

(7) Federal Register Notice of Final Determination

- June 23, 1988

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Machis Lower Alabama Creek Indian Tribe, Inc.

June 13, 1988.

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

Pursuant to 25 CFR 83.9(h), notice is hereby given that the Assistant Secretary declines 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, following a review of public comments on the proposed findings, 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.

Notice of the proposed findings to decline to acknowledge the Machis Lower Alabama Creek Indian Tribe was published on page 34319 of the Federal Register on September 10, 1987. The proposed findings were based on a determination that the petitioner met criteria d, f, and g, but did not meet criteria a, b, c, and e of Part 83.7 of the Acknowledgment regulations (25 CFR, Part 83). In accordance with 25 CFR 83.9(g), interested parties were given 120 days in which to submit factual or legal arguments and evidence to rebut or support the evidence relied upon in the findings. Pursuant to a request by the petitioner, the Assistant Secretary—Indian Affairs, by a letter dated December 17, 1987, extended the comment period an additional 90 days.

During the comment period, a rebuttal containing evidence and arguments challenging the proposed findings was submitted by the petitioner. One other comment was received during this period which agreed with the conclusions reached in the Genealogical Report of the proposed findings that certain ancestral families did not possess Indian ancestry, but did not include any new evidence.

The arguments and evidence submitted by the petitioner in response to the proposed findings did not specifically address the criteria or the conclusions made in the summary under the criteria or in the technical reports. Although the petitioner continues to claim that their ancestors came from the Creek town of Tamali, and, in the rebuttal, made new claims of other ancestral Creek towns, no evidence was submitted to substantiate their claim. No discussion of any historic community or their contemporary community was included in the petitioner's rebuttal. The petitioner asserts that the Dawes Severalty Act of 1887 (24 Stat. 386) took away political authority over the members of the group. The Dawes Act was to provide for the allotment of tribal lands to individual tribal members on the various reservations. The law contained no specific provision affecting the powers of tribal authority. Since there is no other evidence that the petitioner was identified as an Indian entity prior to 1982, the Dawes Act did not apply to the group. The evidence that the petitioner submitted in its rebuttal pertaining to the group's ancestors did not identify the ancestors as Indian or members of any tribal entity.

The petitioner's response is critical of the fact that the Bureau contracted with Professor J. Anthony Paredes, an anthropologist at Florida State University, to conduct a preliminary ethnohistorical and ethnographic report on the petitioner. Dr. Paredes did not write the proposed findings. He was contracted to provide background information on the petitioner within the general context of the ethnohistory and ethnography of Creek Indians in Alabama. His report, which was based on both archival research and interviews with group members and others, presented his findings in an objective manner. Dr. Paredes did not conduct any detailed geographical research. His report did not draw any conclusions regarding whether or not the petitioner met the mandatory criteria for acknowledgment. The recommendations contained in the proposed findings not to acknowledge the petitioner, and the factual conclusions on which they are based, were written, solely and entirely, by the Acknowledgment research team which evaluated the petition for acknowledgment. The Acknowledgment research team utilized the Paredes report to a considerable extent, but also conducted its own research in order to expand, supplement, and/or refute information presented in both the petition and the Paredes report.

The petitioner's response does point out some minor errors in the technical reports. The errors have been noted in a report summarizing the Department's response to the evidence and arguments submitted to refute the proposed findings. This report is available to the petitioner and interested parties upon written request. Requests for copies of the report or the proposed findings should be addressed to the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets NW, Washington, DC 20242, Attention: Branch of Acknowledgment and Research, Mail Stop 1352-MIB.

In accordance with § 83.9(j) of the acknowledgment regulations, an analysis was made to determine what, if any, options other than acknowledgment are available under which the Machis Lower Alabama Creek Indian Tribe, Inc., could obtain services and other benefits. No viable alternative could be found due to the group's unsubstantiated Indian ancestry and the group's lack of inherent social and political cohesion and continuity as an Indian entity. This conclusion is based on independent research conducted by the Acknowledgment staff and on factual arguments and evidence presented in the group's petition and in the rebuttal which challenged the proposed findings. This determination is final and will become effective 60 days after publication unless the Secretary of the Interior requests the determination be reconsidered pursuant to 25 CFR 83.10(a-c).

W.P. Espada,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 88-14222 Filed 6-22-88; 8:45 am]

BILLING CODE 4310-02-M

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/ Friday, July 1, 1988 / Corrections

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Machis Lower Alabama Creek Indian Tribe, Inc.

Correction

In notice document 88-14222 beginning on page 23694 in the issue of Thursday, June 23, 1988, make the following correction:

On page 23694, in the third column, in the first complete paragraph, in the 18th line, "geographical" should read "genealogical".

BILLING CODE 1805-01-D

On page 24403, in the second column, in the first line of the heading for "III", "1982" should read "182".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket No. 86N-0009]

Clinical Chemistry and Clinical Toxicology Devices; Exemptions From Premarket Notification

Correction

In rule document 88-12855 beginning on page 21447 in the issue of Wednesday, June 8, 1988, make the following correction:

PART 862—[CORRECTED]

On page 21450, in the first column, after the section heading for § 862.3850 insert a line of asterisks.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88M-0187]

Cook Pacemaker Corp.; Premarket Approval of Sensor* Model Kelvin* 500 Pulse Generator, Model K Unipolar Temperature Sensing Lead, Model 5000 Transceiver, and Model 50 Lead Tester

Correction

In notice document 88-12942 beginning on page 21729 in the issue of Thursday, June 9, 1988, make the following corrections:

1. On page 21730, in the first column, in the signature line at the end of the document, "John C. Willforth" should read "John C. Villforth".

2. On the same page, in the same column, in the file line at the end of the document, "FR Doc. 88-2942" should read "FR Doc. 88-12942".

BILLING CODE 1505-01-D

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BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25531 Amdt. No. 91-203]

RIN 2120-AC66

Transponder with Automatic Altitude Reporting Capability Requirement

Correction

In rule document 88-14065 beginning on page 23356 in the issue of Tuesday, June 21, 1988, make the following corrections:

1. On page 23360, in the second column, in the sixth line from the bottom, "ther" should read "the".

2. On page 23364, in the first column, in the first line, after "both" insert "aircraft".

3. On page 23367, in the first column, in the second complete paragraph, in the 13th line, "inspection" should read "inspections".

4. On page 23368, in the first column, in the second paragraph, in the second line, after "the" insert "docket contains additional information related to the".

BILLING CODE 1505-01-D