

(4) Proposed Finding Documents

- July 11, 1995

Summary under the Criteria and Evidence for
Proposed Finding Against Federal Acknowledgment
of the Yuchi Tribal Organization, Inc.

Prepared in response to a petition submitted
to the Assistant Secretary of the Interior -
Indian Affairs that this group exists as an
Indian tribe.

Approved: X JUL 11 1995

 Ada E. Deer
Ada E. Deer
Assistant Secretary - Indian Affairs

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**SUMMARY EVALUATION OF THE YUCHI TRIBAL ORGANIZATION
UNDER CRITERION 83.7(f)**

I. Introduction

This proposed finding against acknowledgment of the Yuchi Tribal Organization (YTO) has been prepared under section 83.10(e) of the acknowledgment regulations. Section 83.10(e) provides for an expedited finding on a single criterion where there is clear evidence, based on the preliminary review, that the petitioner could not meet the requirements of criteria 83.7 (e), (f), or (g).

There was clear evidence, based on the preliminary technical assistance review, that the YTO did not meet the criterion in section 83.7(f). The summary evaluation and accompanying technical report describes in detail the evidence for this finding. Section 83.7(f), in brief, requires that a petitioner not be principally composed of members of another, already acknowledged tribe. This section also describes conditions which would provide for an exception to this requirement in rare instances. These conditions for an exception are discussed in detail in the body of the accompanying technical report.

II. Requirements for an Expedited Proposed Finding under 25 CFR 83.10(e)

The acknowledgment regulations require that all seven criteria under section 83.7 must be met in order for a petitioner to be acknowledged. Section 83.10 (m) states:

The Assistant Secretary shall acknowledge the existence of the petitioner as an Indian tribe when it is determined that the group satisfies **all of the criteria in §83.7**. The Assistant Secretary shall decline to acknowledge that a petitioner is an Indian tribe if it **fails to satisfy any one of the criteria in §83.7**. (emphases added)

This finding is prepared under section 83.10 (e) which provides that:

Prior to active consideration, the Assistant Secretary shall investigate any petitioner whose documented petition and response to the technical assistance review letter indicates that there is little or no evidence that establishes that the group can meet the mandatory criteria in paragraphs (e), (f) or (g) of §83.7.

(1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of §83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken pursuant to paragraph (a) of this section. Rather, the Assistant Secretary shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the FEDERAL REGISTER. The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (h) through (l) of this section.

(2) If the review cannot clearly demonstrate that the group does not meet one or more of the mandatory criteria in paragraphs (e), (f) or (g) of §83.7, a full evaluation of the documented petition under all seven of the mandatory criteria shall be undertaken during active consideration of the documented petition pursuant to paragraph (g) of this section.

The section requires clear evidence, apparent on a preliminary review, that one of the three named criteria are not met. The section further provides that, absent such clear evidence, the petition will be reviewed under the regular process. Several requirements are included to ensure fairness to the petitioner. First, this limited evaluation only occurs after the petitioner has had the opportunity to respond to the technical assistance review. Second, a proposed finding under this section will still be subject to the comment process before a final determination is issued. Finally, the petitioner will also have the opportunity to request reconsideration under §83.11.

This proposed finding is subject to the same deadlines and procedures as any other proposed finding. Commentors may comment on any aspect of the finding or the history and character of the Yuchi Tribal Organization. In the event that the comments submitted demonstrate that the petitioner meets the requirements of criterion 83.7(f), the Assistant Secretary has the authority under sections 83.10(a) and 83.10(1)(1) to conduct such additional research and request from the petitioner and interested parties such information as is necessary to supplement the record concerning the other criteria and evaluate the petitioner under those criteria.

III. The 180 Day Period for Comments in Response to the Proposed Finding

Publication of the Assistant Secretary's proposed finding in the Federal Register initiates a 180-day period for comments by the petitioner and other parties in response to the proposed finding (§83.10(i)-(k)). During the response period, factual and/or legal arguments and evidence to rebut or support the proposed finding may be submitted by the petitioner and any interested or informed party. Such evidence should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street, N.W., Washington, D.C., Attention: Branch of Acknowledgment and Research, Mail Stop 2611-MIB. Third parties must simultaneously supply copies of their comments to the petitioner in order for them to be considered by the Department.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (§83.10(j)(1)).

In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (§83.10(j)(2)).

If third party comments are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to those comments. This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (§83.10(k)).

At the end of the response periods for comments on a proposed finding, the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and commenting parties. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable timeframe for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins. A summary of the final determination will be published in the FEDERAL REGISTER within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins (§83.10(l)).

IV. Summary Evaluation under the Criteria in 83.7(f)

A. The Language of Criterion 83.7(f)

83.7(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.

However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe.

The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.

B. Related Definitions (83.1)

Member of an Indian group:
means an individual who is recognized by an Indian group as meeting its membership criteria and who consents to being listed as a member of that group.

Member of an Indian tribe:
means an individual who meets the membership requirements of the tribe as set forth in its governing document or, absent such a document, has been recognized as a member collectively by those persons comprising the tribal governing body, and has consistently maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

Tribal roll:
for purposes of these regulations, means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document. In the absence of such a document, a tribal roll means a list of those recognized as members by the tribe's governing body.

Autonomous:
means the exercise of political influence or authority **independent of the control of any other Indian governing entity.** Autonomous must be understood in the context of the

history, geography, culture and social organization of the petitioning group. (emphasis added)

C. Discussion and Evaluation of the Evidence:

The membership roll of the Yuchi Tribal Organization contains 165 names. Of these individuals, 151, or 92 percent, were confirmed to be members of the Muscogee (Creek) Nation of Oklahoma (MCN), a federally recognized tribe. Membership was confirmed by comparing the YTO list with the database of the MCN membership. Membership in the MCN requires affirmative application by the individual and review by the Creek Citizenship Board. Consequently the MCN roll clearly qualifies as a tribal roll within the meaning of the acknowledgment regulations (section 83.1). One other individual was confirmed as a member of another recognized tribe. Therefore, the members of the YTO are principally members of an acknowledged North American Indian tribe. Unless the YTO meets the conditions for an exception described in criterion 83.7(f), it would not meet this criterion.

The criterion in 83.7(f) requires a petitioning group to meet two conditions in order to be excepted from its requirements. First, the members of the petitioning group must not be maintaining a bilateral political relationship with a recognized tribe; and second, the petitioning group must have functioned throughout history until the present as a separate and autonomous Indian tribal entity. These two requirements embody the intent of the regulations to only acknowledge as tribes groups that are in fact politically autonomous of other Indian tribes. In so doing, criterion (f) "allows for acknowledgment of rare cases where the petitioner has been regarded, erroneously, as part of or associated with another tribe, but has been a separate, autonomous group throughout history," while criterion (f) "prohibits use of the regulations to acknowledge portions of already recognized tribes" (59 FR 9289).

Section 83.3(d) of the regulations states:

splinter groups, political factions, communities or groups of any character that separate from the main body of a currently acknowledged tribe may not be acknowledged under these regulations. However, groups that can establish clearly that they have functioned throughout history until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or have been associated in some manner with an acknowledged North American Indian tribe.

To be autonomous, the petitioner and its members must not participate significantly in the political processes of a recognized (or unrecognized) tribe. It is quite possible that

some or many individual members of a petitioner participate in the political system of a recognized tribe and also participate in a separate council of a petitioning group. However, such "dual" participation means that these individuals are not "autonomous" within the meaning of the regulations, because the requirement in criterion (f) is specifically directed against separating a portion of an already recognized tribal political entity.

Members of the YTO, including its leaders, have consistently participated in the political process of the MCN from 1962 to the present. This period was reviewed in detail for this finding. The year 1962 marks the beginning of efforts by members of the Creek Nation to reorganize and revitalize its political institutions. These efforts led to the present constitution, adopted in 1979. Members of the YTO (as well as many other Yuchis) played important roles in the process of reformation of the national Creek political system.

Since the formation of the present MCN government under the 1979 constitution, members of the YTO and their leaders have run for and filled national political office, been appointed to the Creek Supreme Court, and participated in the local "chartered communities" which are the local level extension of the national Creek government.

The regulations (section 83.1) provide a specific definition of tribal roll for the purposes of these regulations only. The intent of the definition is that to be a tribal roll for these purposes, a membership list made by a recognized tribe must clearly reflect the existence of a bilateral political relationship between the individuals listed and their tribe. The definition requires that the individual have "affirmatively demonstrated" consent. The conditions of enrollment in the MCN require affirmative consent by the enrollee as well as specific action by the Citizenship Board, an independent commission within the national level government. This roll therefore demonstrates a bilateral political relationship between those enrolled and the Creek Nation.

Consequently, the YTO does not meet the condition, for an exception to the requirement of criterion 83.7(f), that its members do not maintain a bilateral political relationship with a recognized tribe.

Members of the petitioning group participated extensively in the Creek Nation's political system well before the YTO group itself was formed in 1989. There was no indication that, previous to the YTO formation, the members formed a distinct group within the greater Yuchi ethnic group (the Yuchi tribe as historically incorporated into the Creek Nation -- see discussion below).

The extensive participation by YTO members and leaders in the political institutions and processes of the Creek Nation from 1962 to the present means that the YTO (and its members and leaders before its formation) does not meet the requirements to be considered an autonomous group. Even if they functioned in part as a separate political body from the Creek Nation, their dual political participation in the Creek Nation means that the YTO does not meet the requirements for autonomy under the acknowledgment regulations.

Yuchi participation in the MCN before 1962 was not reviewed in detail for this finding, because such an examination was not necessary to evaluate whether YTO fails to meet criterion 83.7(f). However, standard historical sources provide good evidence that the historical Yuchi tribe has continuously been part of the political system of the Creek Confederacy since the 18th century.

Membership in an unacknowledged group is defined in the regulations (§83.1), in part, as consisting of individuals that have consented to be listed as members. The conditions for an exception to criterion 83.7(f) require, in part, that the group's members must have provided written confirmation of their consent to membership in the petitioning group. Written confirmation of consent was received for only six of the YTO members, despite numerous requests by BAR. Consequently, this condition which would allow an exception to 83.7(f) has not been met.

This finding of necessity has examined not only the membership status of the petitioner, but also the history of the organization and the political relationship of its members to the MCN of Oklahoma, a recognized tribe. This has been done to provide background and context. However, discussion has been limited to areas which are necessary to show that the petitioner does not meet the conditions would allow an exception to criterion 83.7(f). Definitive research, however, has only been conducted on the YTO itself. Consequently this finding only concerns the YTO.

In conclusion, ninety-two percent of the membership of the YTO are members of the MCN. They do not meet any of the conditions which would allow an exception to the requirements of criterion 83.7(f). The membership is maintaining a bilateral political relationship with the MCN. Because of its participation in MCN political institutions at the national and local levels, it is not an autonomous group within the meaning of the acknowledgment regulations. Almost none of the members of the YTO have provided written confirmation that they consent to be members of the YTO. Therefore, we conclude that the YTO does not meet the requirements of the criterion in 83.7(f).

TECHNICAL REPORT ON THE YUCHI TRIBAL ORGANIZATION

I. Descriptive Summary

The Yuchi Tribal Organization (YTO) is an organization formed in 1989. It is one of two organizations of Yuchis which have made efforts to prepare a petition for acknowledgment of the Yuchi as a tribe. The second organization, the Euchees United Cultural, Historical and Educational Effort (E.U.C.H.E.E.), has submitted a research report as comment on the YTO petition and in support of acknowledgment of the Yuchis as a separate tribe (Foster et al. 1995). The E.U.C.H.E.E. was formed in part as a result of a conflict among a larger group of Yuchi members of the Muscogee (Creek) Nation (MCN) over control of the acknowledgment effort and future control of a separately recognized Yuchi tribe (FD, Wallace 1995, 8).

The YTO members are a small part of a much larger Yuchi ethnic group (Yuchi) which in turn is part of the present-day MCN of Oklahoma. The term "Yuchi ethnic group" as used here refers to the entirety of the Yuchis, derived from the historic Yuchi tribe, which are part of the MCN. A core of the Yuchi ethnic group, based on the evidence reviewed, is in some ways, socially and culturally distinct from other members of the Creek Nation, but does not form a separate, politically autonomous tribe.

The MCN is the continuation of the Creek Confederacy formed in the 17th and 18th centuries in the Southeast as a confederation of tribes of varying cultural and linguistic backgrounds. The Yuchi tribe has participated politically in the Creek Confederacy since that time. It was removed to Oklahoma with the Confederacy during the Removal in the 1830's. The Yuchi town held a specific position in the legislature of the reorganized Creek government formed in 1867. The Yuchi also participated extensively in the reorganization and reformation of the government of the Creek Nation which began in 1962 and culminated in the adoption of the present MCN constitution in 1979.

The YTO and, by all presently available evidence, the E.U.C.H.E.E. are organizations of individuals, within the Yuchi ethnic group. They were established for particular political and community action purposes. The YTO leaders explicitly state that it is not the governing body of the Yuchi tribe (FD).

It is estimated that there are approximately 2,000 individuals in the Yuchi ethnic group. Together the YTO and the E.U.C.H.E.E. comprise no more than a quarter of the Yuchi ethnic group. This would be true even if a second, incomplete YTO list created in 1995 is included (see below).

The YTO submitted a list of 165 names as a membership list with its 1991 petition. Of these, 151, or 92 percent, were confirmed to be members of the MCN. Membership was confirmed by comparing the list with the database of the MCN membership. Membership in the MCN requires affirmative application by the individual and review by the Creek Citizenship Board, which has the responsibility for determining membership in the MCN. The Creek Citizenship Board is an independent body whose members are appointed by the Principal Chief, and approved by the National Council (MCN 1979).

Members of the YTO, and its leadership, have participated often and in very significant ways in the "national" level of the government of the Creek Nation. A YTO member has run for Principal Chief of the MCN. Between 1979 and the present, two YTO members have been elected to a total of three terms on the National Council. Another individual, on an uncompleted 1995 list, has served three terms. A YTO member has been appointed Supreme Court Justice for the MCN. Other Yuchis, not members of the YTO, have frequently participated in the Creek national government. YTO members, and other Yuchis, have participated extensively in the "chartered communities" of the MCN. These are local-level governments which operate as an arm of the national government. The chartered communities work closely with Council representatives, and administer national level programs and grants. The chartered communities do not correspond exactly to the Yuchi ethnic group, but several of them are made up mostly of Yuchi because they cover geographic areas largely settled by Yuchis.

At least one other YTO member is enrolled as a member of a recognized tribe other than the MCN. This individual is enrolled with the Comanche tribe. Preliminary research indicates that several more of those not enrolled in the MCN may be enrolled in other recognized tribes.

In January 1995, the YTO submitted a revised membership list which contained 162 additional names beyond those on the 1991 list. This extended list did not contain sufficient information which would allow identification of the individuals listed, such as birthdate, genealogical information or address. Because this list was incomplete and unfinished, this proposed finding is based on the 1991 membership list.

No written confirmation of consent to be listed as members on either the 1991 list or the larger, uncompleted 1995 list was received, except for six of the YTO leaders. Written confirmation by each individual was requested by BAR several times, because of the requirement of criterion 83.7(f) for confirmation in order for the conditions for an exception to that criterion to apply.

II. Historical Background

The petitioning group, Yuchi Tribal Organization, Inc., is made up of individuals derived from the historical Yuchi tribe. This tribe joined the Muscogee (Creek) Confederacy, probably in two stages, in the late 18th or early 19th century (Wright 1951, Court of Claims 1956).¹

Yuchis have maintained a political and legal relationship with the Muscogee (Creek) tribe since joining the Creek Confederacy. The Creek Confederacy united dozens of historic tribes yet preserved their ethnic distinctiveness by making them corporate groups responsible for most of their own affairs, particularly that of training and maintaining their own standing armies and maintaining their own ceremonial grounds. The incorporated tribes, which might consist of multiple settlements, were known as "talwas," and later as "tribal towns."

During the 18th and early 19th centuries, Yuchis were signatories to some Creek treaties with the United States. They were removed with the Creeks in the 1830's from the banks of the Chattahoochee River in present-day Alabama to what is now Oklahoma.

The Yuchi and other Creek tribal towns reestablished themselves, along ethnic lines, in the tribe's new homelands following the removal (Opler 1937, 22). There were four Yuchi settlements in Oklahoma, reduced after 1900 to three (Wright 1951, 267, Speck 1909, 9).

The tribal towns became the basis for representation in both the House of Kings and the House of Warriors of the bicameral legislature of a Creek Nation government which was developed in 1867 (Opler 1937, 12). The Yuchi were represented in this government as a single town, one of 44 in the confederacy (Wright 1951, 267). Yuchi leaders participated actively in its affairs (Wright 1951, 267). A Yuchi leader built the first Creek Council House, a double log structure in what is now downtown Okmulgee (Tulsa Daily World, 1939).

The Act of April 26, 1906 (34 Stat. 137) allotted Creek lands in severalty and provided for the dissolution of the Creek tribal government. Yuchis were enrolled as Creek Indians on the roll of the Creek Nation created by the Dawes Commission. This roll, under the 1906 act, became the "final roll" of the Creek Nation. In 1976, the Federal court in Harjo v. Kleppe (U.S. District

¹ This section is based on standard historical and ethnohistorical sources. Since it is provided for background purposes only, it should not be considered a definitive set of conclusions concerning the history of the Yuchis in relation to the Creek confederacy.

Court 1976) determined that the dissolution of the Creek Tribal government had not been statutorily accomplished and that in fact the Creek government had been explicitly perpetuated.

There continued after 1906 to be some Creek government activities and also some continued functioning of the tribal towns, including two Yuchi settlements (Opler 1937, 36). A principal chief was appointed by the President under the 1906 Act, sometimes based on elections or recommendations by representative bodies of Creeks. Three of the tribal towns organized in the 1930's under the Oklahoma Indian Welfare Act. Debo (1940) indicates that organization of the Yuchi under the act was considered, but was never done.

