 83.7(e).

**Analysis of RMI core families.** The results of Joslyn's previous research were a remarkably well-documented record of the RMI families to around 1800. Joslyn's research did not document any ancestors, Indian or non-Indian, for the RMI before this time. All of the evidence submitted in the Joslyn Reports and confirmed by the BAR research identified the earliest known RMI core families as being those with the surnames DeGroat, DeFreese, Mann, and Van Dunk.

The earliest proven RMI progenitors were:

1. John DeFreese, born before 1790, who married Margaret Mann about 1809;
2. James DeGroat, born about 1792, who married Susan DeGroat;
3. William R. DeGroat, born about 1814, who married Sally Ann Mann;
4. John DeGroat, born about 1821, who married Mary E. DeFreese;

5. William Mann, born about 1827, who married Fanny Mira DeGroat;
6. John Van Dunk, who married Clarissa DeFreese about 1800; and possibly,
7. John DeGroat, born about 1797, who married Margaret Piggeret.

The frequent duplication of family names in this list of early proven marriages did provide strong circumstantial evidence of social contact among the DeFreese, DeGroat, and Mann families in the first half of the 19th century. However, neither the original petition documents nor the RMI Response provided evidence, contemporary to the lives of these individuals, which identified these earliest proven RMI families as being Indians or as being of Indian descent. Neither the original petition, the RMI Response, nor additional research by the BAR, was able to connect these proven early 19th-century RMI ancestors to any earlier, 18th-century Indian tribe. In the Proposed Finding, the AS-IA did not accept any evidence that the Van Dunk ancestral family line was "Indian," as stated in the RMI Response (RMI Response A-13).

The Joslyn Report in the RMI Response stated:

> The purpose of this Report [sic] is to review the major genealogical links of those RMI ancestors and collaterals identified in various records as Indian or with Indian ancestry, as well as the sources that show these identities and provide the documentation for genealogical relationships.
>
> In addition, I have identified numerous, significant errors and misconceptions in the Bureau's Proposed Findings [sic], and have provided responsive comments.
>
> As detailed below, it is my professional opinion that Indian ancestry for the Ramapough Mountain Indian Tribe had been demonstrated, and that the proposed negative finding of the BAR staff is both erroneous and unsound in its approach (RMI Response, Joslyn Report 1).

The Proposed Finding did not question the genealogical links of the modern RMI membership to the earliest known RMI ancestors. Rather, the Proposed Finding concluded that there was no evidence that the genealogically proven ancestors of the RMI descended from a tribe of Indians. The

Joslyn Report did not include any new research to identify the 18th-century parentage or origins of the proven RMI ancestors. The Joslyn Report consisted of a re-evaluation of the evidence submitted for the petition, a summary of the Vineland Study, and an analysis of the endogamy among the RMI (RMI Response, Joslyn Report 10-12). The BIA does differ from the petitioner in its interpretation of the data. See the section of this report on genealogical methodology for the standards used in preparing the Proposed Finding and the Final Determination.

The Federal regulations for acknowledgment of an Indian tribe require that the petitioner descend from a historical tribe of Indians: a specific, known, named, and documented tribe, or specific, known, named, and documented tribes which amalgamated and subsequently functioned as a single tribe. A hypothesis that the unknown and unnamed ancestors of an earlier generation were Indians does not meet the Federal criteria for acknowledgment, as they have been applied since 1978 under 83.7(e).

Following the Joslyn Report's opening statement is a "review of the major genealogical links" in the RMI DeGroat, DeFreese, and Mann families, and a discussion of one family named Maguiness, that married into the RMI families beginning in the mid-1800's. This was accompanied by Joslyn's interpretation of the evidence regarding each of these families. The evidence regarding the DeGroat, DeFreese, Mann, and Maguiness families will be discussed in turn.

The DeGroat family. The RMI petition cited the 1875 New York census and the Vineland Study as proof that the DeGroat family descended from a tribe of Indians. The Vineland Study attributed Indian-like physical characteristics and/or Indian personality and social traits to some DeGroat descendants included in the study.

The Proposed Finding stated that the DeGroat surname appeared in the Hackensack Reformed Dutch Church as early as 1695 and that none of the early church records identified the DeGroats as Indian. The Proposed Finding also found that none of the DeGroat families who lived from 1850 to 1900 in Hohokus Township, Bergen County, New Jersey (which included the core geographical area of the RMI), were ever enumerated as Indian; that none of the vital records of New York or New Jersey submitted with the petition identified any DeGroat as Indian; and that the attributions of Indian-like physical features or characteristics noted in the

Vineland Study did not constitute evidence demonstrating descent from a historical tribe.

The RMI Response focused on attributions of Indian ancestry for two DeGroats in the 1875 New York state census, Richard (b. ca. 1845) and DeWitt Clinton DeGroat. They were sons of John and Margaret DeGroat. The RMI Response also cited the Vineland Study, which attributed Indian characteristics to descendants of Richard DeGroat and to some of his siblings' descendants, as evidence demonstrating the Indian ancestry of Richard DeGroat (and by implication his ancestors and descendants; RMI Response, Joslyn Report 2-4). The RMI Response stated:

> The BAR genealogical and historic reviews essentially passed over the key Indian identities for the DeGroat family, particularly the one in the 1875 New York State Census entries for brothers Richard and DeWitt Clinton DeGroat.
>
> In this census, for the Town of Monroe, Orange County, New York, the enumerator listed Richard "DeGrote," head of a household, as "7/8 Indian." This identification was obviously based on Richard's claim that his father was "3/4 Indian,"[1] [Footnote number 1 in the Joslyn Report reads: "This suggests Richard's mother was 1/8 Indian."] as described in a separate note by the enumerator which was added to the census (the enumerator's interest in this family seems to have been peeked [sic] by Richard DeGroat's two albino children). The very next household was headed by Clinton DeGroat, also listed as "7/8 Indian" and therefore Richard's brother (RMI Response, Joslyn Report 1).

In actuality, the 1875 census entry read:

> Household #113, Richard DeGrote, 28, m[ale], 7/8 Ind, [born] NJ; Hannah DeGrote 26, f[emale], m[ulatto], wife, [born] NJ; Sarah F. DeGrote, 8, f, albino, daughter, [born] NJ; Margaret A. DeGrote, 6, f, albino, daughter, [born] Orange [county, New York]; Charles H. DeGrote, m, 3 3/12, albino, son [born] NJ. Household #114, Clinton DeGrote, 26, m, 7/8 Ind, [born] NJ; Mary A. DeGrote, 24, f, m[ulatto], wife, [born] NJ; Phebe J. DeGrote, 5, f, m[ulatto], [born] NJ; Alice DeGrote, 3 7/12, f, m[ulatto], [born] NJ (New York 1875a, 15).

The note by the census enumerator read:

> DeGrote, father of the albino children says his father was called 3/4 Indian, and his mother a mulatto-His wife is a Quadroon: her father a mulatto and her mother nearly white . . . [a description of the albino children follows] (New York 1875a, 15, "note").

