United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

Tribal Government Services - AR
MS 2611-MIB

Mr. John C. B. Thomas
P.O. Box 3028
Bruce, Florida 32455

APR 11 1996

Dear Mr. Thomas:

The Branch of Acknowledgment and Research (BAR) has completed an initial review under sections 83.10(b) and 83.10(c) of the Acknowledgment regulations of the Florida Tribe of Eastern Creek Indians' (FTEC) petition for Federal acknowledgment as an Indian tribe. This letter is issued under section 83.10(c). It describes any obvious deficiencies or significant omissions apparent in the Florida Tribe of Eastern Creek Indians' petition.

The technical assistance (TA) review is provided for in the acknowledgment regulations to ensure 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 TA review provides the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information and/or clarification prior to the actual active consideration period.

The TA review does not purport to be a preliminary determination of any case. This TA 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 TA review imply in any way that the group will meet the seven mandatory criteria by simply submitting additional data. The TA 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 Bureau of Indian Affairs (BIA) 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.

Petitioners have the option of responding in part or in full to the TA review or of requesting, in writing, that the Assistant Secretary - Indian Affairs proceed with the active consideration of the documented petition using the materials already submitted. The BIA makes the final determination as to whether a petition is ready for active consideration.

The decision as to whether or not the group chooses to address the deficiencies noted in the TA review should be made by the petitioning group and not solely by its researchers. If your group requests that the materials submitted in response to the TA review also be reviewed as to their adequacy, the Assistant Secretary will provide the additional review. 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.

Specific Concerns:

The petition of the Florida Tribe of Eastern Creeks has been reviewed. Many of the current leaders of the group have been closely involved with two groups whose petitions have already been denied under the 25 CFR Part 83 regulations: the Lower Muskogee Creek, and the Principal Creek Nation. Copies of these two Final Determinations, with the preceding Proposed Findings and Technical Reports, are enclosed for your review. Please have your researchers pay particular attention to the portions of these prior findings which address documentation which was found insufficient for Federal acknowledgment for those petitioners. Some of this documentation has now been resubmitted, in essentially unchanged form, in the Florida Tribe of Eastern Creek Indians' petition. This particularly includes the discussion of the Ward family narrative and church data in the Lower Muskogee Creek case.

The BIA has received a letter of intent to petition for Federal acknowledgment by the "Apalachicola Band of Creek Indians." Your response should include a section explaining the circumstances of the apparent split between the Florida Tribe of Eastern Creeks and the Apalachicola Band of Creek Indians and its impact upon the enrolled membership of the Florida Tribe of Eastern Creeks and the political structure of the Florida Tribe of Eastern Creeks.

General Comments:

Our review indicates that there are significant omissions in your petition. The section below explains the requirements of the

criteria in greater detail. In addition, we strongly urge that you and your researchers contact BAR to arrange a meeting or conference call, so that we can discuss the criteria further and provide more specifical technical assistance.

You should submit photocopies (not just typed abstracts or extracts) of all sources cited in the petition and not already submitted. All books and articles cited should include the title page. Please also provide copies of the cited oral history interviews, including an indication of their source.

Criterion 83.7(a):

EXTERNAL IDENTIFICATION OF THE GROUP AS AN AMERICAN INDIAN ENTITY ON A SUBSTANTIALLY CONTINUOUS BASIS SINCE 1900

This criterion requires proof of the external identification of your group as an American Indian entity since 1900. The criterion is intended to exclude from acknowledgment those entities which have only been identified as being Indian in recent times or those whose "Indianness" 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 the six kinds of sources--which may be relied upon as evidence to demonstrate a group's continuous Indian identity, including identification by Federal, State and local governments, scholars or other writers, in newspapers and books, and/or by recognized tribes or national Indian organizations. The petitioner is not required to submit evidence from each of the six sources. This criterion requires continuous identification since 1900 using any type or combination of types of the six kinds of sources described. It is important to demonstrate that any identifications found refer to your group specifically and not to other Indian groups that may have resided in the same general geographical area.

Essentially, the petition as presented provides no external identifications of your group as a body of Creek Indians, or as three interrelated bodies of Creek Indians, between 1900 and the beginnings of Eastern Creek claims activity in the early 1950's. Identifications between the 1950's and the 1970's of Creek organizations such as the Creek Nation East of the Mississippi also do not clearly refer to your group. The petition provides no external identifications of any of the three subgroups during the 1900-1970 period. The response should address this omission.

Criterion 83.7(b):

A PREDOMINANT PORTION OF THE PETITIONING GROUP COMPRISES A DISTINCT COMMUNITY AND HAS EXISTED AS A COMMUNITY FROM HISTORICAL TIMES UNTIL THE PRESENT

This criterion requires a demonstration that the petitioning group has been a community from historical times until the present. 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 Federal acknowledgment regulations under 25 CFR Part 83 do not acknowledge Indian descendancy organizations as tribes. The qualifications for Federal acknowledgment are not identical to the qualifications for participating in Indian Claims Commission (ICC) awards. The petitioning group must be more than a collection of descendants with common tribal ancestry who have little or no connection with each other. In order for a petitioner to meet criterion 83.7(b), sustained interaction and significant social relationships must have existed in the past and still 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 the petitioner as a whole are significantly connected with each other.