III. Criterion (f): Membership in a Recognized Tribe

A. Results of Preliminary Review

The documented petition of the YTO for acknowledgment was submitted in September 1991. A letter describing the results of the technical assistance review of the petition was sent to the YTO in September 1992 (Bacon 1992). In a letter to BAR dated April 22, 1993, YTO leaders stated that the YTO considered the Yuchi petition complete and wished BAR to begin its review under 25 CFR 83 (YTO 1993).

Because the political relationship between Yuchis and Creeks spans more than three hundred years up until the present, and because Yuchis met the membership requirements of the MCN, Branch of Acknowledgment and Research (BAR) researchers paid particular attention to criterion (f) during their preliminary technical assistance review of the Yuchi petition. Since there was little or no evidence that the YTO could meet the criterion in 83.7(f), an investigation as provided for under §83.10(e) was conducted. This proposed finding is based on that investigation.

B. Yuchi Tribal Organization Membership

The YTO submitted a membership list of 165 names with its petition in 1991 (YTO 1991b). This list included the information required by criterion 83.7(e), including documentation of Yuchi ancestry, date of birth, and current residence. This proposed finding is based on the 1991 membership list.

In subsequent BAR discussions with YTO leaders, the organization was informed that it appeared that there were many more Yuchis than were on the membership list enclosed with the petition. The YTO leadership indicated that it anticipated that when the group was recognized, additional Yuchis would be enrolled (FD, YTO 1991b).

The YTO leadership was informed that under the acknowledgment regulations, the membership list submitted with the petition becomes the base roll of the acknowledged tribe for purposes of Federal funding and other administrative purposes (see section 83.12(b) of the regulations). Chairman Melvin George agreed to provide any final changes in the membership list by January 31, 1995.

A revised list of names was received by BAR on January 31. It contained a total of 327 names (YTO 1995), including 162 additional names beyond those on the 1991 list. Approximately six names were noted as those of deceased individuals. A certification by Chairman Melvin George and Ann Holder, the Secretary/Treasurer, was received February 2. This certification stated that "we are submitting an updated list of the membership of the Yuchi Tribe." A certification by the entire YTO board was not received.

This revised list was only a list of names, without date of birth, current residence, or genealogical charts or other indication of ancestry. This information is required by section 83.7(e)(2). There was no evidence concerning how the additional names were gathered and placed on the list. Because the revised list was incomplete, it is not considered a list of membership for the purposes of the regulations. Consequently, this finding is based on the original 1991 list.

The 1995 list, like the 1991 petition list, lacked confirmation that the people whose names were listed consented to be members of the YTO or even knew their names were on the list.

C. Enrollment in the MCN

To investigate whether YTO members were enrolled with a recognized tribe, BAR researchers used the computer database of MCN citizens, or the MCN Citizenship Roll, which is maintained by the MCN's Citizenship Board and is the most current and complete record of who is enrolled in MCN. This roll was created under the 1979 MCN constitution. Article II, Section 1 of the constitution provided individuals with "the opportunity for citizenship in the Muscogee (Creek) Nation" for the first time since the Creek rolls were closed in accordance with the Act of April 26, 1906 (34 Stat. 137). Thus, all those who appear on the MCN Citizenship Roll, were enrolled after October 9, 1979, the date the current MCN Constitution was ratified, or were on the original Dawes Roll.

Article III of the MCN constitution places the burden of applying for and proving eligibility for MCN citizenship on the individual (MCN 1979). This includes documenting one's lineal descendency from at least one individual listed on the 1906 Final Creek roll.

After the application is reviewed and approved by the Creek Citizenship Board, the individual is enrolled on the computer database of MCN citizens and permitted to participate in MCN programs and institutions of governance.

An examination of the database of MCN citizens revealed that ninety-two percent of the YTO membership listed in the petition are MCN citizens (MCN n.d.). This is 151 of the 165 individuals on the 1991 membership list.

There is strong evidence that most Yuchis are enrolled citizens of the MCN. Yuchi leaders commonly state that most Yuchis, whether YTO members or not, are enrolled in the MCN (FD). Section VI.D below shows that it is common for Yuchis to run for and hold office in the Creek Nation, which requires enrollment as a Creek citizen. Two prominent Yuchi leaders, who appear on the incomplete 1995 YTO list, have been elected to the MCN national council or held office in one of the local communities. One of these has specifically confirmed his desire to be enrolled in the YTO.

D. Those Not Enrolled in the MCN

BAR researchers inquired further into the group of fourteen persons that is not enrolled in the MCN (FD). Specifically, BAR sought to determine whether they had not enrolled because they did not wish to cede political authority, influence, or control to MCN and to participate in MCN political institutions and processes; or whether other reasons explained their failure to enroll. BAR also sought to identify possible commonalities in this group.

Six of the fourteen individuals who are not enrolled are adults. Of these, three may have enrolled in other recognized tribes than with the MCN. One, an adult male who was identified as a Yuchi leader by one YTO member, was confirmed to be a member of the Comanche tribe. Two others may have enrolled in the Absentee Shawnee and Navajo Tribes respectively: one is the adult child of two members of the Absentee Shawnee tribe; the other has a parent who is a member of the Navajo tribe. BAR researchers did not conduct additional research to establish the enrollment of either of these two individuals in a recognized tribe.

BAR contacted one of the remaining three adults and a parent of the two others. No clear reason emerged to explain why these three were not enrolled. The father of one young adult and the mother of another believed that their adult children were in fact MCN citizens. The remaining unenrolled adult lives nearly two thousand miles from the Creek Nation. This individual indicated that she intended to enroll in the MCN but had not completed the paperwork (FD).

Eight of the 14 unenrolled were children. Five of these children are under six years of age, and all have at least one parent who is an MCN citizen. One unenrolled four year old has a father, two uncles, a grandfather, and two cousins who are enrolled in MCN. This suggests that these children have simply not yet been enrolled in the MCN by their parents or guardians. This was neither disproved nor confirmed by BAR researchers who contacted a parent or guardian of three of the eight unenrolled children. It does suggest, however, that their absence from the Creek rolls is not due to refusal to enroll them.

IV. Conditions under which Groups Composed Principally of Members of a Recognized Tribe may Nevertheless Meet Criterion (f).

Criterion (f) states that a petitioning group which is composed principally of members of a recognized tribe will nonetheless meet this criterion if it meets three conditions. One is that "its members have provided written confirmation of their membership in the petitioning group." The second is that "its members do not maintain a bilateral political relationship with the acknowledged tribe," and the third is that "the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity."

Since YTO is comprised principally of members of a recognized tribe, the rest of this report will examine whether YTO and its membership meet these conditions.

V. Description of the YTO and The Yuchi Ethnic Group

A. The Yuchi Ethnic Group

A discussion of YTO in the context of the Yuchi ethnic group is important for understanding the subsequent discussion of Yuchi political participation in MCN. The members of the YTO are only a small portion of the Yuchis who are part of the MCN. The balance of Yuchis are either members of the separate but related organization, the E.U.C.H.E.E., or a member of neither group. Some of the available evidence suggests that many Yuchis not on the YTO list may not wish to become members of the petitioning group. Those who have chosen not to affiliate with either group outnumber YTO and E.U.C.H.E.E. members by more than three to one.

The term "Yuchi ethnic group" will be used to refer to this larger body of individuals, including those in both organizations. The present-day Yuchi ethnic group is derived from the historic Yuchi tribe that became part of the Creek confederacy. They are termed an "ethnic group" here because a

core of the members forms a somewhat distinct social group within the Creek Nation. The degree of distinctness from other members of the Creek Nation, and the extent of social cohesion of the Yuchi ethnic group, was not definitively reviewed for purposes of this report. While the Yuchis no longer form distinct settlements, Yuchis are concentrated in several areas of the MCN (FD). Several traditional ceremonial grounds and churches are identified as Yuchi and have ceremonial leaders who are Yuchi. There are, similarly, several churches which are identified as Yuchi and have a high percentage of Yuchi members and leaders (Foster et al. 1995, FD).

Documents included as supporting material with the petition, as well as other evidence, indicate that the Yuchi ethnic group numbers approximately two thousand. This means that there are at least fifteen hundred Yuchis who are not affiliated with either the YTO or the rival E.U.C.H.E.E. (see discussion below).

The first of these documents is a list of Yuchis compiled between 1947 and 1956 by S.W. Brown, Jr. in connection with Yuchi land claims (Brown 1947-56). Hereinafter referred to as the 1956 roll, this list enumerates 1299 Yuchis. The second document is a transcript of an interview conducted by Larry Gorenflo of the U.S. Department of Energy with Al Rolland Jr., former Project Director of YTO, on January 9, 1991. During this interview, at which two YTO Board members were present, Mr. Rolland cited the number of Yuchis as 1300 (Rolland 1991, 96).

In the interest of gaining further information for an accurate estimate of the size of the Yuchi ethnic group, BAR contacted Mr. Melvin George, leader of the YTO, Mr. Andrew Skeeter, leader of the E.U.C.H.E.E., and several other YTO and E.U.C.H.E.E. members. Three scholars who conduct research among the Yuchis were also contacted. One of the scholars estimated that the Yuchi population numbers between thirteen hundred and three thousand. The other sources reported that there are about two thousand Yuchis (FD).

B. YTO

The YTO was organized in 1989 in the town of Sapulpa, Oklahoma (FD, Cowan 1989, YTO 1991a, Criterion b, 4). YTO was incorporated as a non-profit organization by the State of Oklahoma in July of 1989 when its leaders began preparing the Yuchi petition for federal recognition.

Though it is YTO that submitted the petition, the YTO Chair and Board Members state that they are not the governing body of the Yuchi people (FD). YTO was organized "for the express purpose of doing research of our history to prove that we are a unique group of people or a unique and distinct tribe," and "we desired to

prove this distinction in asking the Federal Government for federal recognition....," a former Board Member pointed out in a letter to BAR dated September 9, 1994 (George 1994a). Another Yuchi leader explained that, since its formation, YTO's principal goal has been to "give Yuchis a choice between [being] Creek and Yuchi" by pursuing recognition (FD).

YTO's specific and limited purpose was emphasized in a Yuchi organizational meeting attended by approximately fifty Yuchis on December 29, 1994, at a Creek community center. During this meeting, to which a BAR researcher was invited, YTO leader Melvin George fielded questions about YTO and the acknowledgment process. At one point, he shared with other Yuchis his vision that, "upon recognition" YTO will "dissolve," whereupon "there will be elections," and a Yuchi government will be created. Mr. George urged all those interested in the idea to sign up for YTO.

Of the 165 members on the 1991 membership list, 77 percent live within the boundaries of the Muscogee (Creek) Nation of Oklahoma.

C. E.U.C.H.E.E.

Accompanying YTO on the Yuchi political landscape is another organization, the Eucheas' United Cultural, Historical, and Education Effort, referred to in this report as "E.U.C.H.E.E." This group was organized several years ago following a bitter dispute over the preparation and submission of the Yuchi petition (FD). Like YTO, this group views the recognition of the Yuchi group as a top priority. Its leader, for example, has been working with several anthropologists at the University of Oklahoma and the University of Tulsa to prepare supporting material for the Yuchi petition (Foster et al 1995).² Despite a keen interest in recognition, though, most E.U.C.H.E.E. members have decided not to become members of the petitioning group because it requires that they join YTO (FD).

In January, 1995, a BAR researcher interviewed the leader of E.U.C.H.E.E., Andrew Skeeter, at Mr. Skeeter's office at the MCN Tribal Complex in Okmulgee, Oklahoma. After tracing the history of his organization and suggesting that BAR take his group into account when considering the Yuchi petition, this Yuchi leader presented BAR with a list of E.U.C.H.E.E. members (E.U.C.H.E.E. 1990). Compiled by Mr. Skeeter and other Yuchis in 1990, this list contains the signatures of 125 Yuchis. Only nine of these individuals are on the 1991 list of members of YTO.

² The materials submitted by the E.U.C.H.E.E. have been reviewed for purposes of this report.

D. Yuchis Affiliated with Neither Group

The combined membership of YTO (1991 list) and E.U.C.H.E.E. is 281. Even if the additional names on the incomplete 1995 YTO list were added (for a total of 443), the number of Yuchis who are not members of either group outnumber members by more than three to one.

Because the category of Yuchis that is affiliated with YTO or E.U.C.H.E.E. is a minority of the Yuchi ethnic group, BAR inquired into the group that had not affiliated with either organization. A variety of explanations were offered by members of YTO, E.U.C.H.E.E. and Yuchis not members of either organization. This information indicates that the YTO and the E.U.C.H.E.E. are political organizations, for specific purposes, within the Yuchi ethnic group, but are not separate communities or necessarily even separate political factions (FD).

Upon being asked why his name did not appear on the membership list of either group, one Yuchi explained, "I don't get involved [because] I care for these people [YTO] just as much as I do the others [E.U.C.H.E.E.], and I don't want to hurt anybody." Other Yuchis who are members of neither group cited "politics," the current leadership of one or both organizations, an unwillingness to "take sides," and/or confusion as the reason or reasons they have chosen not to sign up for YTO or E.U.C.H.E.E. One E.U.C.H.E.E. board member referred to such individuals as "neutrals."

YTO and E.U.C.H.E.E. members provided other explanations why many of their family members and friends have not affiliated with either group (FD). Three YTO members explained the behavior of those who have not committed to YTO or E.U.C.H.E.E. in terms of fear that "recognition will tear families apart," "that [Yuchis will] lose benefits, access to Indian homes, hospitals, services," and that "the Creek Nation [will] put us [Yuchis] out," allegations BAR researchers did not investigate. One of these individuals was of the view that it is "only the brave ones" who are willing to sign up for YTO.

Two other Yuchis, both of whom helped organize YTO in the early 1990's, responded to the question of why some Yuchis are members of neither Yuchi organization by recalling their experiences trying to get Yuchis to "sign up" for YTO in 1989 and 1990 (FD). "Many [Yuchis] just did not want to [sign up]," the first explained. The second, who is no longer a member of YTO, replied, "When Al [Rolland] was living, he gave me some [membership] forms, and I went to different places, and some of 'em [Yuchis] didn't care one way or the other whether they signed up or whether they didn't."

Several of the individuals mentioned above and one additional person, an E.U.C.H.E.E. member, explained the apparent lack of interest in YTO and E.U.C.H.E.E. as symptomatic of the lack of clear boundaries between Creeks and Yuchis (FD). "Many [Yuchis] are intermixed with Creeks," the E.U.C.H.E.E. member explained. Two YTO members echoed this observation: "A lot of Yuchis opt for assimilation [with the Creeks]," said one. "A whole lot," the other reported, "are intermarried with the Creeks and don't know if it's to their benefit to join the Yuchis."

While some Yuchis identify themselves as Creek, and some, as both Creek and Yuchi, most identify as Creek in some contexts and Yuchi in others. One individual, for example, identified herself as a Yuchi to a BAR researcher but as a Creek citizen when filing suit against a Creek in Muscogee (Creek) Tribal Court (MCN 1985-94, Docket 92-5). Another signed up for E.U.C.H.E.E. and identifies as Yuchi at E.U.C.H.E.E. meetings and events. When announcing his candidacy for Creek National Council, however, he described himself as "a fullblood Creek Indian" (MNN October 1980). According to Pam Wallace in an unpublished paper entitled "Yuchi Intermediary Leaders," submitted by the E.U.C.H.E.E., assuming alternative identities is a generalized strategy of the Yuchi ethnic group (Wallace 1995). It does not appear that this distinguishes those who have signed up for the YTO or the E.U.C.H.E.E. from those who have not.

VI. Evaluation of Autonomy and Maintenance of a Bilateral Political Relationship With A Recognized Tribe

A. Introduction

In order to meet criterion 83.7(f) despite being composed principally of members of a recognized tribe, the members of a petitioning group must not maintain a bilateral political relationship with a recognized tribe. If a group does not meet this condition, it also cannot meet the third condition of being autonomous: maintaining a bilateral political relationship with a recognized tribe necessarily violates the autonomy of a petitioning group in accordance with the definition of "autonomous" in 25 CFR 83.1. This definition states that "autonomous means the exercise of political influence or authority independent of the control of any other Indian governing entity."

More specifically, the conditions for an exception ask whether the members of the petitioning group have participated in the political institutions and processes of a recognized tribe or are otherwise maintaining tribal relations with the tribe; or whether the members of the petitioning group, despite their nominal membership in a recognized tribe, remained autonomous of any other Indian governing entity.

In investigating whether YTO meets these conditions, BAR examined evidence of Yuchi participation in MCN political institutions and structures, which assumed their present outlines in 1979 with the ratification of the current MCN Constitution. Evidence of Yuchi involvement in these structures was collected using archival materials and other sources, including MCN Tribal Court records and back issues of Creek tribal newspapers. Interviews with twenty-five Yuchis, eleven Creeks, and nine others, including spouses of Yuchis and members of nearby tribes, also provided valuable data (FD).

Though it is only the YTO request for federal acknowledgment that is being considered for this finding, the following presentation of the evidence on whether Yuchis maintain a bilateral political relationship with MCN will nonetheless include individuals who are members of the larger Yuchi ethnic group but not members of YTO. This will give the reader a broader perspective on Yuchi political involvement in MCN. It will also show that there are no significant differences in the political involvement of YTO members, E.U.C.H.E.E. members, and Yuchis affiliated with neither group. Throughout, it will be noted whether the individual being discussed is affiliated with YTO or E.U.C.H.E.E. If he or she is not a member of either group, the source of his or her identification as Yuchi will be cited (e.g., the 1956 Yuchi roll compiled by Yuchi leader, S.W. Brown, Jr.).

B. Early Efforts to Reorganize the MCN: 1962 - 1979

Many Yuchis and Creeks refer to 1979 as the year "the Creek Nation was just getting going." The adoption of a new constitution in that year, which transformed Creek political and social life, established new political structures and institutions, including a Creek Tribal Court, and provided opportunities for political involvement in the Creek tribe that had not existed since the turn of the century. It was not until 1979 that Creeks and Yuchis were permitted to enroll in the Creek tribe for the first time since the turn of the century.