The one-time identification of Richard DeGroat (b. 1845) as "Indian" by the census enumerator in 1875 is not acceptable evidence of Indian tribal ancestry for this individual on its face because other identifications in census records differed. The enumerator also did not record that Richard DeGroat's mother was 1/8 Indian; this is an assumption made by Joslyn.[27]

John and Margaret DeGroat and their children, including Richard and DeWitt Clinton, were identified in the 1855 New York State census (Warwick Town, Orange County) and the 1850 Federal censuses as "mulatto" or "black" (NARS 1850c, 13; New York 1855, family #245). It appears that Margaret died between 1855 and 1860, as an "Eliza" is listed as John's wife on the 1860 Federal census in Warwick, Orange County when the father of Richard and Clinton DeWitt was listed as "black" (NARS 1860c, 258). The John DeGroat family was not located in New York on the 1865 state census; however, a John DeGroat "colored male," Mary Eliza "colored female," and Mary Ellen and Catherine "colored children between ages 5 & 16," were enumerated in Hohokus Township, Bergen County,

[27] As already discussed in this report, there is no blood quantum requirement under the acknowledgment criteria (25 CFR 83.7). The method that Joslyn assumes the census enumerator used to calculate DeGroat's blood quantum is mistaken. Blood quantum for an individual is not calculated by adding the percentage of Indian ancestry of that person's biological parents. Rather, the Indian blood quantum of each parent is divided by two, since the child receives half of his or her heritage from each parent. For example, the child of a white fur trader (4/4 white) and a full-blood Indian woman (4/4 Indian) will be 2/4 Indian and 2/4 white.

In this case, if the father were 3/4 Indian, the mother would have to be a full blood Indian (that is, 8/8, rather than 1/8 Indian blood) for their children to be 7/8 Indian (i.e., the children would receive 3/8 Indian from the father and 4/8 Indian from the mother, for a total of 7/8 Indian).

If the father were 3/4 (6/8) Indian and the mother were 1/8 Indian, the child's blood quantum would be 3/8 (6/16) from the father and 1/16 from the mother, for a total of 7/16, not 7/8, for the child. This is a moot point since there is no primary source documentation supporting the percentages assumed by the enumerator and the Federal acknowledgment criteria have no requirement for blood quantum.

New Jersey in 1865 (New Jersey 1865a, Families #2259-2262). This New Jersey census did not list the individual's age or birthplace; therefore, it is not conclusive that it was the same John DeGroat family that was last living in Warwick, New York. However, in 1870 John DeGroat age 70, Eliza A. age 49, Albert age 21, and Sarah E. age 14, all identified as "mulatto," were living in West Milford Township, Passaic County, New Jersey (NARS 1870b).

The actual census records for John and Margaret DeGroat, who appear to be the parents of Richard and DeWitt Clinton DeGroat, do not provide evidence that they were ever identified in Federal census records as Indian in their own lifetimes. None of Richard and DeWitt Clinton's other siblings were identified as Indian on the Federal or State censuses from 1850 to 1900 (see bibliographical listing of United States, New Jersey, and New York censuses between 1850 and 1900).

Richard DeGroat was not identified as Indian or part Indian on any other Federal or State census before or after the one reference in 1875. Therefore, DeGroat's comment that "his father was called 3/4 Indian," as recorded by the New York State census enumerator, cannot be considered as key evidence of Indian ancestry. It is not acceptable evidence for continuity with a historical American Indian tribe for the 1875 RMP community as a whole. First, the generic census identification of an individual as "Indian" does not constitute primary source evidence of tribal ancestry, which is required under criterion 83.7(e). Second, without corroborating evidence, a one-time identification of an individual as "Indian" cannot even be considered reliable evidence for the ethnicity of that individual. The State and Federal censuses from 1790 to 1910 have all been reviewed by the BAR researchers. No other census identified Richard DeGroat, his parents, siblings, or descendants as Indians.

If either of Richard DeGroat's parents, or any of his other siblings, had also been identified as Indian on any of the Federal or State censuses, then Richard DeGroat's 1875 statement that his father was "called" 3/4 Indian would have been viewed differently. However, the weight of all the correlated census evidence does not support the petitioner's claim that the two isolated identifications by the census enumerator made in 1875 (for Richard DeGroat and Dewitt Clinton DeGroat) prove Indian ancestry for the DeGroat family.

The RMI Response also referred to entries in Richard DeGroat's Civil War pension file as partial proof of his ancestry. The RMI Response stated:

> Richard DeGroat served in the Civil War, and information in his pension file indicates he was born 27 November 1843 in Greenwood, Orange County, New York. . . . There is also reference in the file to Richard's wife, Hannah, and his stepmother, Eliza Ann, as well as those who gave testimony regarding his service--John Defrece [sic], Samuel Mann, Peter Defrese [sic], Silas W. Milligan, Charles T. Van Dunk, and James DeGroat. Furthermore, there is a statement about Richard and Hannah's ten children, nine of whom were albinos (four of whom were living in June 1895) (RMI Response, Joslyn Report 2).

Although the above statement correctly summarizes some of the information found in the pension file, it is misleading because it does not fully quote the record nor does it summarize all of the information found in the pension. There is nothing in the pension file that indicated that the DeGroats were members of an Indian tribe or that they were Indians by descent. The RMI submitted four pages of Richard DeGroat's pension file, which included the statements referred to above. The entire pension file is quite lengthy and contains depositions from his wife, his stepmother, and his comrades who also served in the United States Colored Troops (USCT). The BAR genealogist reviewed Richard DeGroat's complete pension file in preparation of the Final Determination.

The following quotation from the pension file is included in order to give a fuller picture of Richard DeGroat's family origins, as reported by his contemporaries. In June 1895, James T. Clement, Special Examiner [for pension applications] wrote a report to the Commissioner of Pensions regarding DeGroat, who had served as a private in Company "K", 26th Regiment, USCT, and had suffered from the effects of a frozen foot during the War. The full statement by Clement was omitted from the Proposed Finding out of sensitivity for the petitioner. However, since the RMI Response relies on the pension file, Clement's report and other records in the file are cited here.

> When I went to make examination in this case I discovered a remarkable fact to me, viz. that while this soldier is at least two thirds negro

> and his wife about half that they were the parents of ten children one being the color of the soldier and the other nine were Albinos. Five of the Albinos are dead the other four alive (Petition Source Records; NARS, n.d., Richard DeGroat #473,567).

The rest of the page describes the DeGroat children's physical and mental condition and the examiner's concern for their welfare after the parents' deaths. Clement did not state or imply that Richard DeGroat, his wife, or his parents were Indians or living in tribal relations.

Hannah DeGroat, in her June 11, 1895 deposition, stated that she had known Richard DeGroat from childhood, that they were both raised at Ringwood, Passaic County, New Jersey, and that her brother John DeFreese was in Company "A," 26th Regiment USCT. Hannah DeGroat provided the following information on Richard DeGroat:

> He boarded at my mothers and fathers house until we were married- I remember well when he first came home to my fathers house my father made a salve for him. . . (NARS, n.d., Richard DeGroat #473,567).

Hannah DeGroat did not identify herself, her father, or her husband, Richard DeGroat, as Indian or of Indian descent.

Eliza Ann DeGroat, in her June 11, 1895, deposition stated that she was the stepmother of Richard DeGroat, that Richard entered the army with her son Edward Peterson who served in Company "A," in the 26th Regiment, USCT, and that Richard DeGroat went to his uncle Peter DeFreese's house when he was discharged.

> He was so lame and used up that he did not come to my house for about a week. . . . He told me his Uncle Peter Defrece [sic] had made a salve for it [his frozen toe] (NARS, n.d., Richard DeGroat #473,567).

