

(7) Federal Register Notice of Final Determination

- September 26, 1985

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination That the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-Tribal Indian Band Do Not Exist as Indian Tribes

September 18, 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 8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary has determined that three separate but related petitioners (the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-tribal Indian Band) do not exist as Indian tribes, either individually or collectively as one tribe, within the meaning of Federal law. This determination includes all bands and clans which are now affiliated or which have been affiliated in the past with the petitioners listed below:

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

Northwest Cherokee Wolf Band (NWCWB), Southeastern Cherokee Confederacy, Inc., c/o Robert E. Ponder, P.O. Box 582, Talent, Oregon 97540.

Red Clay Inter-tribal Indian Band (RCIIB), Southeastern Cherokee Confederacy, Inc., c/o John F. Neukirk, 7703 Georgetown Road, Coletwah, Tennessee 37363.

This notice is based on determinations following a review of public comments on the proposed finding 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.

A notice of the proposed finding to decline to acknowledge the SECC, the NWCWB, and the RCIIB was published in the Federal Register on Monday, April 1, 1985 (page 12872, Vol. 50, No. 62). Interested parties were given 120 days

in which to submit factual or legal arguments to rebut the evidence used to support the proposed finding.

Two written comments were received during the comment period. A letter was received on May 13 from Ruby Walls, Executive Secretary of the Northwest Cherokee Wolf Band (one of the petitioning organizations), which supported the Department's proposed finding and stated, on behalf of the group, that they realized that "there is no possible chance of federal recognition . . . [and that] It is also recognized by our members that our ancestors did not keep their tribal contact from the early 1800's and went on to adapt to the white man's ways."

One rebuttal was received on July 29, 1985 from Bettie L. Buford, principal vice chief of the SECC, presumably on behalf of the SECC petitioner, which challenged the proposed finding. This letter and its supporting documentation were carefully considered to determine whether the evidence and arguments presented would strengthen the group's overall petition for acknowledgment.

Supporting material submitted included numerous personal affidavits and photos attesting to the American Indian heritage of selected individuals, copies of recent corrections to vital records, miscellaneous newspaper articles and other published materials referring to Indians in general but not to the petitioning groups in particular, minutes and reports of meetings and other notices (all dated 1985) describing the participation of the Crow Band of the SECC and/or its members in local activities, and miscellaneous envelopes and other mail of recent origin addressed to individuals using Indian names.

Most of the genealogical materials submitted with the rebuttal dealt with persons who could not be identified with and were apparently different from and in addition to individuals previously reported as SECC members for acknowledgment purposes. Personal affidavits submitted were insufficient as evidence of Indian heritage since they were of recent origin and unsupported by other corroborating evidence. Vital records and corrections thereto were of recent origin, based in unsupported personal affidavits and, thus, were insufficient as evidence in the context within which they were used. News articles and other published materials were of a very general nature and did not address the historical continuity or political authority of the current petitioners. Meeting minutes and reports of Crow Band activities were of very recent (1985) origin. Although they did

discuss the group's current activities within their local community, they did not address the question of historical identification of the group and its members as a separate and distinct community of Indians. Current mail addressed to an individual who uses an Indian name is not historical evidence, nor does it necessarily show Indian ancestry or recognition as Indian.

A second mailing was received from Mrs. Buford on August 20, 21 days after the close of the 120-day period for public comment. This mailing included five letters petitioning against the Secretary's preliminary decision to deny Federal acknowledgment to the SECC and an affiliate band, the Badger Band of Oregon; as well as a few additional genealogical materials and personal affidavits, but no new substantive evidence. The petitions contained 50 signatures, only 8 of which could be identified as belonging to members of the petitioning group.

None of the evidence or arguments submitted refuted the preliminary finding that the SECC, the NWCWB, the RCIIB and their affiliated bands and clans are recently formed, overtly multi-tribal voluntary associations of individuals recruited into membership. The petitioning organizations are not derived from nor are they the historical successors of the pre-removal Cherokee Nation.

Based on information originally provided by the petitioners, on independent research conducted by the Acknowledgment staff, and on comments and supporting evidence received from the SECC petitioner in response to the proposed finding, we conclude that the SECC, the NWCWB, and the RCIIB do not meet the requirements necessary under Federal law for a government-to-government relationship with the United States.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, options other than acknowledgment would be available under which the petitioning groups could make application for services and other benefits. No viable alternatives could be found due to the mixed and uncertain Indian ancestry of each group, the geographical dispersion of its membership, and their lack of inherent social and political cohesion and continuity.

This determination is final and will become effective 60 days after the date on which this notice appears in the Federal Register unless the Secretary of

the Interior requests reconsideration pursuant to 25 CFR 83.10.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

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