A discussion of Yuchi involvement in contemporary MCN political institutions and processes requires that some consideration be given to the years between 1962 and 1979. It is important to take into account efforts in these years to rebuild the political structures that had been formally dissolved as a result of the 1906 act because it is these efforts that helped lay the groundwork for the institutions that emerged in 1979. As such, early efforts provide clues about the authorship of contemporary MCN institutions, lending insight into the extent to which Yuchis (including YTO members) helped build the present-day MCN and its government.

One of the more important early efforts at rebuilding Creek governance structures was initiated by William E. "Dode" McIntosh, one of a series of Creek Principal Chiefs appointed under the 1906 act by Secretary of the Interior. These chiefs had the formal function of signing land conveyances so as to facilitate the passing of title to Creek lands from the tribe to individuals. On January 27, 1962, Mr. McIntosh issued a call to all Creek leaders asking that they "assemble themselves and join him in the re-organization of a new Creek Council body to carry out the traditional form of Government with headquarters at the Old Creek Council House" (McIntosh 1962).

Three Yuchis, one of whom is now a YTO member, were among the "hundreds of Creeks" who answered his call by arriving at the spot of the first Creek Council house (Creek Tribal Council 1962a, 1962b). Alongside forty-three Creeks, these Yuchis took an oath of office, were accorded the title "Creek Council representative," returned for subsequent meetings, and grappled with issues ranging from the safety of Creek children at the Eufaula Boarding School to the pursuit of outstanding Creek Claims against the U.S. Government.

One of the Yuchis who served on this Council and is now a YTO member seems to have emerged as a leader of leaders during these years. It was he whom the Council selected to deliver a response to a welcome address on their behalf. In his speech, this Yuchi referred to "my people, the Creek Tribe" and reported that the Council had "some fine plans and work to do for the betterment of our Tribe" (Creek Tribal Council 1962a).

The Council sponsored several events during its relatively brief tenure, including a Creek Tribal Anniversary celebration held on May 28, 1966. A Yuchi served as a Director of this event (Creek Tribe 1966).

A second effort which served as an important precursor of the contemporary MCN political order was spearheaded by Principal Chief Claude Cox, after the passage of the Five Tribes Act of 1970 (United States Statutes 1970), which discontinued the practice of having the Department of the Interior appoint the officials of the Creek, Choctaw, Cherokee, Chickasaw and Seminole tribes. This law and the Indian Self-Determination and Education Assistance Act of 1975 provided opportunities for tribal governments to assume greater control over matters which affected them. With these laws, Cox, the Creek Tribal council, and committees working closely with the Council embarked on an ambitious program of expanding existing structures of self-governance and developing tribal enterprise.

Despite the fact that this group of leaders was relatively small, there can be no doubt that they developed much of the framework for the 1979 reorganization. The extent to which Yuchis were a

part of this group is therefore especially revealing of the extent to which Yuchis helped build the present-day MCN.

Tribal Council meeting minutes for the five-year period preceding the 1979 MCN reorganization, together with other sources, reveal that nearly a dozen Yuchis assumed leadership positions in the Creek government between 1974 and 1979. For example, Yuchis on the 1956 Yuchi roll served on the Creek Tribal Council that existed during this period; three other Council members, one of whom led the Community Health Services Committee, were identified as Yuchis by a Yuchi elder whom BAR interviewed. Another Yuchi, also a 1956 Yuchi enrollee, led the Manpower Planning Council, while the current chair of E.U.C.H.E.E., Andrew Skeeter, led the Community Development and Tribal Affairs Committee.

During these years of limited opportunities for participating in formal "national level" MCN institutions and structures, at least five Yuchis exercised leadership at the local level, providing direct service to the Creek and Yuchi people on behalf of the Creek Nation. Two of these individuals, both 1956 Yuchi enrollees, helped develop and expand the Creek Nation Manpower YETP Program. In charge of coordinating services for the Sapulpa and Bristow communities, these Yuchis mobilized teams of workers to cut wood, provide transportation, and render other services to Creeks and Yuchis living in the northernmost part of the Creek Nation (MNN December, 1978).

Two other Yuchis, a YTO member and a 1956 Yuchi enrollee, worked for Creek Nation Community Health Services under the direction of a Yuchi who was a Councilman and headed this committee (MNN March, 1979). Another Yuchi became a writer for the Muscogee Nation News, then in its infancy (MNN May 1978b). Upon the event of his appointment as chair of a multitribal advocacy group for elderly Oklahoma Indians, he accepted the honor in the name of the Creek Nation (MNN May 1978b).

C. The Reorganization and its Aftermath: 1979 to the Present

A most controversial issue in the crafting of the contemporary institutional framework of MCN government--an issue hotly debated in the months preceding the ratification of the new Constitution and a source of great bitterness today--was whether ancient Creek tribal towns or Oklahoma counties were to be the geopolitical units for administering local affairs and electing representatives to the Creek National Council (see United States District Court 1976). Creek tribal towns were a cherished legacy of the Creek Confederacy, which had united dozens of historic tribes yet had preserved their ethnic distinctiveness by making them corporate groups responsible for most of their own affairs. These corporate groups reestablished themselves following the removal of the tribe to present-day Oklahoma (Opler 1956, 166).

While the idea of making tribal towns the centerpiece of a new tribal government gained a certain appeal and legitimacy on the basis of the towns' historic origins, the critical problem facing the architects of the new tribal government was that the upheavals of the 20th century had left many Creeks with little knowledge of their ancestors' town affiliation and ancient ethnic identity (FD). On the other hand, some tribal towns had responded to the hardships of the decades following the allotment of the tribal estate and the near dissolution of the Creek tribal government by expanding town structures and institutions of governance. In the late 1930's, for example, three tribal towns, Alabama-Quassarte, Kialegee, and Thlopthlocco, were able to organize as tribes under the Oklahoma Indian Welfare Act of June 26, 1936. These towns continue today to also participate within the Creek Nation. Theirs were, of course, among the loudest voices objecting to the idea of using Oklahoma counties instead of the towns as the basis for administering local affairs and electing representatives to a Creek National Council (FD).

In the Fall of 1979, following a referendum voted on by the Creek people, an uneasy bargain was struck between those promoting the use of the tribal town and those favoring the use of the Oklahoma county as the fundamental geopolitical unit of MCN: Creek communities, including tribal towns, would be permitted to organize as MCN "Chartered Communities," which would assume partial control over some local affairs, while Creek National Council representatives would be elected on the basis of eight territorial districts defined in whole or in part by Oklahoma counties (FD). All Creek citizens, regardless of the district in which they would live or the "Chartered Community" to which they would belong, were to directly elect the Principal Chief and Second Chief.

Given MCN's commitment to two levels of Creek government--the local level and the "national" level--the following review of the evidence on the participation of members of the Yuchi ethnic group in MCN political institutions and processes considers both levels of Creek government. The "national" level discussion addresses Yuchi participation on the Creek National Council and Yuchi efforts to capture the office of Principal Chief and Second Chief. It presents evidence of Yuchi involvement as MCN executive appointees and government employees, and addresses Yuchis' use of the Creek Tribal Court.

The discussion of Yuchi participation at the local level of MCN government considers evidence of Yuchi leadership and involvement in the formally-organized Muscogee (Creek) Indian associations chartered by MCN. These "Chartered Communities" have their own constitutions and bylaws, which are approved by MCN, and each elects a Chair and Board members to serve the Community and MCN (FD). BAR researchers examined five such Communities organized by Creeks and Yuchis in the Yuchi area of northeastern MCN.

Unlike some other ethnic groups in MCN, Yuchis do not consider any of these five Creek organizations to represent continuities of their Tribal Towns (FD).

D. Yuchi Participation at the National Level of MCN

Members of the YTO, and the Yuchi ethnic group in general, have participated actively at the national level of the MCN since its reorganization in 1979. From the first election in December of 1979 to the present, at least seventeen members of the Yuchi ethnic group have run for the offices of Principal Chief, Second Chief, and Creek National Council representative. Four have run for Chief, and one, for Second Chief. Fourteen, including two who have also run for Chief and Second Chief, have been candidates for the Creek National Council. Information on candidacies and elections are drawn from the MCN newspaper and other documentary sources (MNN December 1979a, October 1980, November/December 1980, October 1983, November 1983, July 1985, November 1985, November 1987, September 1989, August 1991, October 1991b, November 1993, MCN 1993-94).

Ten Yuchis have been elected to the National Council. Seven have served at least two terms, and two have served six terms. Together, Yuchis have served twenty-seven terms on the Creek National Council and have been on the ballot at least forty times in the nine MCN national elections since 1979. This includes a special election held in 1980 to replace several Councilmen.

Though the petitioning group, YTO, is only a fraction, 8 percent or less, of the Yuchi ethnic group, YTO members represent 17 percent of the Yuchis who have run for MCN National office. Three of the seventeen Yuchis who have been candidates for Chief, Second Chief, and National Council have been members of the YTO and a fourth is on the incomplete 1995 list and has indicated his interest in being a member. One YTO member has run for Chief and one current YTO Board member has run for National Council. Overall, because some YTO members have run for office several times, a YTO member has been on the ballot at least nine times in the nine national elections held since the new Constitution was ratified in 1979.

Three of the four YTO members that have run for office have been elected. Two have been reelected several times. YTO members have been elected to six of the total of twenty-seven terms that Yuchis have served on the Council. This represents 22 percent of the National Council terms that Yuchis have served.

Yuchi participation on the National Council is particularly remarkable given the small size of the Yuchi ethnic group and the even smaller size of YTO relative to the number from the Yuchi ethnic group enrolled in the MCN. With approximately two

thousand individuals, Yuchis comprise only five percent of MCN citizens, which numbered 37,747 in late February, 1995 (FD). Yet members of the Yuchi ethnic group have made up an average of fifteen percent of the National Council since 1979. This means that members of the Yuchi ethnic group have been elected to the National Council at three times their proportion of all Creek citizens. YTO members in turn have been elected at a high rate in comparison with Yuchis in general.

BAR interviewed the two YTO members who have served more than one term on the National Council. One reported that he had run for office "to represent Yuchis and Yuchi interests" in a society in which Yuchis are a tiny minority. He cited his efforts at getting a community building for the MCN Chartered Community of Sapulpa as one of the many ways he had promoted "Yuchi interests." In detailing the history of his efforts to get this building, which predate his election to the Council, he stated that before the MCN reorganization in 1979, the Creek Nation had leased "an old schoolhouse" to the Sapulpa Community, and he had "put a sign up that said 'Yuchi Indian Community Center Building.'" Soon after, however, he alleged that he had received a letter from the Chief asking that the sign be taken down as the building "was not just for the Yuchis." It was this event, the Councilman reported, that helped inspire him to run for Council.

An interview with the other YTO member who has served more than one term on the National Council revealed that he understood his role on the Council differently. This individual reported that he, too, had worked for "Yuchi interests" while serving on the Council, citing his successful effort to pass a resolution in support of Yuchi efforts to separate from the Creeks. He acknowledged, however, that most of his votes were from Creeks and that "there aren't enough Yuchis to get elected as a Yuchi." He stated that he had therefore approached his terms on the National Council "knowing" that he would be "representing all of Creek Nation" and "serving all of Creek Nation." It was this, he suggested, that had motivated him to run for Council.

This second former Councilman spoke at length about the fact that, unlike most Yuchis, he had run for Council as "openly Yuchi." Stating that Yuchis rarely identify themselves as Yuchis to Creeks, he said that when he served on the National Council, "there were three or four other council members" besides himself and another individual who were not "open" about being Yuchi. He noted that, as a Yuchi, this was a source of great disappointment to him.

Whether Yuchis present themselves as Yuchi or Creek or some combination in seeking election was not investigated in detail. A review of the position statements of three Yuchi candidates for National Council which were printed in the official tribal

newspaper, however, suggests that Yuchis may highlight their Creek identity when running for National Council. One candidate described himself as "fullblood Creek Indian," another, as "15/16 Creek," and a third as "4/4 Euchee Creek" (MNN October 1980, October 1983).

In addition to serving on the Creek National Council, members of the Yuchi ethnic group exercise leadership at the national level of MCN as executive appointees and government employees. One individual, who is a member of neither YTO nor E.U.C.H.E.E. but appears on the 1956 Yuchi roll and has a brother who is a YTO member, was appointed to the Creek Nation Citizenship Board in 1981 (MNN January 1981). This board, which is comprised of five persons, reviews applications for MCN citizenship and makes determinations on whether the individual may be enrolled in MCN. Another Yuchi, who has not signed up for YTO or E.U.C.H.E.E. but whom several Yuchis identified as a Yuchi, served as MCN Tribal Attorney until July of 1990 (MNN July 1990).

Two Yuchis, one of whom is a YTO member and the other a member of neither Yuchi organization, were appointed Supreme Court Justices of MCN (MNN November/December 1980). Both are former Council members. One was appointed in November of 1980 as one of the first five Supreme Court Judges for the Creek tribe since the dissolution of the Creek Tribal Court system in the 1890's.

A YTO member has worked as a caseworker for MCN's Children and Family Services Department (MNN October 1991a), and the Chair of E.U.C.H.E.E. works as an Economic Development Specialist for MCN. A Yuchi who is a member of neither Yuchi organization served as employee coordinator for MCN (MNN May 1981), and another, also neither a YTO nor E.U.C.H.E.E. member, managed the MCN Property and Supply Department (MNN July 1978).

Dockets of cases litigated through the Creek Tribal Court, which began hearing civil cases in 1985 and criminal³ and misdemeanor cases in 1992, indicate that members of the Yuchi ethnic group use the Creek Tribal Court (MCN 1985-1994). The BAR found no evidence to show that the Yuchi were refusing to utilize the Creek Tribal Court system by turning to Yuchi leaders or arbitrators to resolve conflict, as was the case for the San Juan Southern Paiute.

Two Creek Tribal Court cases show Yuchi political involvement in the MCN because Yuchi are shown acting as local or "national" governmental officials in the suits, or because they are suing as

³ The criminal cases were reviewed but did not provide information relating to the political involvement of Yuchis in the Creek Nation.

Creek citizens concerning the validity of local elections. For example, in a specific case, a YTO member exercised his authority as Chair of the Finance Committee of the Creek National Council to obtain a Writ of Memorandum against three members of the executive branch of the Creek tribal government. In December of 1993, a Yuchi who is a member of neither Yuchi group sued Creeks and Yuchis in their capacity as officers of the Bristow Muscogee Indian Community.

E. Yuchi Participation in Local Level MCN Political Institutions

Efforts to complement Creek governing institutions at the national level with formal political institutions at the local level date to at least 1976, when the Community Services Program of Chief Claude Cox's administration identified twenty-eight Creek communities and encouraged them to organize as formal Muscogee (Creek) Indian associations. Following the ratification of the new Constitution and the election of Claude Cox as Chief, Cox explained that these organized communities are designed to "provide input into tribal government, as well as respond to the unique needs of tribal citizens at the local level" (Creek Nation 1983). Today there are twenty-five Chartered Communities (MCN 1993-4).

Before reviewing evidence of Yuchi participation in these communities, it is important to provide some background on these organizations. First, the nature and scope of political involvement and activity of these communities varies widely. Even so, the leadership of most communities works closely with the National Council representatives of the Creek Counties in which they are a part and with the Executive Branch of MCN (FD). With Council representatives, the elected officials of communities generally help members in their communities procure housing, medical assistance, and other MCN services. Together with the Executive Branch, many communities co-administer programs such as G.E.D. classes, Creek language classes, and special programs for Senior Citizens. In addition to the block grants, communities receive from the National Council, most communities generate income from smokeshops, bingo, art contests, raffles, and/or T-shirt sales. For the most part, these funds are used for economic development and special needs in the Community. At least one Chartered Community, that of Okmulgee, sponsors and administers a college scholarship.

Regardless of the type and extent of responsibilities a Chartered Community may take on after being incorporated by MCN, all twenty-five communities have achieved recognition by MCN through a single administrative process. Governing the recognition of communities are MCN regulations, which include an evaluation of the group's claim by the MCN's Division of Community Services (FD). The group must demonstrate that it is a community; submit

a Constitution and set of by-laws that are approved by MCN; identify the voting membership of the group, which must be comprised entirely of MCN citizens; and elect a set of officers who are Creek citizens of at least one-fourth Creek blood.

Upon recognition, "Chartered Communities," also known as "Muscogee Indian Communities" or "tribally chartered towns," are entitled to receive appropriations and funding from MCN, to operate smoke shops under the authority of MCN, and to occupy and use the tribe's real estate and buildings and/or purchase their own land. In the northeastern area of MCN, the area in which most Yuchis live, there are at least five chartered communities. The Chartered Community of Glenpool owns five and a half acres and three buildings; the Community of Duck Creek, twelve and a half acres and a community center. The Community of Kellyville owns a smokeshop, and the Community of Bristow, a feed store. The Community of Sapulpa has held Yuchi and Creek language classes.

Reports in the Muscogee Nation News, together with interviews, revealed that members of the Yuchi ethnic group (including the YTO) have exercised leadership in each of these five MCN communities of Bristow, Duck Creek, Glenpool, Kellyville, and Sapulpa in northeastern MCN. In fact, Yuchis have been elected officials of all five of these communities. At least three Yuchis have been elected Chair of a Community; at least four, Vice Chair; and at least six, Board members.

Yuchis have also filled non-elected positions in these communities. Two Yuchis have held the position of Community Aide at the Duck Creek Community. During the late 1970's, four Yuchis composed the Senior Citizens Committee of the Sapulpa Chartered Community. At the request of MCN, one Yuchi taught a Yuchi language class for the Kellyville Community; and another, a sewing and beading class for the Duck Creek Community.