Richard DeGroat himself deposed that:

> My foot was sore and Peter Defreese made a salve for me and put it on my toe He healed me for the toe, the best part of a year. He was not a Doctor He was an old colored man who made the salve out

> of herbs that he got in the wood and lard (NARS, n.d., Richard DeGroat #473,567).

Peter DeFreese, who treated DeGroat's frozen foot, was variously identified in the depositions as Richard's uncle [possibly his mother's brother], as his father-in-law, and as an "old colored man." None of the identifications stated or implied any Indian ancestry or affiliation for DeGroat through the DeFreese line.

In summary, the pension record indicated that Richard DeGroat served in the United States Colored Troops with his neighbors, his stepbrother, and his future brother-in-law. Richard DeGroat did not identify himself or any of his relatives or comrades in service as being members of an Indian tribe or as being of Indian descent. Although the pension file does clarify some of Richard DeGroat's family relations, it does not provide evidence for the petitioner's claim that Richard DeGroat or his family were Indian or of Indian descent. Aside from this, Richard DeGroat does not appear to have direct descendants on the RMI membership list, so any identification of him as "Indian" is not pertinent to meeting criterion 83.7(e).

The Joslyn Report in the RMI Response also attributed Indian ancestry to other DeGroat lines based on evidence from the 1850 Federal census. This evidence led Joslyn to assume that John DeGroat was the full-blood brother of Peter DeGroat and Richard DeGroat (b. ca. 1805). Joslyn's reasoning for this assumption follows:

> Obviously, since Richard DeGroat's father John was 3/4 Indian, John's siblings would share the same degree of ancestry. In 1850, John was enumerated next to the households of Peter DeGroat, 48, and Richard DeGroat, 45 (1850 WK 13). The closeness in age and proximity of these three DeGroats are powerful suggestions that they were brothers (RMI Response, Joslyn Report 3).
>
> Two of the children of Peter DeGroat (born about 1801) are discussed in the Vineland Study. The family of his son Peter is mentioned on pages 85 and 87-89. Son Owen is treated on pages 45 and 47-48. Furthermore, Owen's daughter, Henrietta is described as "light-colored negro-Indian" (Vineland Training School 1917, 86), and Owen's son, James "Red" DeGroat, "shows a good deal of Indian blood" (ERO 67:392). Owen, who married Nan-

cy/Ellen L. Mann, is an ancestor of the current RMIs (RMI Response, Joslyn Report 3-4).

The petitioner has assumed that the John DeGroat (b. ca. 1797) who is listed in the 1850 federal census was the full-blood brother of Peter DeGroat (b. ca. 1801) and Richard DeGroat (b. ca. 1805), just because they were contemporaries in age, lived near each other, and shared a common surname. Standard genealogical methodology and BIA precedents for weighing genealogical data would not accept this conclusion. They may have been full-blood brothers but, from the limited evidence available, they could just as easily have been half-brothers, step-brothers, cousins (of any degree), uncles and nephews, or not related at all.

In the context of criterion 83.7(e), there is no acceptable evidence that Richard DeGroat's father, John DeGroat, was Indian (3/4 or otherwise). The attribution of Indian ancestry to Richard DeGroat (b. 1845) by the census enumerator is unreliable because it is a relatively late, one-time reference. There are no other records identifying John DeGroat, the reputed father of Richard DeGroat (b. ca. 1845), and supposed brother of Richard DeGroat (b. ca 1805) and Peter DeGroat, as Indian. Because there is no reliable evidence that John DeGroat was Indian, it cannot be assumed that his siblings were Indians.

The Proposed Finding indicated that James and Susan DeGroat and their children, William R. and Sally Ann DeGroat and their children, and John and Mary E. DeGroat and their children, were traced in the Federal and State census records for New Jersey from 1850 through 1900. None of these families were identified as "Indian" on any of the Federal or State census reports.

A report entitled "A Branch of the Ramapough DeGroat family of Upstate New York, Ontario, Wisconsin and Minnesota" was included in a notebook entitled "Source Materials." This notebook was deemed by the BIA to be part of the original RMI petition, and it was reviewed at the time of the Proposed Finding. The report traced the lines of descent of two men, James and Richard DeGroat,[28] of Franklin Township,

[28] There is no known connection between this Richard DeGroat and the other two Richard DeGroats already referred to in this section. Neither of the DeGroat men who settled near the Oneida Reservation has a documented connection (genealogical or social) to the RMP or the individuals on the modern RMI membership list.

Bergen County, New Jersey. Before 1830, these two DeGroats moved near the Brothertown Reservation (also known as "Brotherton"), which was next to the Onondaga Indian Reservation, in Onondaga County, New York. Several descendants of these DeGroats applied for land through the Kansas Indian Claims Commission, as descendants of the Brotherton Tribe, in 1901. Their claim was based on the Indian ancestry of James DeGroat's Indian wife, Philinda (Fowler) DeGroat. The petitioner's genealogist inferred from that fact that Philinda DeGroat was Indian that James DeGroat, her husband, was also Indian.

The BIA has not weighed genealogical evidence in such a way as to pass Indian ancestry between spouses. The BAR research revealed that these 1901 applications were rejected by the Commission because it specifically concluded that James DeGroat and Richard DeGroat were not Brothertown Indians.

Since the Joslyn Report in the RMI Response indicated that Indian ancestry for the DeGroats who made application to the Kansas Indian Claims Commission would imply Indian ancestry for the RMI DeGroat family, these materials were again examined by the BAR researchers during preparation of the Final Determination and are more fully quoted below. The notes made by the Commission on the application of Daniel DeGroat, a descendant of James DeGroat and Philinda Fowler DeGroat, read:

> #919Appl. [sic] is not a Bro. Ind. & never claimed to be until about the time of filing this appl. He is of negro descent - See Misc. Test. p. 46 §8 & p. 55 §14 Appl. does not claim that his father was an Indian & his mother & her parents have [sic] not allottees in 1839. Wife not an Ind. minor children Rejd [sic] (NARS RG75, Entry 903, New York Indians, Kansas Claims, Brothertown, #919).

The Kansas Indian Claims Commission did not infer Indian ancestry for the DeGroat applicants through the paternal line. Instead, the Commission stated very plainly that this applicant did not claim that his father was an Indian, and the Commission found that the applicant was "not a Bro. Ind." The Kansas Claims Commission data provided no evidence, direct or implied, that the James DeGroat who married into a Brothertown Indian family was himself an Indian.

There are other reasons why this data was not weighed as positive evidence for this case by BIA evaluators. Even if this Richard and James DeGroat had demonstrated Indian ancestry, there is no known connection (genealogical or social) between them, on the one hand, and the RMP, or individuals on the modern RMI membership list, on the other. As the Proposed Finding stated, there was no direct evidence of a relationship (genealogical or social) of this James DeGroat to any of the RMP DeGroats, although he clearly came from the same immediate geographical area where the DeGroat families ancestral to the RMI lived. Nor is there a known connection between Philinda (Fowler) DeGroat and the RMP or the RMI. The Proposed Finding stated that "No documentation was submitted to show that James was an Indian" (RMI PF, Genealogical Technical Report 16).

The RMI Response did not include any new evidence which identified any of the known DeGroat RMI ancestors as members of an Indian tribe or of Indian descent. The origins and parentage of the earliest genealogically proven DeGroat ancestors remain unknown. The DeGroat family does not have proven Indian ancestry or a proven line of descent from a historical tribe.

