The Shinnecock Casino Campaign: Tribal Identity, Local Politics and Tangled Legalities.

ABSTRACT

The Shinnecock Nation, a small reservation community recognized by the state of New York, is currently engaged in a complicated federal court case involving the 1988 Gaming Act and the Federal recognition procedures. In November, 2002 a wealthy investor told the Shinnecock that his lawyers had concluded that they did not need federal recognition to operate a casino because the tribe had established relations with the colonial government of New York which preceded the U.S Constitution. Acting on this assumption the tribe hired a bulldozer crew to clear land for a construction site. The Southampton Town officials immediately placed an injunction on any further activity, arguing that the tribe needed federal recognition and a compact with the state of New York before they could open a casino. When the tribe appealed the decision, the judge ruled that they did need federal recognition and refused to lift the injunction, but he also ordered the B.A.R. to act on the tribal petition within a reasonable period or he would decide the issue in his court. The B.A.R refused to change its procedures, arguing that it would not be fair to other tribes awaiting their decision. The judge then ordered the Shinnecock to submit their documentation for recognition with him and invited the town to challenge the petition. He is currently reviewing the documents presented by both parties. A decision or an out of court settlement is expected this spring.

This paper discusses the historical, social, and legal issues involved in the controversy.

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INTRODUCTION

When the first English settlers arrived on the south fork of eastern Long Island in 1640, they purchased a small tract of land from the Shinnecocks who occupied an area about 28 miles in length bordered on the north by Peconic Bay and the Peconic River and on the south by the Atlantic Ocean. (See map 1) The township of Southampton today conforms roughly to the ancient aboriginal Shinnecock boundaries. (1) As the small English settlement expanded the Shinnecock lands were gradually reduced to a neck of land in Shinnecock Bay and a parcel about four miles west of the neck (Strong 1983: 53-117). The land on Shinnecock Neck includes about 740 acres and the Westwoods tract is about 75 acres. (2) (See map 2)

Colonial documents record a continuous interaction between the Shinnecocks and the town of Southampton from 1640 to the present day. They also had well documented interactions with the New York colonial and state governments. In 1792 after many years of disputes between the Shinnecocks and white farmers over grazing leases, the state enacted legislation that established a governmental system among the Shinnecock designed to bring some order and accountability to the leasing process. Each April the Shinnecock elect three trustees in a meeting held in the Southampton Town Hall. The town clerk records the election results and minutes. There is, therefore, clear evidence of a continuous tribal leadership and organization from 1792 to the present.

In the 1990s a new generation of Shinnecocks began to engage more with the other Native American communities and with government programs offered by the federal and state governments. They established an arts and crafts program, a Senior Citizens' Nutrition Program, a Family Preservation Center, a Student Tutorial Center and

a state funded health service (Strong 1998:45-64). By the beginning of the new millennium these younger Shinnecocks became the dominant force in tribal politics. Lance Gumbs, the owner of a very successful business based on tax free cigarettes was elected to serve as a trustee. He became one of the leading advocates for a more aggressive economic program.

WESTERN WINDS

The Labor Day Powwow in 2002 was nearly washed out by an unusual weekend of very bad weather. The tribe lost thousands of dollars in revenue and were unable to cover their expenditures. At a tribal meeting in November, the tribe voted to enter into negotiations with Ivy Ong, a wealthy investor who promised to put up 1.5 million dollars to fund the development of plans for a 20 million dollar casino, providing, of course, that the Shinnecock give him 40% of the profits during the first few years of the operation (SHPress 1/30/03; 7/24/03)). Ong told the tribe that his lawyers, the firm of Monteau, and Peebles, had advised him that the tribe would not need federal recognition to operate a high stakes bingo hall. (3). A temporary modular bingo hall, said Ong, might be open as soon as March of 2003. Ong also promised to advance the tribe $1.5 million to finance a more rapid completion of the federal recognition process and advance planning for the casino construction.

Although the tribal trustees made no official announcement about the agreement with Ong, some details gradually leaked out to the local community. The proposed site for the gaming complex was on the “Westwoods” tract in the hamlet of Hampton Bays

(see map 2). This parcel of land had come into Shinnecock possession in a rather unusual way. The parcel had been included in a larger purchase made by the English settlers in 1665 (4), but many Shinnecock continued to live on the land well into the nineteenth century. There was no protest made about their presence, perhaps because the sandy soil was not suitable for farming. Although the Shinnecocks had no official title to the land, they sold a parcel to a white man named Miles B. Carpenter in 1885. In 1889 a new slate of Shinnecock Trustees took action to recover the land from Carpenter. When Carpenter came onto the tract to cut wood, the trustees went to the State Supreme Court and charged Carpenter with trespass. The judge ruled that the land belonged to the tribe because they had been "in quiet and peaceful possession of the land for upwards of sixty years" (*Eleazer v. Carpenter* 1889 File #1662). He said that the 1885 sale by the Shinnecock Trustees at the time was void because Indian land could not be alienated without the approval of the New York state legislature.