Of the elected Yuchi leaders of chartered communities, three are YTO members. One Yuchi leader who has expressed a desire to be a YTO member was elected chair of a chartered community in the late 1970's and served fourteen years in the position. Two of the six Yuchis who have been elected to the board of a Chartered Community, or one-third these Yuchi leaders, are YTO members. One of these served on the Board of the Sapulpa Community and the other on the board of the Glenpool Community.

Not only have members of the Yuchi ethnic group, including YTO members, led and helped lead the MCN Chartered Communities in their area, but also the minutes of three Community meetings, which show a high incidence of Yuchi attendance, suggest that there is broad Yuchi participation in these local MCN political structures. At a meeting of the Kellyville Community on May 7, 1979, twenty of the thirty persons who attended, or two-thirds,

were Yuchi. Five were later YTO members, and four, E.U.C.H.E.E. members (MNN June 1979). Twenty individuals attended a meeting on May 8, 1980, also at Kellyville. Twelve of these, or sixty percent, were Yuchi, including three eventual YTO members and one eventual E.U.C.H.E.E. member (MNN May 1980). At a third meeting, held by the Chartered Community of Sapulpa on March 27, 1978, eight of sixteen attendees, or fifty percent, were Yuchis, including one eventual YTO member and one eventual E.U.C.H.E.E. member (MNN May 1978a).

Events organized by these communities and reported in the Muscogee Nation News provide additional evidence that members of the Yuchi ethnic group are active members of MCN Chartered Communities in the northeastern area of MCN. On December 8, 1990, the Community of Glenpool hosted a food sale and arts and crafts fair. Both events were sponsored and organized by the petitioning group, YTO (MNN December 1990). On May 13, 1980, the Kellyville Community held a quilting class with material supplied by MCN. It was a Yuchi who chose and supplied the pattern, a "Windmill" design, while four of the seven quilters were Yuchi (MNN May 1980). On February 15, 1980, the Duck Creek Community held a benefit bingo game, raising over two hundred dollars for a Yuchi family in need. Five communities in the area donated clothes and goods to the family (MNN February 1980).

The point should be stressed that the formal political organization of these communities and their formal relationship with MCN only partially define these five Chartered Communities. The elected officials and membership of these organizations make up real communities. One Yuchi's descriptions of the Kellyville Chartered Community during the late 1970's, for example, suggests that, almost immediately after this Chartered Community was developed and incorporated by MCN in the late 1970's, a larger Creek and Yuchi community began taking advantage of the additional social and political arena that the Chartered Community had created. This Yuchi, who is a member of neither Yuchi organization, described the early days of the Kellyville Chartered Community as follows:

We'd always get together. Maybe we didn't have anything but a pot of beans but we'd take 'em down there [to the Community Center] and we'd just all eat together and enjoy one another . . . [In addition,] We had real good meetings, good meetings. We'd ask the Council people [National Council Members] to come, and I remember one night we had just gobs of people drove a long ways to come up here. We would express our opinions, and they would express theirs.

As the above statement indicates, once organized, chartered communities became a forum for elected officials at the national level to recruit votes at the local level, and for individuals at

the local level to influence policy at the national level. They also served as a vehicle to implement the reorganization under the 1979 constitution.

Only one month after the new Constitution had been written, the Kellyville Community organized an event at the Creek County Fairgrounds for two Creeks and four Yuchis who were running for public office to discuss their views and explain the MCN reorganization. A Yuchi who is a member of neither Yuchi organization delivered the opening prayer (MNN December 1979b). On April 6, 1981, the Kellyville Community held a meeting during which a future E.U.C.H.E.E. member "urged everybody to fill out enrollment forms" to gain MCN citizenship (MNN May 1981). On April 8, 1991, the Sapulpa Community invited the MCN Citizenship and Election Board supervisors to "inform community members of tribal enrollment procedures" and "speak to members about registering to vote in tribal elections" (MNN April 1991c).

On October 14, 1991, the Sapulpa Chartered Community invited Creeks and Yuchis who were running for Principal Chief, Second Chief, and National Council to a "candidates forum" held at the Creek Hills Mall in Sapulpa. On August 20, 1991, the Duck Creek Community sponsored a similar event (MNN October 1991c).

VII. Written Confirmation of Membership in the Petitioning Group

Criterion (f) requires that a petitioner's members provide written confirmation of their wish to be members of the petitioning group. This may take the form of a letter, an application for membership in the group, or a form the group has devised. The only conditions are that it contain the individual's signature and clearly indicate his or her wish to be a member of the petitioning group.

Ninety-nine percent of the YTO membership did not provide written confirmation of their wish to be members of YTO. Only six individuals so affirmed their YTO membership in writing. They are YTO Chair, Melvin George; YTO Board Members, William Cahwee, Ann Holder, and Valerie George; former YTO Project Director, Al Rolland; and one other YTO member. Mr. Rolland has since passed away.

Written confirmation that four of the above individuals wish to be members of YTO took the form of a letter to BAR dated April 22, 1993, which stated that YTO considered the Yuchi petition complete and wished BAR to begin its review under 25 CFR 83 (YTO 1993). The other two Yuchis confirmed their YTO membership in separate letters that inquire about the petition (George 1994b, Long 1994). Because the three letters are signed by the six individuals and indicate their willingness to be members of YTO,

all six fulfill the condition of confirming in writing their membership in the petitioning group.

Though BAR researchers did not investigate why YTO members did not provide written confirmation of their YTO membership, the administrative history of BAR's review of the Yuchi petition demonstrates that it was not because the YTO leadership and members were unaware of the requirement. The administrative history suggests that other reasons, perhaps related to the group's internal matters or to their members' relationship with MCN, may explain YTO's failure to meet this condition.

BAR researchers contacted YTO leader, Mr. George, about the requirement of written confirmation in November, 1994, when they informed him that BAR was preparing to place the Yuchi petition on active status in accordance with his letter of April 22, 1993. At that time, BAR had not received written confirmation of the YTO membership of 159 of the 165 members on the YTO list. In December, 1994, BAR again contacted Mr. George to let him know that it still had not received written confirmation from YTO members. During this conversation, Mr. George agreed to provide this material, together with any changes in the membership list, by January 31, 1995.

On December 21, 1994, at a meeting in Glenpool, Oklahoma, BAR informed YTO Board Members of Mr. George's intentions and underscored the necessity of providing written confirmation of YTO members' wish to be members of the petitioning group. BAR also explained this requirement and how it could be met to approximately fifty Yuchis at a public meeting in a Creek community center on December 29, 1994. YTO had organized this meeting, which was advertised in local newspapers, to discuss YTO and the recognition process.

When an extended list of names designated as the YTO membership list was provided to BAR on January 31, 1995, it did not provide written confirmation of the YTO membership by any of those individuals whose names appeared on the list (YTO 1995). The submitters, Mr. George and Ms. Holder, also did not indicate that they would be able to provide this at a later date.

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Abbreviations

BAR Branch of Acknowledgment and Research

E.U.C.H.E.E. Eucliees United Cultural, Historical and Educational Effort

MCN MCN

MNN Muscogee Nation News

OHS Oklahoma Historical Society

YTO Yuchi Tribal Organization

121 Yuchi Tribal Organization

9/9/1991	Documentation Received
9/14/1992	Obvious Deficiency Letter
3/23/1993	Partial response received
4/23/1993	Petition is complete and placed on "ready" list
7/11/1995	Proposed Finding signed by AS-IA
10/24/1995	Proposed Finding to Deny Acknowledgment published in the <i>Federal Register</i>
4/22/1996	Comment period closes
11/29/1996	Second comment period closes
5/5/1997	Petitioner's response period closes
12/15/1999	Final Determination signed by AS-IA
12/22/1999	Final Determination to Deny Acknowledgment Published in the <i>Federal Register</i>
3/21/2000	Decision became effective

Documents on electronic disc

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20245



IN REPLY REFER TO

Tribal Government Services - AR SEP 14 1992

Mr. Al Rolland
30 North Water Street
Sapulpa, Oklahoma 74067

Dear Mr. Rolland:

The Branch of Acknowledgment and Research (BAR) has completed an initial review under section 83.9(b) of the Acknowledgment regulations of the Yuchi Tribal Organization's petition for Federal acknowledgment as an Indian tribe. This letter describes the deficiencies and/or omissions that have been found in the Yuchi petition.

The obvious deficiency (OD) review is provided for in the Acknowledgment regulations to insure that a petitioner is not rejected because of technical problems in the petition and that the group's status will be considered on its merits. The OD review does not purport to be a preliminary determination of any case. This OD letter does not constitute any evidence that a positive conclusion has been or will be reached on the petition, or on the portions of it not discussed in this letter. Nor does the fact that a petitioner responds to the OD review imply in any way that the group meets the seven mandatory criteria by simply submitting additional data. The OD review of the petition merely provides the petitioner the opportunity to submit additional information or clarification prior to the actual active consideration period. The OD review is a limited, preliminary review conducted over a period of several weeks by a staff anthropologist, genealogist, and historian. Only during active consideration is the petition reviewed and evaluated in depth by the Acknowledgment staff to determine whether or not the group meets the requirements to be acknowledged as an Indian tribe.

With the requested information and/or documentation, the Acknowledgment staff can fully evaluate the petition when it is placed on active consideration. The staff's research during the active consideration period is for the purpose of verifying and/or elaborating on an already complete petition. The staff's caseload no longer permits them to do the research necessary to fill in gaps in the petition on behalf of the petitioner to the extent they have sometimes done in the past.

File #
Summary
Melanson 9/9/92
Rolland 9/9/92
Advised 9-10-92

Petitioners have the option of responding in part or in full to the OD review or of requesting us to proceed with the petition using the materials already submitted. The decision as to whether or not the group chooses to address the deficiencies noted in the OD review should be made by the group and not solely by its researchers. If your group requests that the materials submitted in response to the OD review also be reviewed as to their adequacy, the Bureau of Indian Affairs (BIA) will provide the additional assistance. The additional review will not be automatic, and will be conducted only at the request of the petitioner. The limits of these preliminary reviews must be taken into consideration. We do not know all of the questions that an in-depth review during active consideration might raise.

GENERAL COMMENTS

Our review indicates that there are extremely serious deficiencies in your petition. Generally, your petition does not adequately address the requirement of demonstrating the continuous existence of a distinct social and political Yuchi tribal community. There are large time gaps in the external sources which identify a Yuchi tribal entity. There is not sufficient evidence to measure the continued maintenance of social cohesion and political influence within your group, and little attempt has been made to describe and analyze the modern Yuchi community. No genealogical charts were provided to diagram how the current membership descends from the historic tribe. These charts will be needed in order to complete the genealogical review of the petition.

You should be aware that the regulations governing the acknowledgment process are designed to bar this administrative process from breaking up presently acknowledged tribes. Groups with a membership predominantly made up of members of a federally recognized tribe and which believe there are historical or other reasons why they should be separate must seek a remedy through other means such as legislation or, in some cases, judicial action.

Under criterion (c) of the regulations, a petitioner must be politically autonomous from the governing body of a recognized tribe. If the Yuchi participate politically in the government of the Creek Nation, they would not meet the requirements of criterion (c), regardless of whether they may have been separate some time in the past and are still a somewhat distinct community within the Creek Nation. This would apply even if the Yuchi were to now give up enrollment in the Creek Nation. Significant kinds of political participation include representation in the government body of the Creek Nation, designation as a

governmental subunit of the Creek Nation, control of internal affairs of the Yuchi and consistent voting in Creek Nation elections by a broad spectrum of the Yuchi membership.

There may also be statutes concerning the Yuchi and/or the Oklahoma Creek Nation which would affect any efforts to establish a separate Yuchi tribe. No examination has been made of this question for this preliminary review.

We recommend that the Acknowledgment criteria be carefully reviewed and that additional research be directed toward providing the evidence that will demonstrate that your group meets each criterion. The section below explains the requirements of the criteria in greater detail. In addition, we strongly urge that you and your researchers contact the BAR to arrange a meeting or conference call, so that we can discuss the criteria further and provide more specific technical assistance.

You should also request copies of some of our previous proposed findings and final determinations in order to gain a better idea of how we have evaluated evidence and applied the mandatory criteria in specific cases.

COMMENTS AND QUESTIONS ON SPECIFIC CRITERIA

CRITERION (a):

This criterion requires proof of the external identification of your group as an American Indian entity since first contact with Euro-American settlers. The requirement for continued identification complements criteria (b), community, (c), political influence, and (e), descent from a historic tribe. The criterion is intended to exclude from acknowledgment those entities which have only been identified as being Indian in recent times or those whose "Indianess" is based solely on self-identification. Documentation for criterion (a), historical identification, should focus on the identity of the group as an Indian entity rather than on the Indian identity of past or present individual members, and you must show that your present petitioning group is the same as that identified in history.

Criterion (a) describes seven kinds of sources which may be relied upon to demonstrate a group's continuous Indian identity, including identification by governments, churches, schools, scholars or other writers, and/or recognized tribes or national Indian organizations. The important point here is not that a petitioner be required to submit evidence from each of the seven sources, but to utilize any of these types and combinations of

sources to show continuous identification since sustained contact. However, in your case the last one hundred years would be especially relevant.

The documentation you have submitted as evidence for criterion (a) focuses on the prehistory and history of the Yuchi in the Southeast prior to the removal era. Prehistory is irrelevant to demonstrating that any group meets the criteria, and in your case the history of your group before removal is of minimal importance for acknowledgment purposes. Concerning those periods which are important to acknowledgment, there is insufficient documentation to demonstrate the external identification of the Yuchi as a distinct entity in Indian Territory/Oklahoma after removal. This is particularly true for the period between resettlement in Oklahoma and Chief Brown's filing of the Yuchi claim with the Indian Claims Commission in 1951. For example, while the Crawford article (pp. 298-300 of the petition) references studies of the Yuchi conducted by ethnologists or linguists Gatschet, Speck, Wagner, Haas, Wolff, and Beneniste, the petition does not contain copies of any of these studies. Similarly, the "Summary of Documented Yuchi Events and Sites," which begins on page 302 of the petition, refers to several sources, including Ballard's 1978 study of the Yuchi Green Corn Ceremonial and Yuchi materials from a BIA file, which have not been provided in the petition materials.

You should submit copies of all sources cited in the petition and not already submitted which provide identification of a Yuchi tribal entity in Oklahoma from 1865 to the present. In addition, we suggest that you attempt to provide at least one source from any of the seven kinds of sources suggested in criterion (a) for each decade since the 1860's which identifies the Yuchi as a distinct tribal group.

CRITERION (b):

This criterion requires a demonstration that the petitioning group has been a community which has been viewed by outsiders as Indians and distinct from other populations. It must be demonstrated that a community has existed since first historical contact and that the contemporary Indian community has evolved from the historic community. The group should be more than a collection of descendants with common tribal ancestry who have little or no connection with each other. Sustained interaction and significant social relationships must exist among the members of the group.

Interaction should also be broadly distributed among the membership. Thus a petitioner needs to show that there is significant social interaction and/or social relationships not

just within immediate or extended families or among close kinsmen, but across kin group lines and other social

subdivisions. Close social ties within narrow social groups, such as small kin groups, do not demonstrate that the members of a group as a whole are significantly connected with each other.

Your petition is especially deficient in not addressing criterion (b), demonstration of community. The evidence used to demonstrate community varies according to each group's situation and characteristics. In some cases where the membership lives in rather compact and exclusive enclaves, geography and settlement pattern alone would be sufficient to show that the group has maintained community. In other cases where the membership has continued to intermarry within their group, marriage patterns alone would be sufficient to demonstrate that community exists. However, in many cases where the members no longer live together in a geographical settlement, intermarry, or maintain a variety of separate social and cultural institutions on a wide-scale, that is involving most of the group's members, then evidence of actual interaction will probably have to be used to demonstrate that the group's community continues to exist. Discussion of the composition, organization, and functioning of the present Yuchi Tribal Organization would be required. In the petition, no attempt has been made to describe social relationships, interaction, relationships between core and peripheral members, social distinctions, interaction with outsiders, intermarriage, residential patterns, social institutions, features of social organization, cultural differences, or informal social relationships. The extent to which such topics must be discussed depends on the group's social character. The BAR anthropologists are available to help you make decisions about how to proceed and where to place priorities at this point.

A high degree of intermarriage between members of the group and settlement areas largely or exclusively occupied by group members can provide a relatively easy demonstration of community. Marriage among the members of a group creates close, kinship-based social ties, which form the basis for community. The residence of a significant portion of the membership in distinct areas often reflects the existence of close social ties.

Social institutions or features of social organization which are important throughout the membership of a group are strong evidence that significant interaction and relationships exist within their community. Social institutions may include churches, clubs, or other organizations which are exclusively made up of group members. Features of social organization may include ceremonies and other religious activities practiced by the entire group, large kinship groups (wider than immediate

families), patterns of economic cooperation, social distinctions based on geography, religion or other factors, and other divisions within the community such as factions. These social institutions and features of social organization form the basis for many of the important relationships that make up a society and their existence is thus one way of showing the maintenance of a community. To be most significant, these institutions, organizations or relationships should not be shared with outsiders (that is, non-members do not participate in them).

The existence of cultural differences between the group and outsiders to the group, such as different ceremonies, belief systems or ways of organizing kinship relations can also provide strong evidence for the maintenance of a high level of social relations within a group. Their absence, however, does not provide evidence that a high level of social cohesion is absent.

While the existence of close kinship ties, a distinct territory occupied by a portion of the membership, separate social institutions, or significant cultural differences from non-Indians are ideal evidence, they are not necessary to meet the requirements of criterion (b). In their absence, community can alternatively be shown by demonstrating that significant informal social relationships exist throughout the membership.

Your petition suggests that the Green Corn Ceremony is an important social institution among the Yuchi. While it is not necessary to describe the ceremonies themselves in detail, your petition should describe their social significance. That is, how many members participate in the annual event, which families are represented, and to what degree does it serve as a homecoming? Do Yuchi political leaders also play an important role in the ceremonies? Do the Native American Church and the Pickett Prairie Church also serve as Yuchi social institutions? These kinds of topics may be used to demonstrate community, especially in cases where high levels of group intermarriage and a separate and exclusive territory are not found. You could also describe kinship, residence and visiting patterns among your group, social and communication networks, formal and informal group activities, and significant social contacts such as weddings and funerals, and the interaction between family groups to demonstrate community.