The DeFreese family. The RMI petition claimed that all of the RMI DeFreese members descend from John DeFreese (born about 1790) who married Margaret Mann about 1809. The petition also claimed Indian descent of the DeFreese family through Jan defries [sic] or John De Fries, who was enumerated in the 1760 Orange County, New York militia as Indian (RMI Petition, Genealogy of the Ramapough Mountain Indian Tribe, prepared by Roger D. Joslyn, filed June 7, 1993, 7). However, the petition did not provide any evidence identifying descendants of the Indian Jan defries or John De Fries, or documenting a link between him and known ancestors of individuals on the RMI membership list.[29]

[29] The actual phrasing of the 1993 report concerning the ancestry of the John DeFreese who married Margaret Mann was as follows:

> The only evidence of a father in the Ramapough area for these DeFreeses was John DeVries who married (1) Elizabeth DeGroat in 1789 and, probably (2) Maria (Mann) Piggery in 1821. With a marriage in the late 1780s, John was probably born in the 1760s.
>
> It is very probable that this John was the son of John De Fries, listed as a 25-year-old Indian on a 1760 military muster roll (NY Prov Troops 334-35, 405-5). The muster roll shows John De Fries, Indian, was born in

The Proposed Finding concurred with the petitioner that John DeFreese and Margaret Mann were the apparent progenitors of the RMI DeFreese families. However, the Proposed Finding stated that, in addition to the mid-18th century Indian militiaman, Jan defries, there were many other references to non-Indian Dutch and "free Negro" families named "DeFreese" in the New York and New Jersey area from as early as 1640. It concluded that there was no clear connection between the RMI's earliest known DeFreese ancestor, John DeFreese, and any of the earlier DeFreese families, including the Indian Jan defries, who were documented as having lived in the region at an earlier date.

Specifically, the Proposed Finding cited the almost 30-year gap between the last date that the Indian Jan defries was known to be alive (1762) and the ca. 1790 birthdate of John DeFreese, the first documented RMI ancestor. BAR research found no evidence that the RMI DeFreese progenitors descended from this Jan defries. In fact, there was no evidence that the Indian militiaman had any descendants at all (RMI PF, Genealogical Technical Report 13-14).

The Joslyn Report referenced the Vineland Study's statements about the Indian-like physical characteristics of Samuel Edward DeFreese, born about 1857, and some of his descendants:

> Perhaps the most important DeFreese ancestor of the current RMI is Samuel Edward DeFreese. Not only is he identified as an early leader of the tribe, but he had "Indian blood" (ERO 32:126). Samuel's Indian ancestry is corroborated through descriptions of his daughter, (Catherine) Margaret DeFreese Smith, who looked "much more like an Indian than a Negro" (ERO 67:407), and his son

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Tappan, referring to the New Jersey patent of that name in what was then partly in Orange Precinct in Orange (now Rockland) County, New York, extending south across the then disputed New York-New Jersey border in the Ramapough tribal area. Born about 1735, John fits both geographically and chronologically as the father of the John who married Elizabeth DeGroat in 1789 and as the grandfather of the group of Ramapough DeFreeses born in the next two decades. The identification of John De Fris as an Indian further supports the independent claims of Indian ancestry for his grandchildren's generation (RMI Petition, Genealogy of the Ramapough Mountain Indian Tribe, prepared by Roger D. Joslyn, filed June 7, 1993, 7).

> Nelson Budd DeFreese, who was "a big, strong man of Indian type..." (VS, 61) (RMI Response, Joslyn Report 5).
>
> Samuel's death certificate does not name his parents, but three of his brothers are identified--John, Elias, and Thomas (ERO 67:397). Brother John's death record lists his parents as John and Margaret. Other evidence indicates Samuel's other siblings were Catherine (married John Mann), Peter (married Margaret Van Dunk), and James. Peter's death certificate lists his parents as John and Maria Mann, and the ERO study gives the parents of Samuel, John, Elias, and Thomas as Abraham and Margaret (Mann) "DeVries" (ERO, 67:398) (RMI Response, Joslyn Report 5).
>
> This Peter DeFreese, brother of Samuel Edward DeFreese of "Indian blood," was enumerated with other RMI families as part of the Green Mountain Valley settlement (1830f 107) which Victor Jacquemont observed three years earlier as Indians of mixed blood (RMI Response, Joslyn Report 5).

The Joslyn Report also attributes Indian ancestry to other DeFreese family members born in the late 1800's and early 1900's based on references in the 1917 Vineland Study, records of the Eugenics Record Office, and other sporadic post-1900 sources such as one World War I draft registration and one 1920 census enumeration (RMI Response, Joslyn Report 6-7).

The following conclusions are based on both the evidence concerning the RMI DeFreese family contained in the petition and located by the BAR researchers found during evaluation of the RMI petition during preparation of the Proposed Finding, and also on the evidence concerning the RMI DeFreese family contained in RMI Response and on additional research conducted by the BAR during preparation of the Final Determination.

First, the ancestors and origins of the earliest documented RMI DeFreese ancestor are not known. In his own lifetime, the RMI ancestor John DeFreese, who was born about 1790, was not identified as an Indian, as being of Indian descent, or as belonging to an Indian tribe. None of his known children were identified as Indian on any Federal or State census nor were any of his known children or grandchildren identified

as Indian in the vital records submitted by the petitioner (RMI PF, Genealogical Technical Report 14).

Second, not all early RMP DeFreeses have been documented as children of this individual. The Proposed Finding concluded that no documentation had been submitted by the petitioner or found by the BAR researchers to prove that the persons listed as additional children of John and Margaret (Mann) DeFreese actually were their children (RMI PF, Genealogical Technical Report 13).

The fundamental issue at the time of the Proposed Finding was, and still is, that there is no evidence that the RMI progenitor, the John DeFreese who was born about 1790, descended from a historical tribe of Indians. In the absence of demonstrated tribal descent, more recent attributions of Indian ancestry for the family, like those in the Vineland Study (Vineland Training School 1917), do not help the petitioner meet the requirements of criterion 83.7(e).

The sources quoted in the Joslyn Report list three different couples as the parents of one particular Samuel DeFreese: John DeFreese and Margaret Mann; John DeFreese and Maria Mann; and Abraham DeVries and Margaret Mann. This Samuel DeFreese (ca. 1815-1893) appears to be the father of Samuel Edward DeFreese (1857-1934). The siblings cited in the Joslyn Report (John, Elias, Thomas, and Peter) were siblings of Samuel, not of Samuel Edward. The death certificates of John and Peter were used to identify their parents and, by inference, the parents of their brother Samuel. The 20th-century Eugenics Record Office records named the parents of Samuel, John, Elias, and Thomas DeFreese as Abraham and Margaret. The only consistent information in each of these records that purportedly identify the parents of Samuel DeFreese is that the mother's maiden name was "Mann." Since the death records and post-1900 information were conflicting, the BAR researchers also reviewed additional sources.

In 1850, Samuel DeFreese (age 35, m[ale], m[ulatto], born in New Jersey), his wife Catherine (age 34, f[emale], m[ulatto], born in New Jersey), and their four children were found living in Pompton Township, Passaic County, New Jersey (NARS 1850b, 133). In 1860 Samuel and Catherine DeFreese and their children, now including Samuel [Edward], age 3, were living in Blooming Grove, Orange County, New York. The family was identified as "Black" (NARS 1860c, 7).