In a subsequent case involving the title to Westwoods, the Shinnecock title was again affirmed. In 1919 the town work crews went into Westwoods to obtain gravel, sand, and loam without permission from the Shinnecock tribe. The tribal trustees sued the town for trespass. Three years later a court-appointed referee ruled that the Shinnecock had good title. In his finding of facts, he noted that the tract is not known to have been taxed any time or the title of the plaintiff thereto have been disputed." He further stated that the action was authorized by Indian law and that the Shinnecock had "good title by adverse possession" (*Shinnecock v.Hubbard* 1922). These rulings clearly endorsed Shinnecock title and affirmed its status as sovereign tribal land (see also SHTR Vol. 8 pt. 2: 233-237).

Although the Shinnecock acknowledged only that they were still in the planning stage and had made no final decision about a casino, the public reaction was swift and overwhelmingly negative. Skip Heaney, the Southampton town supervisor, Tim Bishop, the local U.S. Congressman, Ken Lavalle, the State Senator, Fred Thiele, the state assemblyman, Charles Schumer and Hillary Clinton, the U.S. Senators from New York state, all came out in sharp opposition to a casino (SHPress 1/30/03). The Group for the South Fork, an influential local environmental advocacy organization, issued a strongly worded public announcement opposing the casino project. They were particularly concerned, said Robert DeLuca, the group's president, about "the prospect of such a devastating development proposal on a landscape increasingly saturated with development" (SHPress 29/05/03).

The people living in the adjacent residential area organized a demonstration on the public road which runs through the Westwoods tract. They were met by fifty or more Shinnecocks, who lined both sides of the road. The New York state police blocked the road and took positions between the two groups to prevent any possible violence. The police kept the peace, but the confrontation clearly indicated the depth of public opposition in the township. The local residents posted two websites <stopcasino.net> and <savetheeastend.org> a few days after the confrontation and barraged the elected officials with letters and emails applauding their opposition to the casino.

The town officials suggested that the Shinnecocks consider some alternative economic endeavor such as a golf course, spa complex or a hotel. The Shinnecocks rejected these alternatives, but indicated that they were open to the discussion of a different site more distant from residential areas. The town showed no interest in such a

compromise. The officials said that they were firmly opposed to a casino anywhere in the township.

The town and the Shinnecocks each hired law firms and public relations firms to handle communications with the media. The Shinnecock hired Gary Gunster Strategic Advocacy, a firm, based in Sacramento and Washington which had worked with California tribes and Kiernan, Mahoney and Associates a local New York firm with connections to New York governor, George Pataki. Pataki was an important player because he had the authority to negotiate the necessary gaming compacts with Indian nations in his state. The town hired Nixon Peabody, described as a "heavy hitting Boston law firm. By the end of July, 2003, Ivy Ong had spent over a half million dollars for legal consultations to Monteau and Peebles and George Stankevitch, a local attorney (SHTPress 7/24/03).

In spite of Kiernan and Mahoney's alleged influence with Pataki, the governor announced that he would not enter into any discussion with the Shinnecocks until they were federally recognized. In June, 2003 the state Supreme Court of Appeals complicated matters by ruling that the governor could no longer sign compacts without the approval of the legislature. This will make it even more difficult for a tribe to receive final approval for a casino. In a letter to Pataki, the tribe expressed their disappointment with the governor's decision and told him that they were going "to move forward with an Indian gaming facility, limited to our tribal lands" (Shinecock Nation to Pataki 6/19/03).

A week after the letter was sent to Pataki, the tribe presented the town and state officials with legal briefs prepared by Ong's lawyer, John Peebles, arguing that the tribe did not need federal recognition to operate a casino in New York state (SHPress

03/07/03). This brief appears to be the legal strategy Ong had described to the Shinnecock in November of the previous year when he convinced them to take on the casino project. If so, the support he provided for the federal recognition project must have been viewed as a long range goal that would eventually bring additional advantages to the tribe.