Informal relationships may be used to demonstrate community if a systematic description can be provided showing that such social relationships are broadly maintained among the membership and that social interaction occurs with significant frequency. Informal social contacts, such as friendships, are often ones of social intimacy and consistency. In contrast, casual contacts

are incidental, do not hold significance for the individual, and can easily be replaced. Informal relationships also contrast with those among members of a club, society or other organization. Social interaction occurs only in the context of meetings or other activities of the organization.

In demonstrating community, it should be kept in mind that the intensity of social interaction and the strength of relationships are not normally uniform within the membership of a tribe. It is not required that all of the membership maintain the same degree of social cohesion. There may be a "social core" which has a high degree of social connectedness while the periphery of the membership has a lesser degree of connectedness. The social core of a group often corresponds roughly with a core geographic area, but does not necessarily do so. Characteristically, peripheral members have significant connection with the social core, although generally not with each other. It is essential to demonstrate that most of the peripheral individuals maintain social ties and interaction with the social core. In addition, the regulations require that a tribe be a community distinct from other populations in the area. The members must maintain at least a minimal social distinction from non-members.

This requires that they identify themselves as distinct and that they be identified as different by outsiders who are not of the group. The existence of only a minimal distinction provides no supporting evidence for the existence of social cohesion within the membership. However, the existence of State supported discrimination which resulted in separate institutions, such as schools, churches, neighborhoods, social meeting places, etc., often shows existence of community.

Where a community exists, there characteristically are differences in the extent and nature of tribal community members' interaction with outsiders compared with their interaction with non-members of the community. For example, there may be limitations of and/or differences in their relationship with non-Indian relatives and their participation in non-Indian institutions such as schools and churches may also be limited or otherwise distinct from that of non-Indians.

CRITERION (c):

Criterion (c) requires a demonstration that a petitioning group does now and has in the past exercised political influence over its membership, that there are leaders who have followers whom they influence and who influence them in significant ways, and/or that the group by other means is able to make decisions in matters of consequence and maintain a consensus among its

members. The group may also present evidence that its leaders have been authorized to represent it to outsiders or mediate with outsiders in matters of significance.

Your petition does not address in any way how the Yuchi group has historically exercised political influence or authority over its membership. We suggest that you provide us with a chronological list of Yuchi leaders from first sustained contact through the present tribal council. This list should include not only the principal chiefs and tribal chairmen, but also others known to have had political influence. You should provide examples of how these individuals exercised political authority and/or influence.

Political authority or other influence may be demonstrated in a variety of ways. Strong evidence of political influence, of course, would be a showing that the group and/or its leaders apportion group resources, enforce rules of behavior, and/or resolve disputes between members. However, these ideal kinds of evidence are not necessary to meet the minimum requirements of criterion (c).

Political authority, in the sense of being able to require action or enforce decisions over strong opposition, does not have to be demonstrated, although such political authority would be considered to be a high level of evidence for criterion (c). It is also not necessary that political influence be exercised in all or most areas of members' lives or their relationships with other members. Nonetheless, the political influence of the group or its leaders must not be so diminished as to be of no consequence or of minimal effect. The intent of the regulations is that more than a trivial degree of political influence be demonstrated by showing that the leaders act in some matters of consequence to members or affect their behavior in more than a minimal way.

It must be shown that there is a political connection between the membership and leaders and thus that the members of the group and the tribe maintain a bilateral political relationship. This connection must exist broadly among the membership. It has sometimes been phrased that not only must there be leaders, but there must also be followers. On occasion, a small body of people carries out legal actions or makes agreements affecting the economic interests of a group, and the membership may be significantly affected without the slightest awareness or consent of those affected and without significant political processes occurring. A group which operates in this way, generally does not demonstrate evidence which would meet criterion (c).

Political connections between leaders and members may be informal, through public opinion or other indirect connection. The existence of a significant level of social cohesion is an

important form of supporting evidence because political influence, where coercive authority is not exercised, requires social connections and obligations as its basis.

The Acknowledgment regulations allow for consideration of the cultural differences between tribes and the historical circumstances affecting their organization. However, when a petitioner is evaluated, the fact that it no longer has a land base, controls significant resources, and is subject to the legal and political institutions of non-Indian society, may inform the evaluation, but the BAR cannot set aside the requirement that to be acknowledged as a tribe, some form of political authority, leadership, and decision-making must be retained.

In order to strengthen your petition you need also to describe the political processes (elections, councils, sanctions, etc.) used by the Yuchi throughout history. You should likewise provide any documentation you can find which shows evidence of these political processes, such as letters from leaders, minutes of council meetings, anthropological studies, newspaper articles, or other types of evidence we can discuss with you.

CRITERION (d):

While the petition includes the By-Laws of the Yuchi Tribal Organization, Inc., this document is not dated, signed, nor certified to show that it has been passed by the group's governing body.

Within the petition there are many indications that the governing document is not always followed. For example, nine directors are listed on the petition title page, but the By-Laws indicate that eleven directors, eight from the specific tribal towns and three at-large members, are required in the governing document. Elsewhere (tab 83.7a, p. 99), a member of the petitioning group states that "we are presently operating under a committee structure, and the committee has been elected." Some attempt should be made under criterion (c) to explain how the group actually runs politically and to what extent the By-Laws are adhered to.

Article IV of the By-laws deals with the prerequisites for and admission to membership. There are two categories: Active Member and Associate Member. The former must be "of Yuchi descent;" applicants in either category must be "18 years of age or older and support the purposes of the organization." A candidate for Active Member is to "apply to the Board of Directors for consideration," which suggests that the Board as a body decides on applications, although this is not specified.

The By-Laws do not indicate how a candidate for Associate Member applies or who decides on the application. A description of the process by which an individual actually becomes a member should be provided.

What constitutes being "of Yuchi descent," and the documentary evidence acceptable for establishing this, are not specified in the By-Laws or explained elsewhere in the petition. Some indication of what is meant, however, does appear on the instructions on the reverse of the Yuchi ancestor chart to be filled out by members. The instructions state, "the purpose of this form is to obtain adequate information for an individual to show lineal descent from a Yuchi () ancestor that appears upon one of the Official Rolls prepared by the Federal Government.

Information is also desired that will show the degree of Yuchi () blood that the individual is, when known." The petition should include a clear statement of how "Yuchi descent" is determined.

CRITERION (e):

The petition contains no genealogical charts which diagram how the individual members trace their ancestry to the historic Yuchi tribe. Without such charts it will be impossible for our genealogists to review the group's claim regarding their descent from the historic tribes under criterion (e). Charts of some sort are required to make any kind of evaluation.

The petition is accompanied by the 1991 Yuchi Tribal Listing. This document contains 101 names. Active and Associate Members are not delineated; please do so and define the two statuses. The listing provides middle names for many of the individuals listed, especially women, but it does not specify maiden names which would be useful. At a minimum, it should include addresses, birthdates, or nuclear family relationships, particularly parents names. Children should be included on the list if they are to be considered members, since it is this list which will become the group's base roll if the group is recognized.

Of particular concern is the list's apparent lack of completeness. In a January 1991 interview, the text of which is provided in the petition, the Treasurer of the Yuchi organization is quoted as stating that the organization represented about 1,300 individuals at that time (tab 83.7a, p. 101). The possibility cannot be ruled out that the 101 names which comprise the 1991 Yuchi listing represents only a small portion of individuals who consider themselves members of the group. It is also apparent that some of the people listed as directors

in the petition are not listed on the membership list. Of the nine names, four appear on the Tribal Listing (of members), three do not, and the remaining two appear not to be there (unless Lou White is actually Paige Allen White, and Jerilyn Freeman is Velma Freeman).

You must keep in mind that the membership list defines your group, that is, those people who make up your community. In evaluating other criteria such as (a), (b), and (c), this community is the unit which will be focused upon. For this reason, it is extremely important that you define your membership accurately. If you do not, you run the risk of failing to meet other criteria because your group, as defined by its membership list, represents only a portion of a community or, conversely, includes a large number of people who are not demonstrably part of the community. Before any steps are taken, however, you need to sit down with the BAR staff and have a frank discussion about membership issues.

Finally, the group's current membership list should include the separate certification that it is the group's complete and current list.

CRITERION (f):

There is some question concerning the relationship of the petitioner to recognized tribes, particularly the Creek Nation. Perhaps the discrepancy between the number of individuals listed on the membership list (101), and other Yuchi rolls, such as the roll maintained from 1947 through 1956 (1,299) results from a large body being enrolled in a federally recognized tribe. There is also the possibility that there are among your membership people enrolled in other federally recognized tribes. This issue needs to be discussed with the BAR staff, as the regulations governing the Acknowledgment process were designed to prohibit this administrative process from breaking up existing tribes.

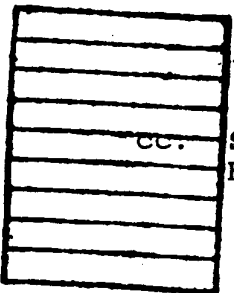
Once you have had an opportunity to thoroughly review this letter and share its contents with your researchers and general membership, we recommend that you contact the Acknowledgment staff so that we can make arrangements to provide additional technical assistance to you and your researchers. You may write them c/o Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 2611-MIB, 1849 C Street, N.W., Washington, D.C. 20240, or call at (202) 208-3592.

Sincerely,

/S/ CAROL A. BACON

Director, Office of Tribal Services

cc: Muskogee Area Director
Governor Henry Bellmon
Attorney General Robert H. Henry
Creek Nation of Oklahoma
Corky Allen
Andrew Skeeter
Simon Harry
James Brown
Newman Littlebear
Earl Wheeler
Jerilyn Freeman



cc: Surname;440B;440Cron;400
Hold:MLAWSON:jd:09/09/92:x3592 - Mike's Gray #1/WP51/Yuchi

FILED

121 Yuchi Tribal Organization

9/9/1991 Documentation Received
9/14/1992 **Obvious Deficiency Letter**
3/23/1993 Partial response received
4/23/1993 Petition is complete and placed on "ready" list
7/11/1995 **Proposed Finding signed by AS-IA**
10/24/1995 **Proposed Finding to Deny Acknowledgment published in the
*Federal Register***
4/22/1996 Comment period closes
11/29/1996 Second comment period closes
5/5/1997 Petitioner's response period closes
12/15/1999 **Final Determination signed by AS-IA**
12/22/1999 **Final Determination to Deny Acknowledgment Published in the
*Federal Register***
3/21/2000 Decision became effective

Documents on electronic disc

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



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Summary under the Criteria and Evidence for Proposed Finding Against Federal Acknowledgment of the Yuchi Tribal Organization, Inc.

Prepared in response to a petition submitted
to the Assistant Secretary of the Interior -
Indian Affairs that this group exists as an
Indian tribe.

Approved: JUL 11 1995

/s/ Ada E. Deer

Ada E. Deer
Assistant Secretary - Indian Affairs

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Assistant Secretary - Indian Affairs

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**SUMMARY EVALUATION OF THE YUCHI TRIBAL ORGANIZATION
UNDER CRITERION 83.7(f)**

I. Introduction

This proposed finding against acknowledgment of the Yuchi Tribal Organization (YTO) has been prepared under section 83.10(e) of the acknowledgment regulations. Section 83.10(e) provides for an expedited finding on a single criterion where there is clear evidence, based on the preliminary review, that the petitioner could not meet the requirements of criteria 83.7 (e), (f), or (g).

There was clear evidence, based on the preliminary technical assistance review, that the YTO did not meet the criterion in section 83.7(f). The summary evaluation and accompanying technical report describes in detail the evidence for this finding. Section 83.7(f), in brief, requires that a petitioner not be principally composed of members of another, already acknowledged tribe. This section also describes conditions which would provide for an exception to this requirement in rare instances. These conditions for an exception are discussed in detail in the body of the accompanying technical report.

II. Requirements for an Expedited Proposed Finding under 25 CFR 83.10(e)

The acknowledgment regulations require that all seven criteria under section 83.7 must be met in order for a petitioner to be acknowledged. Section 83.10 (m) states:

The Assistant Secretary shall acknowledge the existence of the petitioner as an Indian tribe when it is determined that the group satisfies **all of the criteria in §83.7**. The Assistant Secretary shall decline to acknowledge that a petitioner is an Indian tribe **if it fails to satisfy any one of the criteria in §83.7**. (emphases added)

This finding is prepared under section 83.10 (e) which provides that:

Prior to active consideration, the Assistant Secretary shall investigate any petitioner whose documented petition and response to the technical assistance review letter indicates that there is little or no evidence that establishes that the group can meet the mandatory criteria in paragraphs (e), (f) or (g) of §83.7.

(1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of §83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken pursuant to paragraph (a) of this section. Rather, the Assistant Secretary shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the FEDERAL REGISTER. The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (h) through (1) of this section.

(2) If the review cannot clearly demonstrate that the group does not meet one or more of the mandatory criteria in paragraphs (e), (f) or (g) of §83.7, a full evaluation of the documented petition under all seven of the mandatory criteria shall be undertaken during active consideration of the documented petition pursuant to paragraph (g) of this section.

The section requires clear evidence, apparent on a preliminary review, that one of the three named criteria are not met. The section further provides that, absent such clear evidence, the petition will be reviewed under the regular process. Several requirements are included to ensure fairness to the petitioner. First, this limited evaluation only occurs after the petitioner has had the opportunity to respond to the technical assistance review. Second, a proposed finding under this section will still be subject to the comment process before a final determination is issued. Finally, the petitioner will also have the opportunity to request reconsideration under §83.11.

This proposed finding is subject to the same deadlines and procedures as any other proposed finding. Commentors may comment on any aspect of the finding or the history and character of the Yuchi Tribal Organization. In the event that the comments submitted demonstrate that the petitioner meets the requirements of criterion 83.7(f), the Assistant Secretary has the authority under sections 83.10(a) and 83.10(1)(1) to conduct such additional research and request from the petitioner and interested parties such information as is necessary to supplement the record concerning the other criteria and evaluate the petitioner under those criteria.

III. The 180 Day Period for Comments in Response to the Proposed Finding

Publication of the Assistant Secretary's proposed finding in the Federal Register initiates a 180-day period for comments by the petitioner and other parties in response to the proposed finding (§83.10(i)-(k)). During the response period, factual and/or legal arguments and evidence to rebut or support the proposed finding may be submitted by the petitioner and any interested or informed party. Such evidence should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street, N.W., Washington, D.C., Attention: Branch of Acknowledgment and Research, Mail Stop 2611-MIB. Third parties must simultaneously supply copies of their comments to the petitioner in order for them to be considered by the Department.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (§83.10(j)(1)).

In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (§83.10(j)(2)).

If third party comments are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to those comments. This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (§83.10(k)).

At the end of the response periods for comments on a proposed finding, the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and commenting parties. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable timeframe for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins. A summary of the final determination will be published in the FEDERAL REGISTER within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins (83.10(l)).

IV. Summary Evaluation under the Criteria in 83.7(f)

A. The Language of Criterion 83.7(f)

83.7(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.

However, under certain conditions a petitioning group may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, an acknowledged Indian tribe.

The conditions are that the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that its members have provided written confirmation of their membership in the petitioning group.

B. Related Definitions (83.1)

Member of an Indian group:
means an individual who is recognized by an Indian group as meeting its membership criteria and who consents to being listed as a member of that group.

Member of an Indian tribe:
means an individual who meets the membership requirements of the tribe as set forth in its governing document or, absent such a document, has been recognized as a member collectively by those persons comprising the tribal governing body, and has consistently maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

Tribal roll:
for purposes of these regulations, means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document. In the absence of such a document, a tribal roll means a list of those recognized as members by the tribe's governing body.

Autonomous:
means the exercise of political influence or authority **independent of the control of any other Indian governing entity.** Autonomous must be understood in the context of the

history, geography, culture and social organization of the petitioning group. (emphasis added)

C. Discussion and Evaluation of the Evidence:

The membership roll of the Yuchi Tribal Organization contains 165 names. Of these individuals, 151, or 92 percent, were confirmed to be members of the Muscogee (Creek) Nation of Oklahoma (MCN), a federally recognized tribe. Membership was confirmed by comparing the YTO list with the database of the MCN membership. Membership in the MCN requires affirmative application by the individual and review by the Creek Citizenship Board. Consequently the MCN roll clearly qualifies as a tribal roll within the meaning of the acknowledgment regulations (section 83.1). One other individual was confirmed as a member of another recognized tribe. Therefore, the members of the YTO are principally members of an acknowledged North American Indian tribe. Unless the YTO meets the conditions for an exception described in criterion 83.7(f), it would not meet this criterion.

The criterion in 83.7(f) requires a petitioning group to meet two conditions in order to be excepted from its requirements. First, the members of the petitioning group must not be maintaining a bilateral political relationship with a recognized tribe; and second, the petitioning group must have functioned throughout history until the present as a separate and autonomous Indian tribal entity. These two requirements embody the intent of the regulations to only acknowledge as tribes groups that are in fact politically autonomous of other Indian tribes. In so doing, criterion (f) "allows for acknowledgment of rare cases where the petitioner has been regarded, erroneously, as part of or associated with another tribe, but has been a separate, autonomous group throughout history," while criterion (f) "prohibits use of the regulations to acknowledge portions of already recognized tribes" (59 FR 9289).

Section 83.3(d) of the regulations states:

splinter groups, political factions, communities or groups of any character that separate from the main body of a currently acknowledged tribe may not be acknowledged under these regulations. However, groups that can establish clearly that they have functioned throughout history until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of or have been associated in some manner with an acknowledged North American Indian tribe.