The first census in which "Indian" was a category of identification on the enumerations was 1870. Neither Samuel's own

family nor the families of his siblings were identified as Indian in 1870 (NARS 1870a, 1870b, 1870c, 1870d). Samuel Edward DeFreese was never identified as an Indian on the Federal or State censuses from 1860 to 1920 (NARS 1850b, 1860c, 1870a-d, 1880a-b, 1900a-b, 1910a-b, 1920a-b; New Jersey 1855b, 1865b, 1885b), either as a child in his parents' household or as an adult with children of his own.

Third, the statement that the Peter DeFreese living in the Green Mountain Valley in 1830 was a brother of the Samuel Edward DeFreese who was elsewhere identified as being of "Indian blood" (RMI Response, Joslyn Report 5) appears to be erroneous. The Peter DeFreese living in 1830 was an adult. Since Samuel Edward DeFreese was not born until 1857, it is not likely that they were brothers. Peter DeFreese was possibly an uncle of Samuel Edward. In either case, Peter DeFreese's residence in 1830 does not link him to the Indian descendants described in the Jacquemont letter discussed below and does not establish that he or his family were descended from a historical tribe of Indians.

*Relevance of the Jacquemont data.* The statements by the French naturalist Victor Jacquemont alluded to in the Joslyn Report were quoted in full in the Proposed Finding. The RMI Response included a new translation which is quoted here. There is little difference between the two translations.

> Page 162 I am writing to you from the valley where the Indians lived seventy years ago. Now they are more than three hundred miles away from here. Their people sometimes find themselves surrounded by populations of European origin, however, they do not mix in any way but rather form what the legists[3] call "imperium in imperio".[4] The sole Indians remaining here are of mixed blood due to the indiscretion of some Indian women. The mother's influence prevails in these children, who in spite of being almost white, retain all the wandering and independent characteristics of the Indian race. It is therefore impossible to make them farmers, to get them to live in the valley, to be shoemakers, wheelwrights, or ploughmen. They remain in the woods among the nearby mountains, living in miserable cabins made out of tree trunks placed one on top of the other, along with a cow, a few pigs and a small cornfield (Jacquemont 1827, RMI Response, Appendix [passage from a personal letter by Victor

Jacquemont, written in 1827, translated by Christine Jones, 1995]).[10]

It is important to note that there are two parts to Jacquemont's observations that were included in this quote. Part one, consisting of two sentences at the beginning of the passage, concerned the Indians who formerly inhabited the Ramapo Valley area in northern New Jersey. Jacquemont indicated that these Indians had been living 300 miles away for the last seventy years, supporting the Proposed Finding's conclusion that Indians maintaining tribal relations left the area around 1757, soon after the Treaty of Easton.

The second part of the quotation had to do with the "mixed blood" Indians who, Jacquemont said, were still living among the surrounding mountains, refusing to become farmers, or live in the valley, or take up trades. In contrast, the known RMP heads of families appeared in census and tax records of the first half of the 19th century as residing in the valley. The 1850 Federal census, the first which listed occupations, showed them as farmers, farm laborers, and mine employees. All of these factors together indicate that it is not clear that Jacquemont was referring to the RMI's ancestors.

Jacquemont did not specifically identify the mixed blood Indians as a community. From the information in his letter, it is unclear if he was referring to individual Indian families living scattered in the mountains or Indian families living in a community. Even if he were referring to a community, the vague expression that "they remain in the woods among the nearby mountains" is not specific enough to locate the settlement or to identify the individuals comprising the community. Therefore, there is no way to link the Indians to whom Jacquemont refers to the RMI's ancestors.

As reported in the Proposed Finding, Jacquemont's statement that Indian tribes had not lived in the area for 70 years coincided with the date of the Treaty of Easton (1757) and the removal of the Indians from New Jersey. The "empire within the empire," or tribe, was gone. What remained, in Jacquemont's view, were a few "almost white" people of "mixed blood" descent.

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[10] [In this passage, footnote three translated "legists" as "legal specialists" and footnote four translated "imperium in imperio" as "an empire within an empire."]

The Proposed Finding provided the following analysis:

> Because of his visit with the Hagerman family, it is possible that Jacquemont was referring to RMI ancestors in his statement about Indians of mixed blood. . . . However, he referred to no specific family names, did not indicate any continuing tribal origin or organization, and his description of the refusal of the group he was discussing to live in the valley does not comport well with what can be determined from other documents, which place the RMI ancestors well mixed in farming communities in the valley (RMI PF, Historical Technical Report 38).

The RMI Response did not include any new evidence which named Peter DeFreese or any other known RMI ancestor as one of the "mixed blood" Indian families referred to by Jacquemont. Therefore, Jacquemont cannot be considered as substantive evidence that the family of Samuel Edward DeFreese descended from a historical Indian tribe.

In conclusion, the RMI Response offered no new evidence to identify the 18th-century origins of the RMI DeFreese family. None of the comments submitted by interested or informed parties provided substantive comments or evidence regarding the parentage of John DeFreese, the progenitor of the RMI DeFreese family. The origins and parentage of the earliest genealogically proven DeFreese ancestors of the RMI are not known. Therefore, based on the weight of the whole body of evidence, it is found that there is no substantive evidence to conclude that the family of Samuel Edward DeFreese was descended from Indians.

The Van Dunk family. The attributions of Indian characteristics to some late 19th-century and early 20th-century DeFreese family members were not consistent. For example, the Joslyn Report referred to Gertrude Tena VanDunk, daughter of John and Clarissa (DeFreese) Van Dunk, who was called "Indian" on the 1920 census. The possibility of Indian ancestry for Gertrude Tena Van Dunk was explored in the Proposed Finding. It was found that both of Tena Van Dunk's parents were living in 1920 and that both were listed as "black" on the census. In 1900 and 1880 Tena's parents and grandparents were enumerated either as "Black" or "Mulatto." The report concluded:

> At present, there is no evidence to explain why Tena Gertrude was identified as Indian on the 1920

> census. The question is not of crucial importance to understanding the RMI, as only 25 RMI members (less than 1% of the 1992 enrollment) descend from Tena Gertrude Van Dunk (RMI PF, Genealogical Technical Report 21).

The Mann family. The petitioner submitted ancestry charts which identified William Mann, born about 1827, who married Fanny Mira DeGroat; and Hannah Mann born about 1850, who married Theron Powell, as the two most frequently identified progenitors of the RMI families with Mann lineage. Attributes of the Indian-like characteristics of RMI Mann ancestors were made by the Vineland Study.

The Proposed Finding concluded that William Mann, whose death certificate named Elias Mann and Maria DeGroat as his parents, was the progenitor of approximately 81 percent of the RMI Mann family descendants.

> Probably this is the same Elias Mann who was taxed for 20 acres of unimproved land, four cows and a dog in the 1821 tax list of Franklin Township, Bergen County, New Jersey (New Jersey State Department of Education, Roll 1, 10). In the 1830 Federal census of Franklin Township, Elias has nine "free colored people" in his household. Elias was not found in the 1840 or 1850 census records, so it is not known whether he died or moved away from the area. (U.S. NARS, 1830a, 107, cited in the RMI PF, Genealogical Technical Report 17-18).

The Proposed Finding concluded that there was no evidence of Indian ancestry in the line of William Mann and Fanny Mira DeGroat. The Mann surname was found in the records in the New York-New Jersey area before the Revolutionary War, but none of the early records identified a Mann as an Indian, of Indian descent, or as living in a tribal entity.