Peebles' brief argued that the Shinnecocks were an ancient tribe that preceded the formation of the state of New York and the United States government. Shinnecock sovereignty, therefore, does not come from these more recent governments. This assertion that tribal s overeignty was an inherent power predating the arrival of Columbus rests, in part, on *Johnson v. McIntosh,* the first of the Marshall decisions involving the Cherokee Nation (Wilkinson 1987:55; Prygoski 2003:2). Peebles' arguments were echoed by Jack Forbes, a professor of Native American studies at the University of California, who called federal recognition nothing more than "re-recognition" for tribes already recognized by state governments (*Newsday* 7/13/03). Peebles also noted that in the case of *California v. Cabazon Band of Mission Indians,* (1987) the Supreme Court ruled that a state government has no authority to prohibit or regulate casinos on Indian reservations. The U.S Congress, in a panic over this decision, moved quickly to enact the1988 gaming act (IGRA) to ensure that the state would be able to regulate tribal casinos.

The Congressional action reflects a view of the Marshall decisions that is contrary to the position taken by Peebles and Forbes. Some legal scholars argue that tribal sovereignty stems solely from the actions of Congress, rather than from a power inherent in the tribes. This latter view, according to federal Indian law expert Philp Prygoski of

the Thomas Cooley Law School in Lansing Michigan, has been endorsed in many recent court decisions (2003:6).

LET THE COURT DECIDE!!

On June 26 the tribe confirmed publicly that they were going ahead with the construction of a casino. They announced that the construction would begin on the following Monday the 30th. The first response came from New York State Attorney Elliot Spitzer who served the trustees with a restraining order on Sunday June 29th stating that Westwoods was "not a part of the tribe's official Southampton Reservation," and once again argued that, according to the (IGRA), the tribe must have federal recognition before they can negotiate with the state for a casino (*State of New York et. al v.Shinnecock;* see also *Long Island Newsday* 7/1/03). The tribe held a ceremony on Monday, inviting the press and the public to attend. The trustees displayed a large drawing and an elaborate architectural plan for the casino. After several speeches and a ceremony with drums and songs, the three trustees broke ground with shovels and to further make their point brought a bulldozer onto the site. They were careful, however, not to begin construction in defiance of the restraining order.

The day after the ceremonial ground breaking, the tribal lawyers, in a move which must have surprised the state attorney's office, asked that the hearing on the restraining order be moved to a federal court because the state had raised the issue of the IGRA. The tribal lawyers, however, continued to argue that the IGRA did not apply to them. The move to federal court gave the tribe a chance to present their case to a federal judge who might be more even handed in handling the case. Ong brought a second prestigious law

firm to orchestrate this legal maneuver. He engaged Cleary, Gottlieb, Steen, and Hamilton a highly rated international firm with eleven offices around the globe. Ong was sparing no cost. This action set the legal conflict on a course which has historical implications. The case now came before Federal District Court Judge Thomas C. Platt, who was described by legal observers as "a maverick and quite unpredictable."

On July 13, 2003 when the state restraining order expired, the Shinnecock trustees sent in the bulldozers and cleared about 6 acres of land in Westwoods. The town and state moved quickly, filing two motions with judge Platt. The first asked for a new restraining order on the casino construction and the second asked for the case to be sent back to the state court. The Shinnecock agreed not to continue construction until the judge had responded to the motions (NY Times 7/27/03). They also began a public relations campaign to present their side of the controversy. (5) The Shinnecock Trustees sent out a full color drawing of the proposed casino agency on the back of a letter addressed to the home owners in the town of Southampton. They asked people to contact state and local officials and request them to end the lawsuits and meet with the Shinnecock trustees to discuss the casino issue. The Shinnecocks had made it quite clear that the casino project itself was not up for negotiation, but they were willing, in good faith, to discuss an alternative location.

Judge Platt rejected the New York State attorney general's motion to send the case back to the state courts on the grounds that the state had contended that the gaming act did not apply to the Shinnecocks because they were not recognized by the federal government (*Motions, Pleadings and Filings* 274 F. Supp 2nd 268, 2003 WL 21786024 E.D.N.Y.). The Constitution, said Platt, clearly gives Congress the power to oversee all

trade agreements with the Indian tribes. The Shinnecock, he noted, have been here long before New York state or the federal government. Then the judge went on his summer vacation.