To be autonomous, the petitioner and its members must not participate significantly in the political processes of a recognized (or unrecognized) tribe. It is quite possible that

some or many individual members of a petitioner participate in the political system of a recognized tribe and also participate in a separate council of a petitioning group. However, such "dual" participation means that these individuals are not "autonomous" within the meaning of the regulations, because the requirement in criterion (f) is specifically directed against separating a portion of an already recognized tribal political entity.

Members of the YTO, including its leaders, have consistently participated in the political process of the MCN from 1962 to the present. This period was reviewed in detail for this finding. The year 1962 marks the beginning of efforts by members of the Creek Nation to reorganize and revitalize its political institutions. These efforts led to the present constitution, adopted in 1979. Members of the YTO (as well as many other Yuchis) played important roles in the process of reformation of the national Creek political system.

Since the formation of the present MCN government under the 1979 constitution, members of the YTO and their leaders have run for and filled national political office, been appointed to the Creek Supreme Court, and participated in the local "chartered communities" which are the local level extension of the national Creek government.

The regulations (section 83.1) provide a specific definition of tribal roll for the purposes of these regulations only. The intent of the definition is that to be a tribal roll for these purposes, a membership list made by a recognized tribe must clearly reflect the existence of a bilateral political relationship between the individuals listed and their tribe. The definition requires that the individual have "affirmatively demonstrated" consent. The conditions of enrollment in the MCN require affirmative consent by the enrollee as well as specific action by the Citizenship Board, an independent commission within the national level government. This roll therefore demonstrates a bilateral political relationship between those enrolled and the Creek Nation.

Consequently, the YTO does not meet the condition, for an exception to the requirement of criterion 83.7(f), that its members do not maintain a bilateral political relationship with a recognized tribe.

Members of the petitioning group participated extensively in the Creek Nation's political system well before the YTO group itself was formed in 1989. There was no indication that, previous to the YTO formation, the members formed a distinct group within the greater Yuchi ethnic group (the Yuchi tribe as historically incorporated into the Creek Nation -- see discussion below).

The extensive participation by YTO members and leaders in the political institutions and processes of the Creek Nation from 1962 to the present means that the YTO (and its members and leaders before its formation) does not meet the requirements to be considered an autonomous group. Even if they functioned in part as a separate political body from the Creek Nation, their dual political participation in the Creek Nation means that the YTO does not meet the requirements for autonomy under the acknowledgment regulations.

Yuchi participation in the MCN before 1962 was not reviewed in detail for this finding, because such an examination was not necessary to evaluate whether YTO fails to meet criterion 83.7(f). However, standard historical sources provide good evidence that the historical Yuchi tribe has continuously been part of the political system of the Creek Confederacy since the 18th century.

Membership in an unacknowledged group is defined in the regulations (§83.1), in part, as consisting of individuals that have consented to be listed as members. The conditions for an exception to criterion 83.7(f) require, in part, that the group's members must have provided written confirmation of their consent to membership in the petitioning group. Written confirmation of consent was received for only six of the YTO members, despite numerous requests by BAR. Consequently, this condition which would allow an exception to 83.7(f) has not been met.

This finding of necessity has examined not only the membership status of the petitioner, but also the history of the organization and the political relationship of its members to the MCN of Oklahoma, a recognized tribe. This has been done to provide background and context. However, discussion has been limited to areas which are necessary to show that the petitioner does not meet the conditions would allow an exception to criterion 83.7(f). Definitive research, however, has only been conducted on the YTO itself. Consequently this finding only concerns the YTO.

In conclusion, ninety-two percent of the membership of the YTO are members of the MCN. They do not meet any of the conditions which would allow an exception to the requirements of criterion 83.7(f). The membership is maintaining a bilateral political relationship with the MCN. Because of its participation in MCN political institutions at the national and local levels, it is not an autonomous group within the meaning of the acknowledgment regulations. Almost none of the members of the YTO have provided written confirmation that they consent to be members of the YTO. Therefore, we conclude that the YTO does not meet the requirements of the criterion in 83.7(f).

TECHNICAL REPORT ON THE YUCHI TRIBAL ORGANIZATION

I. Descriptive Summary

The Yuchi Tribal Organization (YTO) is an organization formed in 1989. It is one of two organizations of Yuchis which have made efforts to prepare a petition for acknowledgment of the Yuchi as a tribe. The second organization, the Eucheas United Cultural, Historical and Educational Effort (E.U.C.H.E.E.), has submitted a research report as comment on the YTO petition and in support of acknowledgment of the Yuchis as a separate tribe (Foster et al. 1995). The E.U.C.H.E.E. was formed in part as a result of a conflict among a larger group of Yuchi members of the Muscogee (Creek) Nation (MCN) over control of the acknowledgment effort and future control of a separately recognized Yuchi tribe (FD, Wallace 1995, 8).

The YTO members are a small part of a much larger Yuchi ethnic group (Yuchi) which in turn is part of the present-day MCN of Oklahoma. The term "Yuchi ethnic group" as used here refers to the entirety of the Yuchis, derived from the historic Yuchi tribe, which are part of the MCN. A core of the Yuchi ethnic group, based on the evidence reviewed, is in some ways, socially and culturally distinct from other members of the Creek Nation, but does not form a separate, politically autonomous tribe.

The MCN is the continuation of the Creek Confederacy formed in the 17th and 18th centuries in the Southeast as a confederation of tribes of varying cultural and linguistic backgrounds. The Yuchi tribe has participated politically in the Creek Confederacy since that time. It was removed to Oklahoma with the Confederacy during the Removal in the 1830's. The Yuchi town held a specific position in the legislature of the reorganized Creek government formed in 1867. The Yuchi also participated extensively in the reorganization and reformation of the government of the Creek Nation which began in 1962 and culminated in the adoption of the present MCN constitution in 1979.

The YTO and, by all presently available evidence, the E.U.C.H.E.E. are organizations of individuals, within the Yuchi ethnic group. They were established for particular political and community action purposes. The YTO leaders explicitly state that it is not the governing body of the Yuchi tribe (FD).

It is estimated that there are approximately 2,000 individuals in the Yuchi ethnic group. Together the YTO and the E.U.C.H.E.E. comprise no more than a quarter of the Yuchi ethnic group. This would be true even if a second, incomplete YTO list created in 1995 is included (see below).

The YTO submitted a list of 165 names as a membership list with its 1991 petition. Of these, 151, or 92 percent, were confirmed to be members of the MCN. Membership was confirmed by comparing the list with the database of the MCN membership. Membership in the MCN requires affirmative application by the individual and review by the Creek Citizenship Board, which has the responsibility for determining membership in the MCN. The Creek Citizenship Board is an independent body whose members are appointed by the Principal Chief, and approved by the National Council (MCN 1979).

Members of the YTO, and its leadership, have participated often and in very significant ways in the "national" level of the government of the Creek Nation. A YTO member has run for Principal Chief of the MCN. Between 1979 and the present, two YTO members have been elected to a total of three terms on the National Council. Another individual, on an uncompleted 1995 list, has served three terms. A YTO member has been appointed Supreme Court Justice for the MCN. Other Yuchis, not members of the YTO, have frequently participated in the Creek national government. YTO members, and other Yuchis, have participated extensively in the "chartered communities" of the MCN. These are local-level governments which operate as an arm of the national government. The chartered communities work closely with Council representatives, and administer national level programs and grants. The chartered communities do not correspond exactly to the Yuchi ethnic group, but several of them are made up mostly of Yuchi because they cover geographic areas largely settled by Yuchis.

At least one other YTO member is enrolled as a member of a recognized tribe other than the MCN. This individual is enrolled with the Comanche tribe. Preliminary research indicates that several more of those not enrolled in the MCN may be enrolled in other recognized tribes.

In January 1995, the YTO submitted a revised membership list which contained 162 additional names beyond those on the 1991 list. This extended list did not contain sufficient information which would allow identification of the individuals listed, such as birthdate, genealogical information or address. Because this list was incomplete and unfinished, this proposed finding is based on the 1991 membership list.

No written confirmation of consent to be listed as members on either the 1991 list or the larger, uncompleted 1995 list was received, except for six of the YTO leaders. Written confirmation by each individual was requested by BAR several times, because of the requirement of criterion 83.7(f) for confirmation in order for the conditions for an exception to that criterion to apply.

II. Historical Background

The petitioning group, Yuchi Tribal Organization, Inc., is made up of individuals derived from the historical Yuchi tribe. This tribe joined the Muscogee (Creek) Confederacy, probably in two stages, in the late 18th or early 19th century (Wright 1951, Court of Claims 1956).¹

Yuchis have maintained a political and legal relationship with the Muscogee (Creek) tribe since joining the Creek Confederacy. The Creek Confederacy united dozens of historic tribes yet preserved their ethnic distinctiveness by making them corporate groups responsible for most of their own affairs, particularly that of training and maintaining their own standing armies and maintaining their own ceremonial grounds. The incorporated tribes, which might consist of multiple settlements, were known as "talwas," and later as "tribal towns."

During the 18th and early 19th centuries, Yuchis were signatories to some Creek treaties with the United States. They were removed with the Creeks in the 1830's from the banks of the Chattahoochee River in present-day Alabama to what is now Oklahoma.

The Yuchi and other Creek tribal towns reestablished themselves, along ethnic lines, in the tribe's new homelands following the removal (Opler 1937, 22). There were four Yuchi settlements in Oklahoma, reduced after 1900 to three (Wright 1951, 267, Speck 1909, 9).

The tribal towns became the basis for representation in both the House of Kings and the House of Warriors of the bicameral legislature of a Creek Nation government which was developed in 1867 (Opler 1937, 12). The Yuchi were represented in this government as a single town, one of 44 in the confederacy (Wright 1951, 267). Yuchi leaders participated actively in its affairs (Wright 1951, 267). A Yuchi leader built the first Creek Council House, a double log structure in what is now downtown Okmulgee (Tulsa Daily World, 1939).

The Act of April 26, 1906 (34 Stat. 137) allotted Creek lands in severalty and provided for the dissolution of the Creek tribal government. Yuchis were enrolled as Creek Indians on the roll of the Creek Nation created by the Dawes Commission. This roll, under the 1906 act, became the "final roll" of the Creek Nation. In 1976, the Federal court in Harjo v. Kleppe (U.S. District

¹ This section is based on standard historical and ethnohistorical sources. Since it is provided for background purposes only, it should not be considered a definitive set of conclusions concerning the history of the Yuchis in relation to the Creek confederacy.

Court 1976) determined that the dissolution of the Creek Tribal government had not been statutorily accomplished and that in fact the Creek government had been explicitly perpetuated.

There continued after 1906 to be some Creek government activities and also some continued functioning of the tribal towns, including two Yuchi settlements (Opler 1937, 36). A principal chief was appointed by the President under the 1906 Act, sometimes based on elections or recommendations by representative bodies of Creeks. Three of the tribal towns organized in the 1930's under the Oklahoma Indian Welfare Act. Debo (1940) indicates that organization of the Yuchi under the act was considered, but was never done.

III. Criterion (f): Membership in a Recognized Tribe

A. Results of Preliminary Review

The documented petition of the YTO for acknowledgment was submitted in September 1991. A letter describing the results of the technical assistance review of the petition was sent to the YTO in September 1992 (Bacon 1992). In a letter to BAR dated April 22, 1993, YTO leaders stated that the YTO considered the Yuchi petition complete and wished BAR to begin its review under 25 CFR 83 (YTO 1993).

Because the political relationship between Yuchis and Creeks spans more than three hundred years up until the present, and because Yuchis met the membership requirements of the MCN, Branch of Acknowledgment and Research (BAR) researchers paid particular attention to criterion (f) during their preliminary technical assistance review of the Yuchi petition. Since there was little or no evidence that the YTO could meet the criterion in 83.7(f), an investigation as provided for under §83.10(e) was conducted. This proposed finding is based on that investigation.

B. Yuchi Tribal Organization Membership

The YTO submitted a membership list of 165 names with its petition in 1991 (YTO 1991b). This list included the information required by criterion 83.7(e), including documentation of Yuchi ancestry, date of birth, and current residence. This proposed finding is based on the 1991 membership list.

In subsequent BAR discussions with YTO leaders, the organization was informed that it appeared that there were many more Yuchis than were on the membership list enclosed with the petition. The YTO leadership indicated that it anticipated that when the group was recognized, additional Yuchis would be enrolled (FD, YTO 1991b).

The YTO leadership was informed that under the acknowledgment regulations, the membership list submitted with the petition becomes the base roll of the acknowledged tribe for purposes of Federal funding and other administrative purposes (see section 83.12(b) of the regulations). Chairman Melvin George agreed to provide any final changes in the membership list by January 31, 1995.

A revised list of names was received by BAR on January 31. It contained a total of 327 names (YTO 1995), including 162 additional names beyond those on the 1991 list. Approximately six names were noted as those of deceased individuals. A certification by Chairman Melvin George and Ann Holder, the Secretary/Treasurer, was received February 2. This certification stated that "we are submitting an updated list of the membership of the Yuchi Tribe." A certification by the entire YTO board was not received.

This revised list was only a list of names, without date of birth, current residence, or genealogical charts or other indication of ancestry. This information is required by section 83.7(e)(2). There was no evidence concerning how the additional names were gathered and placed on the list. Because the revised list was incomplete, it is not considered a list of membership for the purposes of the regulations. Consequently, this finding is based on the original 1991 list.

The 1995 list, like the 1991 petition list, lacked confirmation that the people whose names were listed consented to be members of the YTO or even knew their names were on the list.

C. Enrollment in the MCN

To investigate whether YTO members were enrolled with a recognized tribe, BAR researchers used the computer database of MCN citizens, or the MCN Citizenship Roll, which is maintained by the MCN's Citizenship Board and is the most current and complete record of who is enrolled in MCN. This roll was created under the 1979 MCN constitution. Article II, Section 1 of the constitution provided individuals with "the opportunity for citizenship in the Muscogee (Creek) Nation" for the first time since the Creek rolls were closed in accordance with the Act of April 26, 1906 (34 Stat. 137). Thus all those who appear on the MCN Citizenship Roll, then, were enrolled after October 9, 1979, the date the current MCN Constitution was ratified, or were on the original Dawes Roll.

Article III of the MCN constitution places the burden of applying for and proving eligibility for MCN citizenship on the individual (MCN 1979). This includes documenting one's lineal descendency from at least one individual listed on the 1906 Final Creek roll.

After the application is reviewed and approved by the Creek Citizenship Board, the individual is enrolled on the computer database of MCN citizens and permitted to participate in MCN programs and institutions of governance.

An examination of the database of MCN citizens revealed that ninety-two percent of the YTO membership listed in the petition are MCN citizens (MCN n.d.). This is 151 of the 165 individuals on the 1991 membership list.

There is strong evidence that most Yuchis are enrolled citizens of the MCN. Yuchi leaders commonly state that most Yuchis, whether YTO members or not, are enrolled in the MCN (FD). Section VI.D below shows that it is common for Yuchis to run for and hold office in the Creek Nation, which requires enrollment as a Creek citizen. Two prominent Yuchi leaders, who appear on the incomplete 1995 YTO list, have been elected to the MCN national council or held office in one of the local communities. One of these has specifically confirmed his desire to be enrolled in the YTO.

D. Those Not Enrolled in the MCN

BAR researchers inquired further into the group of fourteen persons that is not enrolled in the MCN (FD). Specifically, BAR sought to determine whether they had not enrolled because they did not wish to cede political authority, influence, or control to MCN and to participate in MCN political institutions and processes; or whether other reasons explained their failure to enroll. BAR also sought to identify possible commonalities in this group.

Six of the fourteen individuals who are not enrolled are adults. Of these, three may have enrolled in other recognized tribes than with the MCN. One, an adult male who was identified as a Yuchi leader by one YTO member, was confirmed to be a member of the Comanche tribe. Two others may have enrolled in the Absentee Shawnee and Navajo Tribes respectively: one is the adult child of two members of the Absentee Shawnee tribe; the other has a parent who is a member of the Navajo tribe. BAR researchers did not conduct additional research to establish the enrollment of either of these two individuals in a recognized tribe.

BAR contacted one of the remaining three adults and a parent of the two others. No clear reason emerged to explain why these three were not enrolled. The father of one young adult and the mother of another believed that their adult children were in fact MCN citizens. The remaining unenrolled adult lives nearly two thousand miles from the Creek Nation. This individual indicated that she intended to enroll in the MCN but had not completed the paperwork (FD).

Eight of the 14 unenrolled were children. Five of these children are under six years of age, and all have at least one parent who is an MCN citizen. One unenrolled four year old has a father, two uncles, a grandfather, and two cousins who are enrolled in MCN. This suggests that these children have simply not yet been enrolled in the MCN by their parents or guardians. This was neither disproved nor confirmed by BAR researchers who contacted a parent or guardian of three of the eight unenrolled children. It does suggest, however, that their absence from the Creek rolls is not due to refusal to enroll them.

IV. Conditions under which Groups Composed Principally of Members of a Recognized Tribe may Nevertheless Meet Criterion (f).

Criterion (f) states that a petitioning group which is composed principally of members of a recognized tribe will nonetheless meet this criterion if it meets three conditions. One is that "its members have provided written confirmation of their membership in the petitioning group." The second is that "its members do not maintain a bilateral political relationship with the acknowledged tribe," and the third is that "the group must establish that it has functioned throughout history until the present as a separate and autonomous Indian tribal entity."

Since YTO is comprised principally of members of a recognized tribe, the rest of this report will examine whether YTO and its membership meet these conditions.

V. Description of the YTO and The Yuchi Ethnic Group

A. The Yuchi Ethnic Group

A discussion of YTO in the context of the Yuchi ethnic group is important for understanding the subsequent discussion of Yuchi political participation in MCN. The members of the YTO are only a small portion of the Yuchis who are part of the MCN. The balance of Yuchis are either members of the separate but related organization, the E.U.C.H.E.E., or a member of neither group. Some of the available evidence suggests that many Yuchis not on the YTO list may not wish to become members of the petitioning group. Those who have chosen not to affiliate with either group outnumber YTO and E.U.C.H.E.E. members by more than three to one.

