

(5) Federal Register Notice of Proposed Finding

- April 1, 1985

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Proposed Finding Against Federal Acknowledgment of the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-Tribal Indian Band

March 26, 1985.

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 6.

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 three separate but related petitioners (the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-tribal Indian Band) exist either individually as Indian tribes or collectively as one Tribe within the meaning of Federal law. This finding includes all bands and clans now affiliated with these organizations or affiliated in their past history. The petitioners are:

Southeastern Cherokee Confederacy, Inc., c/o William R. Jackson, Route 1, Box 111, Leesburg, Georgia 31763.

Northwest Cherokee Wolf Band, Southeastern Cherokee Confederacy, Inc., c/o Robert E. Ponder, P.O. Box 592, Talent, Oregon 97540.

Red Clay Inter-tribal Indian Band, Southeastern Cherokee Confederacy, Inc., c/o John F. Neikirk, 7703 Georgetown Road, Ooltewah, Tennessee 37363.

This notice is based on determinations that these groups individually as well as collectively do not meet four of the criteria set forth in 25 CFR 83.7 and, therefore, do not meet the requirements necessary for a government-to-government relationship with the United States. Preliminary determinations follow regarding each of these groups.

The Southeastern Cherokee Confederacy (hereinafter SECC), which was initially organized in November 1976, has had a continuous existence of less than nine years. No predecessor group existed prior to that time. The SECC is not the historical and legal successor to the Cherokee Nation of 1839, which has existed in Oklahoma since 1839 and in western North Carolina as the federally recognized Eastern Band of Cherokees. Headquarters for the SECC, which includes some four "clans" in Georgia and eight "bands" elsewhere in the

United States, are located in Leesburg, Georgia. The size of the current membership is estimated at 823, and is spread over 37 states.

The Northwest Cherokee Wolf Band (NWCWB) began as a band of the SECC in August of 1980. In July of 1982 the group dissociated itself from the SECC and formed a separate and autonomous organization. It has had a separate, continuous existence of less than three years. No predecessor group is known to have existed in Oregon or elsewhere prior to August, 1980. Headquarters for the NWCWB are located in Talent, Oregon. The group includes at least two "bands" in Oregon, one in Georgia, and one in Idaho. Current membership is estimated to be 609.

The Red Clay Inter-tribal Indian Band (RCIIB) also began as a band of the SECC in July 1982. In April of 1984 it dissociated itself from the SECC and formed a separate and autonomous organization. Thus the RCIIB has had a separate, continuous existence of less than one year. No predecessor group is known to have existed in Tennessee or elsewhere, and no historical connection can be made to the historic Red Clay settlement of the Cherokees. RCIIB headquarters are located in Ooltewah, Tennessee. The group currently is organized into two "bands," one in Tennessee, the other in Oregon, with an estimated total membership of 87.

The SECC, NWCWB, and RCIIB do not represent themselves as historical communities nor do they claim to descend as groups from historical predecessor groups. Group members do not live in residential clusters or communities which are viewed as American Indian and distinct from other populations in the area.

The petitioners submitted copies of governing documents now being used by the organization. They also each submitted current and former membership data where it existed. Membership in each of the petitioning organizations is open to persons who are of 1/16th Indian blood of any American Indian tribal heritage. Although Cherokee is the predominant Indian ancestry claimed by members, ancestry is also claimed from as many as 37 other recognized and unrecognized tribes and groups. Virtually all of this Indian ancestry appears to be unverifiable.

In general, individuals joining the petitioning organizations have done so in an effort to get in contact with and learn more about their own Indian heritage. Members are recruited by word of mouth as well as through the use of notices in the local media. Group

size and composition fluctuates significantly largely because membership status is based on payment or non-payment of annual dues. There has been virtually no intermarriage either between families within the petitioning groups or between the petitioning groups.

Only a few members of all three groups combined appear also to be enrolled members of federally recognized North American Indian tribes. The SECC, NWCWB, and RCIIB have not been the subject of Congressional legislation which has terminated or forbidden the Federal relationship.

The SECC, NWCWB, and RCIIB and their affiliated bands and clans (past and present), whether considered individually or collectively as one group, are recently formed, overtly multi-tribal voluntary associations of individuals who believe themselves to be of Indian descent. The petitioning organizations are not consistent in any way with the concept of tribe intended by the regulations (25 CFR Part 83).

Based on this preliminary factual determination, we conclude that each of the petitioning organizations (SECC, NWCWB, RCIIB) meets criteria d, f, and g, but does not meet a, b, c, and e of § 83.7 of 25 CFR.

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 Section 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is 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.

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 a final determination regarding the petitioners' status in the Federal Register as provided in § 83.9(h).

Theodore C. Krenzka,

Acting Deputy Assistant Secretary—Indian Affairs.

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