

(5) Federal Register Notice of Proposed Finding

- September 10, 1987

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Machis Lower Alabama Creek Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that the Machis Lower Alabama Creek Indian Tribe, Inc., c/o Mrs. Pennie Wright, 708 S. John Street, New Brockton, Alabama 36351.

Exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet four of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Machis Lower Alabama Creek Indian Tribe contends that it is descended from those Creek Indians who took land allotments rather than remove to Indian Territory in the 1830s and that their ancestors purportedly then fled to a cave in Covington County, Alabama to hide from hostile whites and soldiers. No documentation has been found to substantiate the existence of a predecessor tribe or Indian Community to the group. The Machis Lower Alabama Creek Indian Tribe has only been identified as Indian and as Creek since its incorporation as a non-profit organization in 1982. The tribe which inhabited the Lower Creek town of Tamali, which the group claims was the aboriginal home of the "Machis Indians," emigrated to northwestern Florida around the year 1800 and was absorbed in the Seminole tribe. No historical reference could be found to document the existence of a Lower

Creek Indian named Machis, who the Group claims descent from and from whom the group derives its name. No evidence could be found to verify any linkage between the early 19th-century Lower Creek individuals in Alabama whom the petitioner claims were its ancestors and the family lines of the group's membership.

The group holds that its ancestors managed to escape forced removal from Alabama by hiding in a cave in Covington County. Federal census records indicate that most of the group's ancestors did not take up residence in Alabama until long after the period of Creek removal and that none of the primary families were living in Covington County prior to the 1880s. While Federal census and county records show there has been some residential clustering and interaction among the principal families in the group from 1850 to the present at various and somewhat scattered locations in southeastern Alabama, these family enclaves have never been regarded by others as being American Indian communities.

There is no evidence that tribal political influence or authority has been exercised or maintained over its members or that tribal decision-making processes have been carried out by group leaders either prior to or after the formal incorporation of the group in 1982. Bylaws adopted in 1982 as the group's governing document set forth the formal governing procedures. A membership criterion is stated in the bylaws, but a statement concerning membership submitted with the petition appears to provide a more accurate description of the current membership. Although the majority of the membership does share common ancestry, no documentation was submitted nor was any documentation located to establish that the common ancestors of the group were identified as Indian or were members of any historical tribe or tribes.

No evidence was found that the members of the group are enrolled in any other Indian tribe or that the group or its members have been subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the MaChis Lower Alabama Creek Indian Tribe meets criteria d, f, and g, but does not meet criteria a, b, c, and e of § 83.7 of the Acknowledgment regulations (25 CFR Part 83).

Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the

proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioners and interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., Washington, DC 20245, Attention: Branch of Acknowledgment and Research, Mail Stop 32-SIB.

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

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

Hazel E. Elbert,

Acting Assistant Secretary—Indian Affairs.

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