None of the early Manns in the church or tax records could be connected to the earliest proven RMI ancestor (RMI PF, Genealogical Technical Report 17-18). None of the Federal or State censuses identified William Mann, Elias Mann, or Hannah (Mann) Powell, or their descendants, as Indian or of Indian descent. It was also found that none of the vital records submitted by the petitioner identified any ancestor named Mann as Indian. The proven Mann ancestors of the RMI were identified in the censuses and vital records as "mulat-

to" or "colored," not Indian (RMI PF, Genealogical Technical Report: 19).

The RMI Response stated:

> There is evidence identifying various members of the RMI Mann family as Indian or having Indian ancestry. In describing the Mann family, it was noted in the Vineland Study "the Indian predominates in this branch..."(Vineland Study, 46), In 1917, Dorothy Osborn, trained as a field worker by and for the Eugenics Record Office in Cold Spring Harbor, described John Mann, one of the early members of the family (and married to Ellen DeGroat), as "the son of an indian" [sic] (RMI Response, Joslyn Report 7).

The Joslyn Report concludes that John Mann was probably the son of Elias and Maria DeGroat Mann and the grandson of a Samuel Mann. The report also stated:

> Ms. Osborn claims John was the brother of William Mann (ca. 1827-1890), who married Fanny Maria [sic] DeGroat, so if John was the "son of an indian [sic]," so was William.
>
> * * * * * * *
>
> Several other Manns, many of them RMI ancestors, have been genealogically linked as siblings and other close relatives of John, "son of an indian," [sic] and his brother, William. They were likely grandsons of Samuel Mann, who was born probably in the 1750s or earlier and was the person of the surname found in records covering the RMI area. Supporting evidence of Samuel as the ancestor of the early Manns comes from the New Jersey death record of Margaret DeFreese, born about 1789, wife of John DeFreese, which lists her parents as Samuel and Ellen Mann. Margaret was a contemporary of Elias, likely the father of John and William, and of other Manns. . . (RMI Response, Joslyn Report 7-8).

In preparing the Final Determination, the BAR conducted additional research to determine the ancestors of the known RMI progenitors. Evidence previously submitted with the petition was also re-evaluated. Comments received from interested parties and third parties during the comment

period did not address the issue of the ancestry of the Mann family. The RMI Response did not offer any new evidence that identified the ancestry of William or Elias Mann, nor was there new evidence that they were Indians or descended from an Indian tribe. While it is possible that Margaret (Mann) DeFreese was a sister of Elias Mann, no relationship was documented: she could have been a half sister, a step-sister, a cousin, or no relation at all.[31]

In 1830, the households of Elias Mann, age 36-55, Peter Mann, age 36-55, and Juliana Mann, age 55-100 in Franklin Township, Bergen County, New Jersey were enumerated as "free people of color" (NARS, 1830a, 107). William Mann, his wife and children were all identified as "mulatto" on the Federal census records from 1860 to 1880 (NARS 1860a 278, 1870a 62-63, 1880d 31).

The John Mann mentioned in the Joslyn Report and referred to by Ms. Osborn in 1917 as being the "son of an indian" [sic] appears to have been the man of the same name found in Hohokus Township in 1850. This family was enumerated as John Mann, age 36, m[ale], m[ulatto], born in New Jersey, with his wife "Elen" and their five daughters, who were also identified as mulattos and born in New Jersey (NARS U.S. Census 1850a 251). In his own lifetime, John Mann was not enumerated as an Indian in the census records.

There is no documentation to corraborate that Elias Mann, probably the father of William and John Mann, was a member of one of the families referred to by Jacquemont, although Elias Mann was living in the Green Mountain valley area in 1830. As stated earlier, the 1827 Jacquemont letter did not name any of the "mixed blood" families that he said were still living in the "nearby" mountains, nor did he provide enough information to locate exactly where they were living.

The terms "mulatto" or "colored" found in the censuses and vital records could have been intended by the census enumerator to indicate some Indian ancestry. However, these terms did not require Indian ancestry, nor did they in any way specify tribal origin. The BIA cannot, under the 25 CFR

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[31] Genealogical methodology cannot assume the existence of relationships on the basis of identical surnames or the repetition of given names. In Warren County, Kentucky, from 1800-1820, there were three separate, unrelated Graham families with three separate geographical origins. A fourth unrelated Graham family lived nearby in Green County. All four families had one or more members named "Robert," two had members named "Alexander," and two had members named "Edward."

Part 83 regulations, assume that there was, in fact, Indian ancestry in the Mann family without other evidence.

Additional research for the Final Determination included a review of the New Jersey tax lists, the Reformed Church in America Archives, the Bergen County Historical Society collection at the Johnson, Free Public Library in Hackensack, New Jersey, and the Orange County New York Genealogical Society Library. None of the references to Mann families found in these facilities identified any of the Manns as Indian, as of Indian descent, or as members of any historical Indian tribe.

One reference to a pre-Revolutionary Mann family living in what is now Rockland County, New York identified the family as German stone masons who settled in New York before 1767. This large family continued to live at the Palisades throughout the 19th century (Bailey 1936, 200). John (Jack) and James Man(n) of Orange County, New York, were identified as "persons of color not taxed" in the 1825 and 1835 State censuses. The census records show that neither man had property other than one cow and one hog, which would account for them not being taxed.[12] There is no evidence at this time that the RMI descend from either of these Mann families, but the evidence does confirm that there clearly were non-Indians named Mann in the vicinity of the Ramapo Mountains.

In conclusion, since the origins and parentage of the earliest genealogically proven RMI Mann ancestors are not known, it cannot be assumed that the RMI Mann families descend from a tribe of Indians as required to meet criterion 83.7(e).

**The Maguiness family.** The petitioner submitted ancestry charts that showed the Maguiness (sometimes spelled Maginess) family married into the four main RMI families. The Proposed Finding stated that:

> Other modern RMI names of Cisco, Castaloni, Dennison, Maguiness, Morgan and Powell married into the four families that are the focus of this report during the 19th century (RMI PF, Genealogical Technical Report 4).

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[12] There were over 70 families in the 1825 census of Warwick, Goshen, Minisink, and Monroe, Orange County, New York who were listed as "people of color not taxed" (New York 1825).

Maguiness was also mentioned in the section on the census information used in the Proposed Finding:

> A page by page reading of the 1870 census for the entire Ramapough Mountain area produced only one potential RMI Indian ancestor. The family of Florence Maguiness, including his wife and children, of Bloomingrove Township, Orange County, New York was marked "Ind" (U.S. NARS, 1870c, #343/325). The petitioner submitted extensive research on this family, but no descendants are found on the current membership list (RMI PF, Genealogical Technical Report 22).

The Joslyn Report in the RMI Response also stated that Florence Maguiness did not have descendants in the modern RMI, but claimed that this view was narrow, ". . .for it was shown in the genealogical report that Florence had siblings who are RMI ancestors" (RMI Response, Joslyn Report 8). The Joslyn Report then posed the question:

> But why are Florence and his family listed as Indian in the 1870 census and his siblings not? This is a matter for some speculation, with explanations that would include the care taken by the census enumerator to the prevailing attitude about the majority of the RMI at the time. . . .the racial identity of a person could and did vary considerably, from one source to the next. The mixed-race of the RMI is not the question -- in fact, the different labels prove the point. But it must be acknowledged that while the Indian identities in that area found in the records in the nineteenth and twentieth centuries help confirm the racial mixture of the RMI, they also help establish that there is indeed Indian ancestry.
>
> [The Proposed Finding] seems to take the illogical view that "majority rules"; in other words, because most of the racial labels found for the RMI ancestors are not solely Indian, that the records must be interpreted to conclude that there is no Indian ancestry (RMI Response, Joslyn Report 9).