On August 29 the judge issued his *Memorandum and Order* granting an 18 month injunction prohibiting casino construction on the grounds that the operation might cause "irreparable damage" to the local community. He also ordered that litigation of the case be stayed for a period of 18 months from the time that the Shinnecock's petition for federal recognition is completed. This would enable the BIA time to make a decision about the Shinnecock's federal status. Only then, said Platt, can the case be argued on its merits. Platt rejected John Peebles contention that the tribe did not need federal recognition. The IGRA, said Platt, superceded all of the court decisions cited by Peebles. The Shinnecocks, with the help of the Native American Rights Foundation (NARF) representative, Mark Tilden worked feverishly to complete their petition.

On September 15, 2003 the BIA sent a letter to the Shinnecock certifying that their petition was finally complete and placed them on the list behind ten other tribes deemed ready for the review process. R. Lee Flemming, the director of the Department of Interior's Office of Federal Acknowledgement, warned, however, that the review process would certainly not be any where near completion in 18 months. This view was repeated in a letter from the BIA to the Shinnecock trustees on October 16. The process, said BIA representative Christopher Chaney, typically takes from five to ten years. The BIA representatives also said that there "was case law suggesting that the judge could not rule on the matter before the bureau had a chance to review the tribes application." (6) Shinnecock lawyers disputed this contention, arguing that the judge had full power to

grant federal recognition. Judge Platt agreed with the Shinnecocks and pointed out that "legal precedents allow him, as a federal judge, to rule on the Shinnecocks, status without waiting for the federal agency." In anticipation of this possibility, Platt asked the Shinnecock Trustees to give him their BIA application file and asked the town to file their comments on the petition with him (SHPress 11/13/03; 11/20/03).

Ivy Ong, apparently frustrated that Peebles' initial legal strategy had been rejected by Judge Platt, was reported to be negotiating the sale of his majority interest in the Shinnecock casino with Michael and Marian Ilitch, who own Little Caesar's Pizza, the Detroit Tigers, the Detroit Red Wings, and a majority interest in two Indian casinos in Michigan. Ong was reported to have asked for $25 million for his majority share. Ong indicated, however, that he intended to remain involved with the Shinnecock as a minority investor (SHPress 5/27/04).

The town, caught off guard by Platt's action, hastily pulled together a brief challenge to the Shinnecock petition and asked the judge for more time to document their case. The Shinnecocks, however, submitted over 5,000 pages of materials they had gathered for their application file. Judge Platt rebuked the town for its lack of preparation, "they (the Shinnecocks) have been working their tails off for three weeks and you have done nothing." He added a note of warning to the town telling them that since the state has recognized the tribe it would now be "a big hurdle" for them to argue that the tribe does not meet the BIA criteria for recognition (Newsday 12/12/03). The judge then removed the 18 month stay which he had imposed to allow the BIA time to process the Shinnecock petition and told the state and the town, who were cojoined in the

case, that “the case is going to be called for trial whether you are ready or not, so you will have to take your coat off and do some work” (SHPress (12/18/03).

In a related action, Judge Platt brought the federal government into the case as a third party (involuntary plaintiff) over its objections because he did not want them to complain later that they had not been a party to the case and use that as a pretext to challenge his ruling. He set January 21, 2004 as a deadline for the case to begin. The lawyers for the town again appealed for more time because they said that the town records were old, yellowed, and fragile. It would take time, they said, to process such materials without damaging them. In fact all of the relevant documents were transcribed and printed in the town records, in the New York State Colonial Document collections, or had been published by the Suffolk County Archaeological Association in 1983. The high priced research team was unfamiliar with the colonial documents and did not know where to look.

When the town failed to meet the January 21 deadline for the beginning of the trial, Judge Platt relented and granted them three more months to work on their case. During this “discovery phase” both sides were expected to exchange information about their research. The judge again reminded both parties that he intended to make a ruling on the Shinnecocks’ tribal status and noted that the final resolution might have to come from the U.S. Supreme Court (1/29/04). As the April deadline neared, the Shinnecocks held their annual election and re-elected two of the trustees, Lance Gumbs, and James Eleazer, who had taken the lead in the struggle for the casino. The third, Charles Smith, declined the nomination, but his replacement was equally committed to the tribe’s course of action (SHPress 4/15/04).

At a hearing on April 24, 2004, Platt discussed the appeal from the U.S. federal attorneys who wanted to be removed as a third party, but retain the option to re-enter the case at a later time. Their reason for retaining this option was that they believed that a federal judge does not have the authority to grant federal recognition. Platt told them that if they withdrew they could not return later and issue their own position. The U.S. attorneys returned a month later and formally requested to be removed from the case. They repeated their assertion that Platt had no authority to rule on the Shinnecock federal status. SHPress 5/27/04). The judge responded by removing the U. S. and barring them from any future involvement with the case. This was the last public statement from the court. Judge Platt discouraged any more hearings and urged the two sides to communicate directly with each other.

