

land and resource managers, all resource users, and the recreational fishing and boating industries to meet the challenge.

Using a 3-legged stool analogy, the Conservation Plan only represents one leg, the federal leg, that supports the national vision for recreational fisheries. State and Tribal resource managers may represent the second leg. Anglers, conservation groups, and the recreational fishing and boating industry also have a role that could be represented as a third leg of this stool. All three legs are necessary to hold the stool upright (and achieve the vision). If you agree and wish to contribute your ideas on what the second and third legs ought to include, please attend. You may also wish to comment on the Conservation Plan. This is a dynamic plan, to be revised as necessary. Your input will be appreciated. For a copy of the Conservation Plan contact the U.S. Fish and Wildlife Service Publications Unit at (703) 358-1711.

Dated: September 16, 1996.

Edward H. Cynar II,

Acting Director.

[FR Doc. 96-24728 Filed 9-26-96; 8:45 am]

BILLING CODE 4310-55-M

Fish and Wildlife Service

Application for Approval of Tungsten-Iron Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that Federal Cartridge Company (Federal) Anoka, Minnesota, has applied for approval of tungsten-iron shot for waterfowl hunting in the United States.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, or Cyndi Perry, Wildlife Biologist, Office of Migratory Bird Management (MBMO), (703) 358-1714.

SUPPLEMENTARY INFORMATION: Since the mid-1970s, the Service has sought to identify shot that, when spent, does not pose a significant toxic hazard to migratory birds and other wildlife. Currently, only bismuth-tin shot, on a conditional basis, and steel shot are approved by the Service as nontoxic. The Service believes approval for other suitable candidate shot materials as nontoxic is feasible. The Service is eager to consider these other materials for approval as nontoxic shot.

Federal submits their application for approval of tungsten-iron shot as nontoxic pursuant to Fish and Wildlife Service 50 CFR part 20.134, Migratory Bird Hunting: Nontoxic Shot Approval Procedures. The Service believes the candidate material shows promise and will consider the application.

Federals' candidate shot is made from sintering tungsten and iron, which together forms a two phase alloy. Shot made from this material has a density of approximately 10.3 gm/cc or 94 percent of the density of lead. The shot will contain nominally 55 percent by weight of tungsten and 45 percent by weight of iron. The pellet will have sufficient iron to attract a magnet.

Federals' application includes a description of the new shot, a toxicological report on the tungsten-iron shot, and a 30-day test to assess the toxicity of this shot in game-farm mallards. The toxicological report incorporates toxicity information - a synopsis of acute and chronic toxicity data for birds, acute effects, potential for environmental concern, toxicity to aquatic and terrestrial invertebrates, amphibians and reptiles; and information on environmental fate and transport - shot and/or shot coating alteration, environmental half-life, and environmental concentration. The toxicity study revealed no adverse effects when mallards were dosed with 8 BB size tungsten-iron shot and monitored over a 30-day period.

References

Barr Engineering Company. 1996. Toxicology Report on New Shot. Contract Report 2302118/40970-1/CET. 21 pp.

Bursian, S.J., M.E. Kelly, R.J. Aulerich, D.C. Powell, and S. Fitzgerald. 1996. Thirty-Day Dosing Test to Assess the Toxicity of Tungsten-Iron Shot in Game-Farm Mallards. 1996. Report to Federal Cartridge Co. 77 pp.

Authorship

The primary author of this notice of application is Cynthia M. Perry, Office of Migratory Bird Management.

Dated: September 20, 1996.

Carolyn A. Bohan,

Acting Assistant Director for Refuges and Wildlife.

[FR Doc. 96-24816 Filed 9-26-96; 8:45 am]

Billing Code 4310-55-F

Bureau of Indian Affairs

Final Decision To Retract 1979 Decision of the Deputy Commissioner of Indian Affairs Regarding the Delaware Tribe of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final decision.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8.

Based on a comprehensive legal review conducted by the Division of Indian Affairs, Office of the Solicitor, dated June 19, 1996, and based on a review of the comments received from the public, the Assistant Secretary hereby retracts the letter of May 24, 1979, in which the Bureau of Indian Affairs through the Acting Deputy Commissioner determined that the Department of the Interior would engage in government-to-government relations with the Delaware Tribe of Indians only through the Cherokee Nation and that the Department would deal directly with the Delaware Tribe of Indians only for purposes of their claims against the United States. Notice is hereby given that the Delaware Tribe of Indians is a tribal entity recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe.

A Notice of Intent to Retract the 1979 Decision was published in the Federal Register on June 27, 1996 (61 FR 33534, June 27, 1996). The public was given until July 29, 1996 to comment on the proposed decision. A copy of the June 19, 1996, legal review prepared by the Division of Indian Affairs was sent to the Cherokee Nation of Oklahoma and to the Delaware Tribe of Indians on June 21, 1996, inviting comments on the proposed decision to retract the May 24, 1979, letter. Copies of the legal review were sent also to the Chickasaw Nation of Oklahoma, Choctaw Nation of Oklahoma, Seminole Nation of Oklahoma, and Muscogee (Creek) Nation of Oklahoma.