The Joslyn Report concluded with a discussion of the family connections between the Maguiness families and RMI families and identified David Maguiness who married Ann DeGroat (of unknown parentage) about 1834 as the father of the Florence

Maguiness who was identified as Indian on the 1870 census (RMI Response, Joslyn Report 10).

This section of the RMI Response focused on two issues: Maguiness family connections and the very sensitive issue of racial identity. The Maguiness family did not marry into the core RMI families until the mid-19th century. Unless the Maguiness family could be shown to have been in association with the other RMI progenitor families in a situation of tribal relations from about 1760 to 1834, any discussion of Maguiness families having Indian ancestors is immaterial to the petitioner's meeting criterion 83.7(e), Criterion 83.7(e) states that the petitioner's membership must descend from a historical Indian tribe.

Neither the petitioner nor BAR researchers found evidence that the Maguiness RMI ancestors were members of an Indian tribe or descended from an Indian tribe. The Joslyn Report refers to a passage in Along the Wawayanda Path by Donald Melville Barrell (Barrell 1975) about the Sugarloaf area of Orange County, New York, as proof of the Maguiness Indian descent:

> There was an Indian Village near this place that had been occupied for many years by this friendly Indian tribe. They never left the area and were finally absorbed by the Negro families -- the Catos, Mapes, McGinness, Hicks, Showers and Petersons, who showed Indian features for generations (Barrell 1975 *in* RMI Response, Joslyn Report 9).

This passage did not name any particular Maguiness family or specify a time when members of the Indian village married into the Maguiness surnamed family. Without specific information it is impossible to establish a genealogical connection between these Maguinesses and the RMI Maguinesses. There is no documented connection between the Maguinesses of the Sugar Loaf area and the Maguinesses who eventually married into the RMI community. The names of the other "Negro families" mentioned by Barrell (Cato, Mapes, Hicks, Showers, and Peterson) show that the Maguinesses to whom this author was referring were not in community with the RMI ancestors, since he did not mention any of the prominent RMI surnames (the Showers family was mentioned in the Vineland Study). Even if the cited passage had offered reliable evidence of Indian ancestry for the RMI Maguiness line, it simultaneously stated that the Indians were absorbed into

the broader population. It did not state that the non-Indians married into a distinct Indian community and were absorbed by that community. Even if the RMI Maguinesses were shown to be Indian, they were not a core RMI family; that is, there are very few RMI who have Maguiness ancestry.

**Historical usage of ethnic designations.** The second issue addressed in the Joslyn Report (RMI Response, Joslyn Report 9), the meaning of racial labels in census and other records, was addressed several times in the Proposed Finding. For example:

> The many references in the census and vital records to "mulatto" and "colored" could possibly indicate some degree of Indian blood, but no documentation has been submitted by the petitioner or found by the BAR to show a connection to any particular Indian or Indian tribe (RMI PF, Genealogical Technical Report 22).

The Proposed Finding indicated repeatedly that the terms "mulatto" and "colored" in census and other records were sometimes used to identify individuals who were part Indian. The Proposed Finding also indicated that "mulatto" and "colored" were not always synonymous with Indian ancestry. In the absence of other reliable evidence, it cannot be assumed that the census taker meant to imply Indian ancestry when employing these racial designations. These two terms were also used generally for people of mixed race, with no necessary implication that the person was an Indian descendant. Thus, while being labelled "mulatto" or "colored" by the census taker does not rule out Indian ancestry, it does not clearly demonstrate it in the absence of other supporting evidence.

A secondary source reference, such as a population census in the late 1800's, even if it identified a person as an "Indian," is not sufficient evidence for demonstrating descent from a historical Indian tribe. Criterion 83.7(e) does not whether some of a petitioner's ancestors were labelled "mulatto" or "colored," but whether primary source evidence establishes descent from a historical tribe. The RMI did not present primary source evidence of descent from a historical tribe.

The RMI Response also stated that the technical reports that accompanied the Proposed Finding took an "illogical view," asserting that they discounted all references to possible Indian ancestry because the majority of the records did not

identify the RMI as Indians. The Proposed Finding and the Final Determination used standard methods of evaluating evidence. The quality of the evidence, as well as the corroborating source material, was considered. The one-time census reference to Florence Maguiness in 1870 as "Indian" was given some credibility. But that one reference did not out-weigh the other census references which did not identify the Maguiness families as Indian. In the absence of proven Indian ancestors, it cannot be assumed that the creator of the record (such as a census enumerator) intended "mulatto" or "colored" to mean Indian.

The individual 1870 census record was also evaluated in the light of other contemporary records, such as the church registers and vital records, none of which identified Florence Maguiness or his siblings as members of an Indian tribe or as being of Indian descent. Parallel with how evidence was evaluated for the Mann, DeGroat, and DeFreese lines, unsubstantiated observations made in the Vineland Study that some of the Maguiness descendants were described as having "Indian blood" or being "decidedly Indian in type" (RMI Response, Joslyn Report 9), is not sufficient evidence that the group meets the criterion of descent from a historical tribe.

**Summation.** If the petitioner had presented additional documentation from the late 1700's to the mid-1800's which spoke of the existence of an Indian tribe and named some of the RMI's genealogically known ancestors as a part of that tribe, then more credibility would have been given to the late 19th and early 20th century attributions. However, neither the petitioner nor the BAR researchers were able to identify the ancestors of the known RMI progenitors or to trace them to a historical 18th century Indian tribe.

In preparing the Technical Report for this Final Determination, the BIA reexamined the evidence used for the Proposed Finding, looked at the RMI Response, and conducted additional research. None of the interested or third party comments were directed to the specific genealogies of the RMI progenitor families. None of the interested party or third party comments provided substantive proof that the RMI ancestors descended from a historical tribe of Indians; therefore, the comments were not relevant in making a final determination concerning criterion 83.7(e).

The origins and parentage of the earliest genealogically proven ancestors of the RMI petitioner are not known. The petitioner has not demonstrated that their earliest proven ancestors were members of an Indian tribe or that they descended from an Indian tribe. The petitioner did not demonstrate specific tribal ancestry as required by the Federal regulations to meet criterion 83.7(e).

## APPENDIX A

### A List of Pastors for the Ramapo Presbyterian Church's "Brook Chapel"

The 1994 introduction to the Ramapo Presbyterian Church Register noted that it "was customary in civil and church records in the 19th century, non-white members were noted in the register (Ramapo Presbyterian Church Register 1868-1918, 1994, ii)." The following information quotes relevant information from the Register that supports the BIA's contention that Brook Chapel, while it was a congregation established to missionize the Ramapo Mountain People in 1876, it was not considered an Indian mission.