CONCLUSIONS

The Shinnecocks' experience reflects some of the patterns that have emerged in Indian Country since Congress passed the IGRA in response to the1987 *Cabazon* decision. The stakes are very high. Although some communities have welcomed the casinos as a boon to the local economy, opposition to tribal casinos in areas such as the south fork of Long Island has increased dramatically over the past few years. The Township of Southampton, for example, has spent nearly a million dollars in an attempt to thwart the Shinnecocks' efforts to obtain federal recognition. Similar strategies of resistance have been launched by anti-casino elected officials in Connecticut. Private citizens groups opposing casinos have also become better organized and more effective. Some of their websites have links with protest groups across the United States.

Environmental groups such as the Group For The South Fork have also increasingly voiced their opposition to tribal plans, which are often exempt from environmental regulations.

Tribes have had to rely on sources of money and support which have their own agendas. Signed agreements with tribes stipulating a specific percentage of the anticipated casino profits, for example, can be used as collateral to raise money for another enterprise. Investors, such as Ivy Ong and the Ilitch family, are willing to spend huge sums of money in the hopes that there will be a profitable payoff in casino profits. If there is no immediate pay-off, they move on, often leaving the tribe in disarray. There is a danger that a small tribe will find it difficult to protect its own long term interests when dealing with such wealthy, highly sophisticated groups of investors and their teams of lawyers and public relations consultants.

The unique aspect of the Shinnecock case is the decision by the judge to bypass the BIA process. Should the judge grant the Shinnecock federal recognition, the state of New York and the Town of Southampton will probably file an appeal that would very likely go to the Supreme Court. According to Stephen Pevar in *The Rights of Indians and Tribes*, only the Congress has the power to grant federal recognition, but they have delegated this power to the Department of Interior in the executive branch. If Platt's right to grant recognition is upheld, he will have established an historic precedent that will have significant consequences.

NOTES

1. In the fall of 1665, a year after the colony of New York was established following the English seizure of New Netherland from the Dutch, Governor Richard Nicolls called the Shinnecock and their western neighbors, the Unkechaug, to reach an agreement about their tribal boundaries. The two tribes agreed that Apocock Creek, about three miles east of the current boundary between The Town of Brookhaven and Southampton. They agreed that "the middle of the river is the utmost bounds to each, but that either nation may cut flags (cat tails) for their use on either side of the river without molestation or breach of the limits agreed" (DSBD II:125). The northern boundary was established a bit later in a conflict between Southampton and its northern neighbor, Southold. The towns relied on the testimony of two elderly Indian women who told the colonial court that the Peconic River was the northern boundary of Shinnecock lands (NYCD 14:600-602). The western boundary was confirmed by Indian testimony in 1657 (RTSH Vol. I:114). A sachem and his wife told the Southampton Town officials that their lands extended eastward to approximately what is now the border between the towns of Southampton and East Hampton. The extent of ancient aboriginal boundaries, according to Ong's lawyers, is important because land within these boundaries can be purchased by the tribe and would have the same sovereign status as the original reservation.
2. The Shinnecock Reservation lands have never been officially surveyed. Estimates for the land on Shinnecock Neck range from 400 to 800 acres, but the report in the *New York State Assembly Report for 1865* (1857:602) of 740 acres is probably the most accurate (See Gaynell Stone 1983, "Shinnecock Demography," in *The Shinnecock Indians: A Cultural History* edited by Gaynell Stone, p.308-310 Stony Brook: Suffolk County Archeological Association. Estimates about the land in Westwoods ranges from 75 to 80 acres.
3. Harold Monteau, an enrolled member of the Chippewa-Cree tribe, served as chairman of the National Indian gaming Commission from 1994 to 1997. His partner, John Peebles, is an expert on Native American law with long experience in cases involving tribal sovereignty, gaming law, tribe-state gaming compacts, and land claims. The firm has offices in Omaha, Washington, D.C., Sacramento, and Missoula, Montana. According to an article in the *Sacramento Business Journal* (12/23/02) the firm was expected to bring in revenues of nearly $10 million. **Ivy Ong** whose parents came to the U.S. from China in the 1930s was a developer in California in the 1970s and a partner in a Las Vegas casino in the 1980s. In 1999 he built two casinos for the Oklahoma Seminoles where said he earned $18 million in three years (a 40% share in the profits). The tribe, however, has been fined $8 million for the use of illegal gaming machines. Ong has also been connected with the 1995 counterfeit Simulac baby formula scheme, and with identified mob figures (*The Oklahoman* 02/23/03).
4. The first purchase of land in 1640 was a tract of land about 8 miles square, bordered on the west by the present day canal (Canoe Place) and on the east approximately at the boundary with the East Hampton town line. The second