Four letters containing public comments were received. Two of these letters included comments concerning the name of the tribe. The Federal Register notice of June 27, 1996 referred both to the "Delaware Tribe of Eastern Oklahoma" and to the "Delaware Tribe." By letter dated July 24, 1996, the Chief of the Delaware Tribe of Indians stated that although they had "been

(unofficially) called "The Delaware Tribe of Eastern Oklahoma" * * * our legal name is the *Delaware Tribe of Indians*." By letter dated July 28, 1996, the Delaware Tribe of Western Oklahoma expressed concern that the tribe might be called the "Delaware Tribe of Oklahoma," thereby causing confusion with the Delaware Tribe of Western Oklahoma. The Department has dealt with other tribes which have name similarities, as a review of the Federal Register list of "Indian Entities Recognized and Eligible to Receive Services" demonstrates (60 FR 9250, Feb. 16, 1995). The comment in the July 24, 1996, letter is accepted and the Department will use the "Delaware Tribe of Indians" as the tribe's name.

The Delaware Tribe of Western Oklahoma expressed concern that this final status clarification action may prejudice its rights as a continuation of the Delaware Nation. In response, the Assistant Secretary directs attention to the June 16, 1996, legal review of the Division of Indian Affairs which states that the Delaware were the first Indians to enter into a formal treaty with the federal government and that over the years, the Delaware became divided into groups. The legal review notes specifically that one of these groups is the federally recognized tribe, the Delaware Tribe of Western Oklahoma. This final decision on the Delaware Tribe of Indians does not change the status, or history, of the Delaware Tribe of Western Oklahoma.

The comment from the Delaware Tribe of Western Oklahoma states that the treaties and agreements between the Delaware Nation and the United States, and the Cherokee Nation and the United States must be examined with precision, and that the final determination must address the issues of Delaware sovereignty rather than being a political determination. The June 19, 1996, legal review was such a comprehensive and detailed analysis of the relevant legal record, including a detailed evaluation of pertinent treaties and agreements. This comment raises no new information meriting additional analysis.

A comment was received from the Cherokee Nation dated July 26, 1996. This comment concerns the Cherokee Nation's jurisdictional service area, its court system, law enforcement, Indian child welfare services and civil jurisdiction. Referencing 105 Stat. 990 (1991) and 25 CFR 151.8, the tribe states that it cannot responsibly share its jurisdictional land base, and provides that if the Delawares "concede that their actions will not result in any diminishment of the Cherokee's present

funding, its service area or jurisdictional base, then separate recognition would be agreeable to the tribe." A comment, by letter dated July 23, 1996, from an individual whose certificate of Indian blood identifies her as "Cherokee (adopted Delaware)," expressed concerns that the proposed decision did not contain language addressing the issues of dual enrollment and jurisdiction. This comment notes that the Delaware intend to prohibit dual enrollment, and that a driving force "is the acquisition and control of federal dollars."

The decision to retract the letter of May 24, 1979, is based on a comprehensive legal analysis of the pertinent treaties and agreements as well as a review of the Department of the Interior's administrative practice. Based on this review, the proposed decision published in the Federal Register concluded that the 1979 letter should be retracted because it was not consistent with federal law. Within the restraints imposed by federal law, the Delaware Tribe of Indians as a sovereign tribe will have the same rights to demand consultation and contracting as other tribes. As a separate sovereign, the Delaware Tribe of Indians will have the same legal rights and responsibilities as other tribes, consistent with federal law, both as to jurisdiction and as to its right to define its membership. This decision in effect clarifies the government-to-government relationship between the United States and the Delaware Tribe of Indians which was understood to exist before the May 1979 letter. Although this decision may have legal consequences affecting the Cherokee Nation and the members of both tribes, there is nothing in these comments which indicates that the basis of the proposed decision is in error or that the legal analysis of June 19, 1996, includes errors or is incomplete. These comments, therefore, do not merit a change in the proposed decision.

Based on the legal analysis of the Division of Indian Affairs dated June 19, 1996, and based on the foregoing analysis of the comments received during the public comment period, the Assistant Secretary hereby retracts the letter of May 24, 1979. The notice of proposed decision, 61 FR 33534, is hereby made final. Notice is hereby given that the Delaware Tribe of Indians is a tribal entity recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of its status as an Indian tribe.

By letter dated August 21, 1996, the attorney for the Delaware Tribe of Indians indicated that at a meeting of April 30, 1996, the Delaware Chief was

informally advised that after the 30-day comment period following the Federal Register publication, the Delawares would have the opportunity to respond to any negative comments submitted. The letter of August 21, 1996, included the Delaware response to the comments of the Cherokee Nation and Delaware Tribe of Western Oklahoma. The notice in the Federal Register did not include a right by the Delaware Tribe of Indians to respond to the public comments. The letter of August 21, 1996, was reviewed and because it does not raise any new information or legal arguments pertinent to the basis of the proposed decision, the Assistant Secretary need not address whether the Delaware Tribe of Indians had a right to file this response even though none was provided for in the Federal Register notice.

Nothing herein should be construed as altering the powers and duties of the Delaware Trust Board.

Representatives from the Muscogee Area Office of the Bureau of Indian Affairs shall consult with the Delaware tribal officials and develop, in cooperation with the tribe, a determination of needs and recommended budget, including a determination of the tribal service population.

DATES: This decision is final for the Department and is effective September 23, 1996.

Dated: September 23, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96-24749 Filed 9-26-96; 8:45 am]

BILLING CODE 4310-02-P

Bureau of Land Management

[CO-030-06-1610-00-1784]

Southwest Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 USC), notice is hereby given that the Southwest Resource Advisory Council (SW RAC) will meet on Thursday, October 10, 1996, in the BLM Montrose District Office Conference Room, 2465 South Townsend, Montrose, Colorado, and on Thursday, November 14, 1996, in the County Commissioner's Meeting Room, Hinsdale County Courthouse, 311 North Henson, Lake City, Colorado.

DATES: The meetings will be held on Thursday, October 10, 1996, and on