> Pastors of Ramapo Church - Con. George A. Ford.[11] Williams College, Williamstown, Mass. 1872, Union Theol. Seminary N.Y.C. 1876. Began to preach as a licenciate of Presbytery of New York Apr. 16th, 1876. Ordained by the Presbytery of Hudson Nov 13th, 1876 at Ramapo, N.Y. Sailed, as a missionary, to Syria May 1st, 1880 (Ramapo Presbyterian Church Register 1868-1918 1994, V).
>
> Assistant Pastors of Ramapo Church - settled at Brook Chapel.
> John A. Caldwell, - (colored) -
> Lincoln University, Pennsylvania,-College Dept. Theological dept. Ordained by the Presbytery of Chester, Pa.
> Settled as a Teacher Brook Chapel District School, and as the first ordained preacher at Brook Chapel Sept. or Oct 1890. Not installed. Resigned May 1st, 1893.
>
> Frederick D. Tildon - (colored)
> Lincoln University - Pennsylvania - College Dept. Theological Dept.
> Ordained by the Presbytery of Chester, Pa. 1893.
> Settled as Teacher of District School and as preacher at Brook Chapel June 1893. Resigned Sept 1st, 1896, and became pastor of Bethel Pres'n Chapel, Plainfield, N.J.
>
> William H. Morrow - (colored)

[11] It is this man, who served as pastor of the Ramapo Presbyterian Church from late 1876 through early 1880, and then went to Syria as a missionary, whose 1926 letter on the 50th anniversary of Brook Chapel is cited by the RMI Response (RMI Response 1995, A-9). The content of this letter was cited in the Proposed Finding (Proposed Finding 1993, Historical Technical Report 53-54).

Vanderbilt University - Tennessee 1893, Princeton Theolog. Sem'y, N.J. 1896.
Ordained by the Presbytery of New Brunswick, N.J. 1896.
Settled as Teacher of District School and as Preacher at Brook Chapel Sept 1 - 1896. Resigned July 26th, 1900, - and became pastor of the Willard Pres'n Church of Union, S.C.

John E. Parmly (white)
Princeton College - Princeton, N.J. 1883 (M.A. '86. Student of Theology with Rev. S. W. Knipe, Oceanic, N.J. and as Special Student Union Theolog. Seminary New York City. Licensed by Presbytery of Monmouth, N.J. 1893. Ordained by Same Presbytery Sep 25th 1900. Settled as Assistant Pastor Ramapo Church in charge of Brook Chapel Oct 10th 1900. Resigned June 12th 1902 (Ramapo Presbyterian Church Register 1868-1918 1994, XIII).

William H. Morrow (colored)
Called to become pastor at Brook Chapel for the second time June 24th 1902. (see page xiii, ante). Accepted the call; met the Session and consummated the relation Aug 2nd 1902. Resigned Oct. 15th, 1906. Died Nov. 28th 1908.

Samuel J. Branch (colored)
Lincoln University. Pa. College Department 1902. Theological Department 1905. Union Theological Seminary, New York, Post Graduate 1905-1906-1907. Invited to become Minister at Brook Chapel Dec. 1st 1906: & then accepted: as yet unlicensed. Resigned Sep 1st, 1907.

Byron Gunner (colored)
Talladega College. Ala. '81. Ordained by the Louisiana Congregational Association 1884. Special theological course Oberlin College 89. Called by vote Brook Chapel Oct 10th 1907. Began preaching Nov 10th 1907. Resigned Jan 31st 1920.

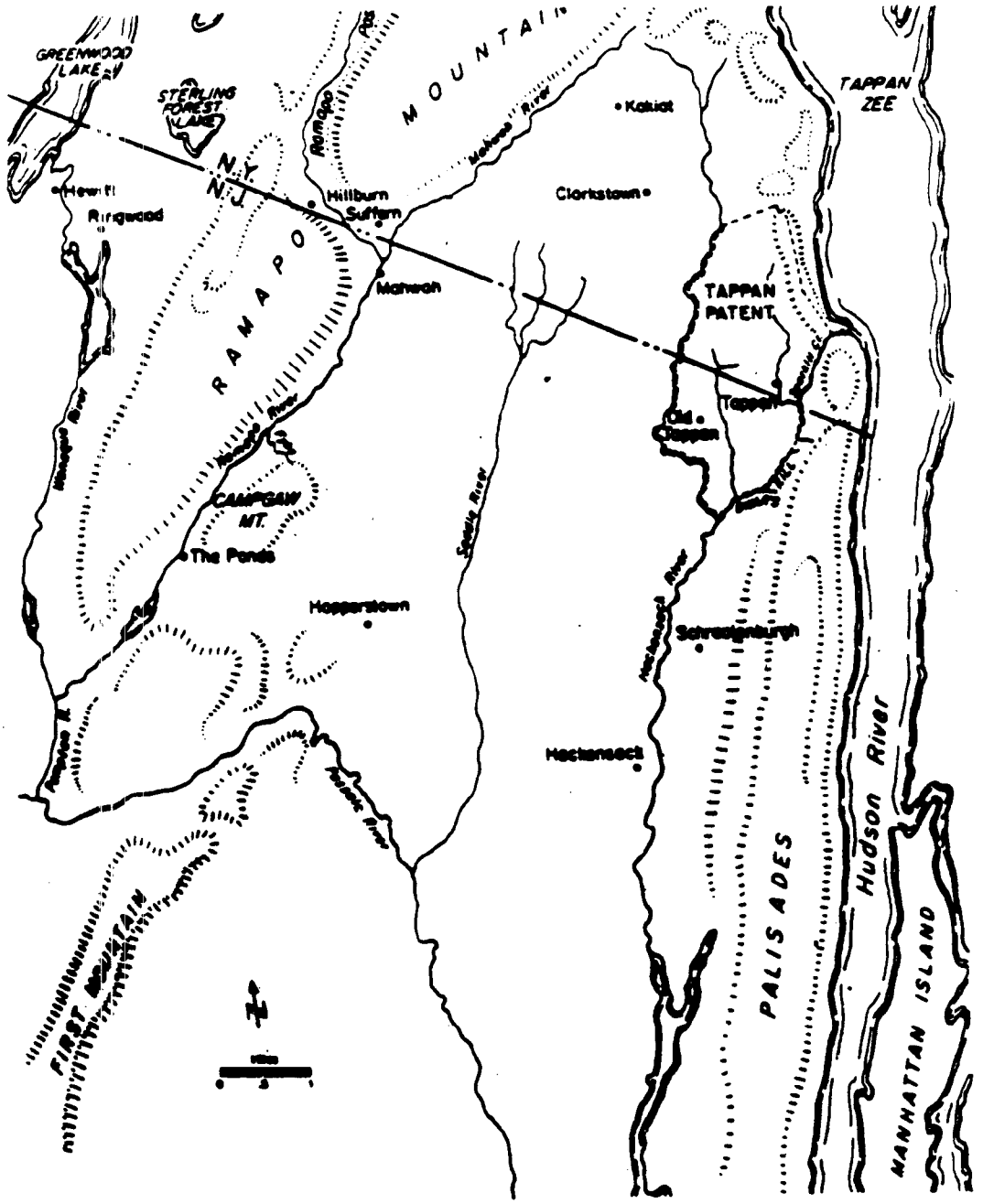
Thomas Amos (colored)

Edward Robinson (colored) (Ramapo Presbyterian Church Register 1868-1918 1994, XIV).

## APPENDIX B

### MAP OF RAMAPO VALLEY AREA
(taken from the 1876 Bergen County Atlas)

**APPENDIX C**
**MAP OF THE RMP AREA**
(showing locations significant
at the time of Jacquemont's visit in 1827)



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## Final Determination

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