The term "Yuchi ethnic group" will be used to refer to this larger body of individuals, including those in both organizations. The present-day Yuchi ethnic group is derived from the historic Yuchi tribe that became part of the Creek confederacy. They are termed an "ethnic group" here because a

core of the members forms a somewhat distinct social group within the Creek Nation. The degree of distinctness from other members of the Creek Nation, and the extent of social cohesion of the Yuchi ethnic group, was not definitively reviewed for purposes of this report. While the Yuchis no longer form distinct settlements, Yuchis are concentrated in several areas of the MCN (FD). Several traditional ceremonial grounds and churches are identified as Yuchi and have ceremonial leaders who are Yuchi. There are, similarly, several churches which are identified as Yuchi and have a high percentage of Yuchi members and leaders (Foster et al. 1995, FD).

Documents included as supporting material with the petition, as well as other evidence, indicate that the Yuchi ethnic group numbers approximately two thousand. This means that there are at least fifteen hundred Yuchis who are not affiliated with either the YTO or the rival E.U.C.H.E.E. (see discussion below).

The first of these documents is a list of Yuchis compiled between 1947 and 1956 by S.W. Brown, Jr. in connection with Yuchi land claims (Brown 1947-56). Hereinafter referred to as the 1956 roll, this list enumerates 1299 Yuchis. The second document is a transcript of an interview conducted by Larry Gorenflo of the U.S. Department of Energy with Al Rolland Jr., former Project Director of YTO, on January 9, 1991. During this interview, at which two YTO Board members were present, Mr. Rolland cited the number of Yuchis as 1300 (Rolland 1991, 96).

In the interest of gaining further information for an accurate estimate of the size of the Yuchi ethnic group, BAR contacted Mr. Melvin George, leader of the YTO, Mr. Andrew Skeeter, leader of the E.U.C.H.E.E., and several other YTO and E.U.C.H.E.E. members. Three scholars who conduct research among the Yuchis were also contacted. One of the scholars estimated that the Yuchi population numbers between thirteen hundred and three thousand. The other sources reported that there are about two thousand Yuchis (FD).

B. YTO

The YTO was organized in 1989 in the town of Sapulpa, Oklahoma (FD, Cowan 1989, YTO 1991a, Criterion b, 4). YTO was incorporated as a non-profit organization by the State of Oklahoma in July of 1989 when its leaders began preparing the Yuchi petition for federal recognition.

Though it is YTO that submitted the petition, the YTO Chair and Board Members state that they are not the governing body of the Yuchi people (FD). YTO was organized "for the express purpose of doing research of our history to prove that we are a unique group of people or a unique and distinct tribe," and "we desired to

prove this distinction in asking the Federal Government for federal recognition..." a former Board Member pointed out in a letter to BAR dated September 9, 1994 (George 1994a). Another Yuchi leader explained that, since its formation, YTO's principal goal has been to "give Yuchis a choice between [being] Creek and Yuchi" by pursuing recognition (FD).

YTO's specific and limited purpose was emphasized in a Yuchi organizational meeting attended by approximately fifty Yuchis on December 29, 1994, at a Creek community center. During this meeting, to which a BAR researcher was invited, YTO leader Melvin George fielded questions about YTO and the acknowledgment process. At one point, he shared with other Yuchis his vision that, "upon recognition" YTO will "dissolve," whereupon "there will be elections," and a Yuchi government will be created. Mr. George urged all those interested in the idea to sign up for YTO.

Of the 165 members on the 1991 membership list, 77 percent live within the boundaries of the Muscogee (Creek) Nation of Oklahoma.

C. E.U.C.H.E.E.

Accompanying YTO on the Yuchi political landscape is another organization, the Eucheas' United Cultural, Historical, and Education Effort, referred to in this report as "E.U.C.H.E.E." This group was organized several years ago following a bitter dispute over the preparation and submission of the Yuchi petition (FD). Like YTO, this group views the recognition of the Yuchi group as a top priority. Its leader, for example, has been working with several anthropologists at the University of Oklahoma and the University of Tulsa to prepare supporting material for the Yuchi petition (Foster et al 1995).² Despite a keen interest in recognition, though, most E.U.C.H.E.E. members have decided not to become members of the petitioning group because it requires that they join YTO (FD).

In January, 1995, a BAR researcher interviewed the leader of E.U.C.H.E.E., Andrew Skeeter, at Mr. Skeeter's office at the MCN Tribal Complex in Okmulgee, Oklahoma. After tracing the history of his organization and suggesting that BAR take his group into account when considering the Yuchi petition, this Yuchi leader presented BAR with a list of E.U.C.H.E.E. members (E.U.C.H.E.E. 1990). Compiled by Mr. Skeeter and other Yuchis in 1990, this list contains the signatures of 125 Yuchis. Only nine of these individuals are on the 1991 list of members of YTO.

² The materials submitted by the E.U.C.H.E.E. have been reviewed for purposes of this report.

D. Yuchis Affiliated with Neither Group

The combined membership of YTO (1991 list) and E.U.C.H.E.E. is 281. Even if the additional names on the incomplete 1995 YTO list were added (for a total of 443), the number of Yuchis who are not members of either group outnumber members by more than three to one.

Because the category of Yuchis that is affiliated with YTO or E.U.C.H.E.E. is a minority of the Yuchi ethnic group, BAR inquired into the group that had not affiliated with either organization. A variety of explanations were offered by members of YTO, E.U.C.H.E.E. and Yuchis not members of either organization. This information indicates that the YTO and the E.U.C.H.E.E. are political organizations, for specific purposes, within the Yuchi ethnic group, but are not separate communities or necessarily even separate political factions (FD).

Upon being asked why his name did not appear on the membership list of either group, one Yuchi explained, "I don't get involved [because] I care for these people [YTO] just as much as I do the others [E.U.C.H.E.E.], and I don't want to hurt anybody." Other Yuchis who are members of neither group cited "politics," the current leadership of one or both organizations, an unwillingness to "take sides," and/or confusion as the reason or reasons they have chosen not to sign up for YTO or E.U.C.H.E.E. One E.U.C.H.E.E. board member referred to such individuals as "neutrals."

YTO and E.U.C.H.E.E. members provided other explanations why many of their family members and friends have not affiliated with either group (FD). Three YTO members explained the behavior of those who have not committed to YTO or E.U.C.H.E.E. in terms of fear that "recognition will tear families apart," "that [Yuchis will] loose benefits, access to Indian homes, hospitals, services," and that "the Creek Nation [will] put us [Yuchis] out," allegations BAR researchers did not investigate. One of these individuals was of the view that it is "only the brave ones" who are willing to sign up for YTO.

Two other Yuchis, both of whom helped organize YTO in the early 1990's, responded to the question of why some Yuchis are members of neither Yuchi organization by recalling their experiences trying to get Yuchis to "sign up" for YTO in 1989 and 1990 (FD). "Many [Yuchis] just did not want to [sign up]," the first explained. The second, who is no longer a member of YTO, replied, "When Al [Rolland] was living, he gave me some [membership] forms, and I went to different places, and some of 'em [Yuchis] didn't care one way or the other whether they signed up or whether they didn't."

Several of the individuals mentioned above and one additional person, an E.U.C.H.E.E. member, explained the apparent lack of interest in YTO and E.U.C.H.E.E. as symptomatic of the lack of clear boundaries between Creeks and Yuchis (FD). "Many [Yuchis] are intermixed with Creeks," the E.U.C.H.E.E. member explained. Two YTO members echoed this observation: "A lot of Yuchis opt for assimilation [with the Creeks]," said one. "A whole lot," the other reported, "are intermarried with the Creeks and don't know if it's to their benefit to join the Yuchis."

While some Yuchis identify themselves as Creek, and some, as both Creek and Yuchi, most identify as Creek in some contexts and Yuchi in others. One individual, for example, identified herself as a Yuchi to a BAR researcher but as a Creek citizen when filing suit against a Creek in Muscogee (Creek) Tribal Court (MCN 1985-94, Docket 92-5). Another signed up for E.U.C.H.E.E. and identifies as Yuchi at E.U.C.H.E.E. meetings and events. When announcing his candidacy for Creek National Council, however, he described himself as "a fullblood Creek Indian" (MNN October 1980). According to Pam Wallace in an unpublished paper entitled "Yuchi Intermediary Leaders," submitted by the E.U.C.H.E.E., assuming alternative identities is a generalized strategy of the Yuchi ethnic group (Wallace 1995). It does not appear that this distinguishes those who have signed up for the YTO or the E.U.C.H.E.E. from those who have not.

VI. Evaluation of Autonomy and Maintenance of a Bilateral Political Relationship With A Recognized Tribe

A. Introduction

In order to meet criterion 83.7(f) despite being composed principally of members of a recognized tribe, the members of a petitioning group must not maintain a bilateral political relationship with a recognized tribe. If a group does not meet this condition, it also cannot meet the third condition of being autonomous: maintaining a bilateral political relationship with a recognized tribe necessarily violates the autonomy of a petitioning group in accordance with the definition of "autonomous" in 25 CFR 83.1. This definition states that "autonomous means the exercise of political influence or authority independent of the control of any other Indian governing entity."

More specifically, the conditions for an exception ask whether the members of the petitioning group have participated in the political institutions and processes of a recognized tribe or are otherwise maintaining tribal relations with the tribe; or whether the members of the petitioning group, despite their nominal membership in a recognized tribe, remained autonomous of any other Indian governing entity.

In investigating whether YTO meets these conditions, BAR examined evidence of Yuchi participation in MCN political institutions and structures, which assumed their present outlines in 1979 with the ratification of the current MCN Constitution. Evidence of Yuchi involvement in these structures was collected using archival materials and other sources, including MCN Tribal Court records and back issues of Creek tribal newspapers. Interviews with twenty-five Yuchis, eleven Creeks, and nine others, including spouses of Yuchis and members of nearby tribes, also provided valuable data (FD).

Though it is only the YTO request for federal acknowledgment that is being considered for this finding, the following presentation of the evidence on whether Yuchis maintain a bilateral political relationship with MCN will nonetheless include individuals who are members of the larger Yuchi ethnic group but not members of YTO. This will give the reader a broader perspective on Yuchi political involvement in MCN. It will also show that there are no significant differences in the political involvement of YTO members, E.U.C.H.E.E. members, and Yuchis affiliated with neither group. Throughout, it will be noted whether the individual being discussed is affiliated with YTO or E.U.C.H.E.E. If he or she is not a member of either group, the source of his or her identification as Yuchi will be cited (e.g., the 1956 Yuchi roll compiled by Yuchi leader, S.W. Brown, Jr.).

B. Early Efforts to Reorganize the MCN: 1962 - 1979

Many Yuchis and Creeks refer to 1979 as the year "the Creek Nation was just getting going." The adoption of a new constitution in that year, which transformed Creek political and social life, established new political structures and institutions, including a Creek Tribal Court, and provided opportunities for political involvement in the Creek tribe that had not existed since the turn of the century. It was not until 1979 that Creeks and Yuchis were permitted to enroll in the Creek tribe for the first time since the turn of the century.

A discussion of Yuchi involvement in contemporary MCN political institutions and processes requires that some consideration be given to the years between 1962 and 1979. It is important to take into account efforts in these years to rebuild the political structures that had been formally been dissolved as a result of the 1906 act because it is these efforts that helped lay the groundwork for the institutions that emerged in 1979. As such, early efforts provide clues about the authorship of contemporary MCN institutions, lending insight into the extent to which Yuchis (including YTO members) helped build the present-day MCN and its government.

One of the more important early efforts at rebuilding Creek governance structures was initiated by William E. "Dode" McIntosh, one of a series of Creek Principal Chiefs appointed under the 1906 act by Secretary of the Interior. These chiefs had the formal function of signing land conveyances so as to facilitate the passing of title to Creek lands from the tribe to individuals. On January 27, 1962, Mr. McIntosh issued a call to all Creek leaders asking that they "assemble themselves and join him in the re-organization of a new Creek Council body to carry out the traditional form of Government with headquarters at the Old Creek Council House" (McIntosh 1962).

Three Yuchis, one of whom is now a YTO member, were among the "hundreds of Creeks" who answered his call by arriving at the spot of the first Creek Council house (Creek Tribal Council 1962a, 1962b). Alongside forty-three Creeks, these Yuchis took an oath of office, were accorded the title "Creek Council representative," returned for subsequent meetings, and grappled with issues ranging from the safety of Creek children at the Eufaula Boarding School to the pursuit of outstanding Creek Claims against the U.S. Government.

One of the Yuchis who served on this Council and is now a YTO member seems to have emerged as a leader of leaders during these years. It was he whom the Council selected to deliver a response to a welcome address on their behalf. In his speech, this Yuchi referred to "my people, the Creek Tribe" and reported that the Council had "some fine plans and work to do for the betterment of our Tribe" (Creek Tribal Council 1962a).

The Council sponsored several events during its relatively brief tenure, including a Creek Tribal Anniversary celebration held on May 28, 1966. A Yuchi served as a Director of this event (Creek Tribe 1966).

A second effort which served as an important precursor of the contemporary MCN political order was spearheaded by Principal Chief Claude Cox, after the passage of the Five Tribes Act of 1970 (United States Statutes 1970), which discontinued the practice of having the Department of the Interior appoint the officials of the Creek, Choctaw, Cherokee, Chickasaw and Seminole tribes. This law and the Indian Self-Determination and Education Assistance Act of 1975 provided opportunities for tribal governments to assume greater control over matters which affected them. With these laws, Cox, the Creek Tribal council, and committees working closely with the Council embarked on an ambitious program of expanding existing structures of self-governance and developing tribal enterprise.

Despite the fact that this group of leaders was relatively small, there can be no doubt that they developed much of the framework for the 1979 reorganization. The extent to which Yuchis were a

part of this group is therefore especially revealing of the extent to which Yuchis helped build the present-day MCN.

Tribal Council meeting minutes for the five-year period preceding the 1979 MCN reorganization, together with other sources, reveal that nearly a dozen Yuchis assumed leadership positions in the Creek government between 1974 and 1979. For example, Yuchis on the 1956 Yuchi roll served on the Creek Tribal Council that existed during this period; three other Council members, one of whom led the Community Health Services Committee, were identified as Yuchis by a Yuchi elder whom BAR interviewed. Another Yuchi, also a 1956 Yuchi enrollee, led the Manpower Planning Council, while the current chair of E.U.C.H.E.E., Andrew Skeeter, led the Community Development and Tribal Affairs Committee.

During these years of limited opportunities for participating in formal "national level" MCN institutions and structures, at least five Yuchis exercised leadership at the local level, providing direct service to the Creek and Yuchi people on behalf of the Creek Nation. Two of these individuals, both 1956 Yuchi enrollees, helped develop and expand the Creek Nation Manpower YETP Program. In charge of coordinating services for the Sapulpa and Bristow communities, these Yuchis mobilized teams of workers to cut wood, provide transportation, and render other services to Creeks and Yuchis living in the northernmost part of the Creek Nation (MNN December, 1978).

Two other Yuchis, a YTO member and a 1956 Yuchi enrollee, worked for Creek Nation Community Health Services under the direction of a Yuchi who was a Councilman and headed this committee (MNN March, 1979). Another Yuchi became a writer for the Muscogee Nation News, then in its infancy (MNN May 1978b). Upon the event of his appointment as chair of a multitribal advocacy group for elderly Oklahoma Indians, he accepted the honor in the name of the Creek Nation (MNN May 1978b).

C. The Reorganization and its Aftermath: 1979 to the Present

A most controversial issue in the crafting of the contemporary institutional framework of MCN government--an issue hotly debated in the months preceding the ratification of the new Constitution and a source of great bitterness today--was whether ancient Creek tribal towns or Oklahoma counties were to be the geopolitical units for administering local affairs and electing representatives to the Creek National Council (see United States District Court 1976). Creek tribal towns were a cherished legacy of the Creek Confederacy, which had united dozens of historic tribes yet had preserved their ethnic distinctiveness by making them corporate groups responsible for most of their own affairs. These corporate groups reestablished themselves following the removal of the tribe to present-day Oklahoma (Opler 1956, 166).

While the idea of making tribal towns the centerpiece of a new tribal government gained a certain appeal and legitimacy on the basis of the towns' historic origins, the critical problem facing the architects of the new tribal government was that the upheavals of the 20th century had left many Creeks with little knowledge of their ancestors' town affiliation and ancient ethnic identity (FD). On the other hand, some tribal towns had responded to the hardships of the decades following the allotment of the tribal estate and the near dissolution of the Creek tribal government by expanding town structures and institutions of governance. In the late 1930's, for example, three tribal towns, Alabama-Quassarte, Kialegee, and Thlopthlocco, were able to organize as tribes under the Oklahoma Indian Welfare Act of June 26, 1936. These towns continue today to also participate within the Creek Nation. Theirs were, of course, among the loudest voices objecting to the idea of using Oklahoma counties instead of the towns as the basis for administering local affairs and electing representatives to a Creek National Council (FD).

In the Fall of 1979, following a referendum voted on by the Creek people, an uneasy bargain was struck between those promoting the use of the tribal town and those favoring the use of the Oklahoma county as the fundamental geopolitical unit of MCN: Creek communities, including tribal towns, would be permitted to organize as MCN "Chartered Communities," which would assume partial control over some local affairs, while Creek National Council representatives would be elected on the basis of eight territorial districts defined in whole or in part by Oklahoma counties (FD). All Creek citizens, regardless of the district in which they would live or the "Chartered Community" to which they would belong, were to directly elect the Principal Chief and Second Chief.

Given MCN's commitment to two levels of Creek government--the local level and the "national" level--the following review of the evidence on the participation of members of the Yuchi ethnic group in MCN political institutions and processes considers both levels of Creek government. The "national" level discussion addresses Yuchi participation on the Creek National Council and Yuchi efforts to capture the office of Principal Chief and Second Chief. It presents evidence of Yuchi involvement as MCN executive appointees and government employees, and addresses Yuchis' use of the Creek Tribal Court.