purchase in 1665 included the land from the Canoe Place to the present day border with the town of Brookhaven. This purchase included the Westwoods tract. Although these purchases left the Shinnecock without title to any of the land where they lived their villages remained undisturbed. In 1687 following the negotiation of a new patent with Governor Thomas Dongan, the town leased back to the Shinnecock a 3,600 acre tract of land that included the land from Heady Creek to Canoe Place in perpetuity for an annual fee of 40 shillings (SCH 1900: 93-94; see also *Rose v. Bunn* 1854). In 1703 the town negotiation a new confirmation of the earlier purchases and changed the terms of the lease to an annual fee of an ear of corn for a thousand years. In 1859 the proprietors, in a disputed negotiation, applied to the state legislature for permission to void the lease and grant the Shinnecock a deed in fee simple to the 750 acre tract on Shinnecock Neck, the site of the present day reservation. The town proprietors did not seek approval from the U.S. Congress as required in the 1790 Non-intercourse Act.

5. The Shinnecock public relations efforts were seriously undermined when documents stolen from Ivy Ong's car were sent anonymously to the Southampton Press. One set of documents was a collection of invoices paid by Ivy Ong amounting to $5.6 million. The press contacted Ong before printing the story and he replied that "most of the expenditures are accurate but would not comment further" (SHPress 7/24/03). He said only that the invoices had been stolen from his car. Among the expenses were grants directly to the Shinnecock Nation of $1.5 million to finance their petition to the Bureau of Acknowledgement Recognition (BAR), $1.2 million for infrastructure on the reservation, and $360,000 for office expenses including payroll, computers and furniture. He also paid $500,000 to have the Las Vegas architectural firm of Bergman, Walls, and Associates draw up a design for a 65,000 square foot casino building and $368,000 to purchase the steel skeleton the main building. The $569,000 expenditure for lawyers and the $125,000 loan for the 2002 Powow losses mentioned above were also listed in the purloined papers. There was a great deal of speculation about the anonymous source and motive for the theft and delivery to the press. It was suggested by some that the source may have been a Shinnecock who wanted force the hand of the tribal trustees and make them move more quickly on the project. Sometime later another document which had apparently been stolen from Ong's car at the same time arrived at the Southampton Press office. It was a market analysis prepared for Ivy Ong the previous fall. Once again Mr. Ong acknowledged its authenticity and said that it had also been stolen from his car with the invoices. The report said that the tribe might have revenues exceeding a billion in the first five years. This would give Ivy Ong, the primary investor, a profit of about $90 million in the first year of operation. The plan called for targeting the Asian community in New York city by offering free transportation to the casino. What alarmed the local community was a prediction that an average of 9,500 people a day would flock to the casino with about double that number on weekends. This would create a traffic nightmare in an area that was already heavily congested during the summer months.

6. Prior to 1978 the federal acknowledgement process was rather chaotic. A tribe could be recognized through Congressional action, administrative decisions and by the courts. In an effort to bring some order to the process a process and a set of criteria were established in 1978 (Hughes 2001:2). In the case of *Golden Hill Paugussett Tribe v. Weicker* (39 F. 3d 51 (2nd Cir. 1994), the judge said, "The Department of the Interior's creation of a structured administrative process to acknowledge non-recognized tribes using uniform criteria, and its experience and expertise in applying these standards, has now made deference to the primary jurisdiction of the agency appropriate" (Quoted in Hughes 2001:12):

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Jan. 28, 1822 Petition to the New York state legislature from the Shinnecock Nation. Manuscript Division of the New York State Library. (presented by Noah Cuffee).

Book of Deeds Vol X: 167 Noah and his son, James sold land at Canoe Place "apparently north of the highway." (Manley p. 11)

Deed Feb. 4, 1873 Shinnecock Trustees David W. Bunn, Oliver Kellis, and John Walker sold land west of the canal to Elisha King for $90. Jan. 31, 1873 Liber 9 (vol. 191?) p. 403-404.