The discussion of Yuchi participation at the local level of MCN government considers evidence of Yuchi leadership and involvement in the formally-organized Muscogee (Creek) Indian associations chartered by MCN. These "Chartered Communities" have their own constitutions and bylaws, which are approved by MCN, and each elects a Chair and Board members to serve the Community and MCN (FD). BAR researchers examined five such Communities organized by Creeks and Yuchis in the Yuchi area of northeastern MCN.

Unlike some other ethnic groups in MCN, Yuchis do not consider any of these five Creek organizations to represent continuities of their Tribal Towns (FD).

D. Yuchi Participation at the National Level of MCN

Members of the YTO, and the Yuchi ethnic group in general, have participated actively at the national level of the MCN since its reorganization in 1979. From the first election in December of 1979 to the present, at least seventeen members of the Yuchi ethnic group have run for the offices of Principal Chief, Second Chief, and Creek National Council representative. Four have run for Chief, and one, for Second Chief. Fourteen, including two who have also run for Chief and Second Chief, have been candidates for the Creek National Council. Information on candidacies and elections are drawn from the MCN newspaper and other documentary sources (MNN December 1979a, October 1980, November/December 1980, October 1983, November 1983, July 1985, November 1985, November 1987, September 1989, August 1991, October 1991b, November 1993, MCN 1993-94).

Ten Yuchis have been elected to the National Council. Seven have served at least two terms, and two have served six terms. Together, Yuchis have served twenty-seven terms on the Creek National Council and have been on the ballot at least forty times in the nine MCN national elections since 1979. This includes a special election held in 1980 to replace several Councilmen.

Though the petitioning group, YTO, is only a fraction, 8 percent or less, of the Yuchi ethnic group, YTO members represent 17 percent of the Yuchis who have run for MCN National office. Three of the seventeen Yuchis who have been candidates for Chief, Second Chief, and National Council have been members of the YTO and a fourth is on the incomplete 1995 list and has indicated his interest in being a member. One YTO member has run for Chief and one current YTO Board member has run for National Council. Overall, because some YTO members have run for office several times, a YTO member has been on the ballot at least nine times in the nine national elections held since the new Constitution was ratified in 1979.

Three of the four YTO members that have run for office have been elected. Two have been reelected several times. YTO members have been elected to six of the total of twenty-seven terms that Yuchis have served on the Council. This represents 22 percent of the National Council terms that Yuchis have served.

Yuchi participation on the National Council is particularly remarkable given the small size of the Yuchi ethnic group and the even smaller size of YTO relative to the number from the Yuchi ethnic group enrolled in the MCN. With approximately two

thousand individuals, Yuchis comprise only five percent of MCN citizens, which numbered 37,747 in late February, 1995 (FD). Yet members of the Yuchi ethnic group have made up an average of fifteen percent of the National Council since 1979. This means that members of the Yuchi ethnic group have been elected to the National Council at three times their proportion of all Creek citizens. YTO members in turn have been elected at a high rate in comparison with Yuchis in general.

BAR interviewed the two YTO members who have served more than one term on the National Council. One reported that he had run for office "to represent Yuchis and Yuchi interests" in a society in which Yuchis are a tiny minority. He cited his efforts at getting a community building for the MCN Chartered Community of Sapulpa as one of the many ways he had promoted "Yuchi interests." In detailing the history of his efforts to get this building, which predate his election to the Council, he stated that before the MCN reorganization in 1979, the Creek Nation had leased "an old schoolhouse" to the Sapulpa Community, and he had "put a sign up that said 'Yuchi Indian Community Center Building.'" Soon after, however, he alleged that he had received a letter from the Chief asking that the sign be taken down as the building "was not just for the Yuchis." It was this event, the Councilman reported, that helped inspire him to run for Council.

An interview with the other YTO member who has served more than one term on the National Council revealed that he understood his role on the Council differently. This individual reported that he, too, had worked for "Yuchi interests" while serving on the Council, citing his successful effort to pass a resolution in support of Yuchi efforts to separate from the Creeks. He acknowledged, however, that most of his votes were from Creeks and that "there aren't enough Yuchis to get elected as a Yuchi." He stated that he had therefore approached his terms on the National Council "knowing" that he would be "representing all of Creek Nation" and "serving all of Creek Nation." It was this, he suggested, that had motivated him to run for Council.

This second former Councilman spoke at length about the fact that, unlike most Yuchis, he had run for Council as "openly Yuchi." Stating that Yuchis rarely identify themselves as Yuchis to Creeks, he said that when he served on the National Council, "there were three or four other council members" besides himself and another individual who were not "open" about being Yuchi. He noted that, as a Yuchi, this was a source of great disappointment to him.

Whether Yuchis present themselves as Yuchi or Creek or some combination in seeking election was not investigated in detail. A review of the position statements of three Yuchi candidates for National Council which were printed in the official tribal

newspaper, however, suggests that Yuchis may highlight their Creek identity when running for National Council. One candidate described himself as "fullblood Creek Indian," another, as "15/16 Creek," and a third as "4/4 Euchee Creek" (MNN October 1980, October 1983).

In addition to serving on the Creek National Council, members of the Yuchi ethnic group exercise leadership at the national level of MCN as executive appointees and government employees. One individual, who is a member of neither YTO nor E.U.C.H.E.E. but appears on the 1956 Yuchi roll and has a brother who is a YTO member, was appointed to the Creek Nation Citizenship Board in 1981 (MNN January 1981). This board, which is comprised of five persons, reviews applications for MCN citizenship and makes determinations on whether the individual may be enrolled in MCN. Another Yuchi, who has not signed up for YTO or E.U.C.H.E.E. but whom several Yuchis identified as a Yuchi, served as MCN Tribal Attorney until July of 1990 (MNN July 1990).

Two Yuchis, one of whom is a YTO member and the other a member of neither Yuchi organization, were appointed Supreme Court Justices of MCN (MNN November/December 1980). Both are former Council members. One was appointed in November of 1980 as one of the first five Supreme Court Judges for the Creek tribe since the dissolution of the Creek Tribal Court system in the 1890's.

A YTO member has worked as a caseworker for MCN's Children and Family Services Department (MNN October 1991a), and the Chair of E.U.C.H.E.E. works as an Economic Development Specialist for MCN. A Yuchi who is a member of neither Yuchi organization served as employee coordinator for MCN (MNN May 1981), and another, also neither a YTO nor E.U.C.H.E.E. member, managed the MCN Property and Supply Department (MNN July 1978).

Dockets of cases litigated through the Creek Tribal Court, which began hearing civil cases in 1985 and criminal³ and misdemeanor cases in 1992, indicate that members of the Yuchi ethnic group use the Creek Tribal Court (MCN 1985-1994). The BAR found no evidence to show that the Yuchi were refusing to utilize the Creek Tribal Court system by turning to Yuchi leaders or arbitrators to resolve conflict, as was the case for the San Juan Southern Paiute.

Two Creek Tribal Court cases show Yuchi political involvement in the MCN because Yuchi are shown acting as local or "national" governmental officials in the suits, or because they are suing as

³ The criminal cases were reviewed but did not provide information relating to the political involvement of Yuchis in the Creek Nation.

Creek citizens concerning the validity of local elections. For example, in a specific case, a YTO member exercised his authority as Chair of the Finance Committee of the Creek National Council to obtain a Writ of Memorandum against three members of the executive branch of the Creek tribal government. In December of 1993, a Yuchi who is a member of neither Yuchi group sued Creeks and Yuchis in their capacity as officers of the Bristow Muscogee Indian Community.

E. Yuchi Participation in Local Level MCN Political Institutions

Efforts to complement Creek governing institutions at the national level with formal political institutions at the local level date to at least 1976, when the Community Services Program of Chief Claude Cox's administration identified twenty-eight Creek communities and encouraged them to organize as formal Muscogee (Creek) Indian associations. Following the ratification of the new Constitution and the election of Claude Cox as Chief, Cox explained that these organized communities are designed to "provide input into tribal government, as well as respond to the unique needs of tribal citizens at the local level" (Creek Nation 1983). Today there are twenty-five Chartered Communities (MCN 1993-4).

Before reviewing evidence of Yuchi participation in these communities, it is important to provide some background on these organizations. First, the nature and scope of political involvement and activity of these communities varies widely. Even so, the leadership of most communities works closely with the National Council representatives of the Creek Counties in which they are a part and with the Executive Branch of MCN (FD). With Council representatives, the elected officials of communities generally help members in their communities procure housing, medical assistance, and other MCN services. Together with the Executive Branch, many communities co-administer programs such as G.E.D. classes, Creek language classes, and special programs for Senior Citizens. In addition to the block grants, communities receive from the National Council, most communities generate income from smokeshops, bingo, art contests, raffles, and/or T-shirt sales. For the most part, these funds are used for economic development and special needs in the Community. At least one Chartered Community, that of Okmulgee, sponsors and administers a college scholarship.

Regardless of the type and extent of responsibilities a Chartered Community may take on after being incorporated by MCN, all twenty-five communities have achieved recognition by MCN through a single administrative process. Governing the recognition of communities are MCN regulations, which include an evaluation of the group's claim by the MCN's Division of Community Services (FD). The group must demonstrate that it is a community; submit

a Constitution and set of by-laws that are approved by MCN; identify the voting membership of the group, which must be comprised entirely of MCN citizens; and elect a set of officers who are Creek citizens of at least one-fourth Creek blood.

Upon recognition, "Chartered Communities," also known as "Muscogee Indian Communities" or "tribally chartered towns," are entitled to receive appropriations and funding from MCN, to operate smoke shops under the authority of MCN, and to occupy and use the tribe's real estate and buildings and/or purchase their own land. In the northeastern area of MCN, the area in which most Yuchis live, there are at least five chartered communities. The Chartered Community of Glenpool owns five and a half acres and three buildings; the Community of Duck Creek, twelve and a half acres and a community center. The Community of Kellyville owns a smokeshop, and the Community of Bristow, a feed store. The Community of Sapulpa has held Yuchi and Creek language classes.

Reports in the Muscogee Nation News, together with interviews, revealed that members of the Yuchi ethnic group (including the YTO) have exercised leadership in each of these five MCN communities of Bristow, Duck Creek, Glenpool, Kellyville, and Sapulpa in northeastern MCN. In fact, Yuchis have been elected officials of all five of these communities. At least three Yuchis have been elected Chair of a Community; at least four, Vice Chair; and at least six, Board members.

Yuchis have also filled non-elected positions in these communities. Two Yuchis have held the position of Community Aide at the Duck Creek Community. During the late 1970's, four Yuchis composed the Senior Citizens Committee of the Sapulpa Chartered Community. At the request of MCN, one Yuchi taught a Yuchi language class for the Kellyville Community; and another, a sewing and beading class for the Duck Creek Community.

Of the elected Yuchi leaders of chartered communities, three are YTO members. One Yuchi leader who has expressed a desire to be a YTO member was elected chair of a chartered community in the late 1970's and served fourteen years in the position. Two of the six Yuchis who have been elected to the board of a Chartered Community, or one-third these Yuchi leaders, are YTO members. One of these served on the Board of the Sapulpa Community and the other on the board of the Glenpool Community.

Not only have members of the Yuchi ethnic group, including YTO members, led and helped lead the MCN Chartered Communities in their area, but also the minutes of three Community meetings, which show a high incidence of Yuchi attendance, suggest that there is broad Yuchi participation in these local MCN political structures. At a meeting of the Kellyville Community on May 7, 1979, twenty of the thirty persons who attended, or two-thirds,

were Yuchi. Five were later YTO members, and four, E.U.C.H.E.E. members (MNN June 1979). Twenty individuals attended a meeting on May 8, 1980, also at Kellyville. Twelve of these, or sixty percent, were Yuchi, including three eventual YTO members and one eventual E.U.C.H.E.E. member (MNN May 1980). At a third meeting, held by the Chartered Community of Sapulpa on March 27, 1978, eight of sixteen attendees, or fifty percent, were Yuchis, including one eventual YTO member and one eventual E.U.C.H.E.E. member (MNN May 1978a).

Events organized by these communities and reported in the Muscogee Nation News provide additional evidence that members of the Yuchi ethnic group are active members of MCN Chartered Communities in the northeastern area of MCN. On December 8, 1990, the Community of Glenpool hosted a food sale and arts and crafts fair. Both events were sponsored and organized by the petitioning group, YTO (MNN December 1990). On May 13, 1980, the Kellyville Community held a quilting class with material supplied by MCN. It was a Yuchi who chose and supplied the pattern, a "Windmill" design, while four of the seven quilters were Yuchi (MNN May 1980). On February 15, 1980, the Duck Creek Community held a benefit bingo game, raising over two hundred dollars for a Yuchi family in need. Five communities in the area donated clothes and goods to the family (MNN February 1980).

The point should be stressed that the formal political organization of these communities and their formal relationship with MCN only partially define these five Chartered Communities. The elected officials and membership of these organizations make up real communities. One Yuchi's descriptions of the Kellyville Chartered Community during the late 1970's, for example, suggests that, almost immediately after this Chartered Community was developed and incorporated by MCN in the late 1970's, a larger Creek and Yuchi community began taking advantage of the additional social and political arena that the Chartered Community had created. This Yuchi, who is a member of neither Yuchi organization, described the early days of the Kellyville Chartered Community as follows:

We'd always get together. Maybe we didn't have anything but a pot of beans but we'd take 'em down there [to the Community Center] and we'd just all eat together and enjoy one another . . . [In addition,] We had real good meetings, good meetings. We'd ask the Council people [National Council Members] to come, and I remember one night we had just gobs of people drove a long ways to come up here. We would express our opinions, and they would express theirs.

As the above statement indicates, once organized, chartered communities became a forum for elected officials at the national level to recruit votes at the local level, and for individuals at

the local level to influence policy at the national level. They also served as a vehicle to implement the reorganization under the 1979 constitution.

Only one month after the new Constitution had been written, the Kellyville Community organized an event at the Creek County Fairgrounds for two Creeks and four Yuchis who were running for public office to discuss their views and explain the MCN reorganization. A Yuchi who is a member of neither Yuchi organization delivered the opening prayer (MNN December 1979b). On April 6, 1981, the Kellyville Community held a meeting during which a future E.U.C.H.E.E. member "urged everybody to fill out enrollment forms" to gain MCN citizenship (MNN May 1981). On April 8, 1991, the Sapulpa Community invited the MCN Citizenship and Election Board supervisors to "inform community members of tribal enrollment procedures" and "speak to members about registering to vote in tribal elections" (MNN April 1991c).

On October 14, 1991, the Sapulpa Chartered Community invited Creeks and Yuchis who were running for Principal Chief, Second Chief, and National Council to a "candidates forum" held at the Creek Hills Mall in Sapulpa. On August 20, 1991, the Duck Creek Community sponsored a similar event (MNN October 1991c).

VII. Written Confirmation of Membership in the Petitioning Group

Criterion (f) requires that a petitioner's members provide written confirmation of their wish to be members of the petitioning group. This may take the form of a letter, an application for membership in the group, or a form the group has devised. The only conditions are that it contain the individual's signature and clearly indicate his or her wish to be a member of the petitioning group.

Ninety-nine percent of the YTO membership did not provide written confirmation of their wish to be members of YTO. Only six individuals so affirmed their YTO membership in writing. They are YTO Chair, Melvin George; YTO Board Members, William Cahwee, Ann Holder, and Valerie George; former YTO Project Director, Al Rolland; and one other YTO member. Mr. Rolland has since passed away.

Written confirmation that four of the above individuals wish to be members of YTO took the form of a letter to BAR dated April 22, 1993, which stated that YTO considered the Yuchi petition complete and wished BAR to begin its review under 25 CFR 83 (YTO 1993). The other two Yuchis confirmed their YTO membership in separate letters that inquire about the petition (George 1994b, Long 1994). Because the three letters are signed by the six individuals and indicate their willingness to be members of YTO,

all six fulfill the condition of confirming in writing their membership in the petitioning group.

Though BAR researchers did not investigate why YTO members did not provide written confirmation of their YTO membership, the administrative history of BAR's review of the Yuchi petition demonstrates that it was not because the YTO leadership and members were unaware of the requirement. The administrative history suggests that other reasons, perhaps related to the group's internal matters or to their members' relationship with MCN, may explain YTO's failure to meet this condition.

BAR researchers contacted YTO leader, Mr. George, about the requirement of written confirmation in November, 1994, when they informed him that BAR was preparing to place the Yuchi petition on active status in accordance with his letter of April 22, 1993. At that time, BAR had not received written confirmation of the YTO membership of 159 of the 165 members on the YTO list. In December, 1994, BAR again contacted Mr. George to let him know that it still had not received written confirmation from YTO members. During this conversation, Mr. George agreed to provide this material, together with any changes in the membership list, by January 31, 1995.

On December 21, 1994, at a meeting in Glenpool, Oklahoma, BAR informed YTO Board Members of Mr. George's intentions and underscored the necessity of providing written confirmation of YTO members' wish to be members of the petitioning group. BAR also explained this requirement and how it could be met to approximately fifty Yuchis at a public meeting in a Creek community center on December 29, 1994. YTO had organized this meeting, which was advertised in local newspapers, to discuss YTO and the recognition process.

When an extended list of names designated as the YTO membership list was provided to BAR on January 31, 1995, it did not provide written confirmation of the YTO membership by any of those individuals whose names appeared on the list (YTO 1995). The submitters, Mr. George and Ms. Holder, also did not indicate that they would be able to provide this at a later date.

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Abbreviations

- BAR Branch of Acknowledgment and Research
- E.U.C.H.E.E. Eucliees United Cultural, Historical and Educational
 Effort
- MCN MCN
- MNN Muscogee Nation News
- OHS Oklahoma Historical Society
- YTO Yuchi Tribal Organization

cc: SecSurname;SecRF(2);BIASurname;440B;440Chron;400
 101A;BureauRF
 Hold;ROTH;kr;x3592;6/13/95;6/14/95;6/22/95;
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