In your petition, the three major subgroups are basically addressed separately. No substantial connections among the Ward group, the Harjo/Boggs/Parrot group, and the Escambia County group are shown to have existed from the dates of the pre-Civil War settlement of their ancestors in the Florida panhandle until the mid-20th century. That is, the petition shows no interaction among them prior to the initiation of claims activity in the late 1940's. The interaction discussed since that date consists of activities undertaken in common by the leaders of the various claims organizations, not interaction as a community or even separate communities.

The Federal acknowledgment process is not designed to provide tribal affiliation for Indian descendants who do not meet the membership requirements of a federally acknowledged tribe. It is designed to extend formal Federal acknowledgment to existing tribes which, for some reason, have not been federally acknowledged in the past or are no longer federally acknowledged.

The petition indicates that some of the members of the Florida Tribe of Eastern Creek Indians who trace their ancestry to Escambia County, Alabama [sic] have joined the Poarch Band, which "may lead" to some membership overlap between the petitioner's membership and the roll of the Poarch Band. Preliminary review by the BAR indicates that this is so. It should be addressed in light of the permissibility of dual enrollment.

The petition indicates that other persons from the Escambia County subgroup on the Florida Tribe's membership list are relatives of current Poarch Band members. It describes these as individuals who do not, however, meet the Poarch Band membership requirements and have been "invited" to join the Florida Tribe. Your petition does not show, however, that a majority of the Escambia subgroup or its ancestors were part of the Poarch Band community, even though some of them have some common ancestry. To meet criterion 83.7(e), it is necessary to show that the entire Escambia subgroup historically existed as a distinct community, or that it was part of the Poarch community that separated but continued to exist as a group.

The petition shows that although the Wards' Creek ancestry was well-known, the family was consistently identified as white throughout the 19th century, on Federal census and other authoritative documents. As written, the petition provides some evidence that the Ward family lines formed an extended kin group. However, an extended family group descended from one Indian ancestor, no matter how large or cohesive the group of kinsmen, does not form a tribe. Consequently, it is necessary to show that this group formed part of a larger tribal community. The petition specifically shows the Wards' interaction with the white community in which they lived, but shows no historical interaction, throughout the 19th and early 20th centuries, between the Ward subgroup and other Eastern Creeks or their descendants.

The petition discusses at length private maintenance of a family tradition of Indian ancestry. However, this does not establish the existence of community within the meaning of criterion 83.7(b). Families may well have pride in their documented American Indian ancestry, but nonetheless not live or have lived in tribal relations.

There was little documentation to demonstrate that the Harjo-Boggs group had functioned as a distinct community. There also was no information or documentation provided concerning the origins and history of the Pine Arbor-Topachula community which it describes as part of the Harjo-Boggs group. The petition also needs to address how this community is connected with the Harjo-Boggs group.

Criterion 83.7(c):

THE PETITIONER HAS MAINTAINED POLITICAL INFLUENCE OR AUTHORITY OVER ITS MEMBERS AS AN AUTONOMOUS ENTITY FROM HISTORICAL TIMES UNTIL THE PRESENT

Criterion 83.7(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.

LEADERS

Essentially, the petition as presented analyzes the internal leadership of the Ward family group, analyzes the internal leadership of the Harjo/Boggs/Parrott family group, and does not address the historical leadership of the Escambia County group. The petition shows no political leadership of the petitioning body as a whole from the 19th century to the formation of the Florida Tribe of Eastern Creeks organization. Even for the most recent period, since 1970, the petition indicates that many of the current leaders have also been involved in other Eastern Creek organizations and does not show that they have strong reciprocal ties to the overall membership of the current petitioner. You may wish to refer to the technical reports accompanying the Poarch Band of Creeks proposed finding, as well as those concerning the Lower Muscogee Creeks and Principal Creek Nation. Copies of all of these have been enclosed.

The petition must show that there is a political connection between the membership and leaders and thus that the members of the group and its leadership 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 83.7(c).

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 tribal political authority, leadership, and decision-making must have been retained.

Criterion 83.7(d):

GOVERNING DOCUMENT

The petition includes a copy of the constitution of the Florida Tribe of Eastern Creeks which was adopted on May 28, 1978, with amendments made between 1980 and 1991. Article IV and V of the constitution describes the geographic jurisdiction and the membership criteria; however, there is no description of how the chairperson or membership committee determines that the applicants are eligible.

Were there governing documents for the Northwest Florida Indian Council or any other organization that preceded the formal organization of the FTEC? If so, please enclose copies of those constitutions, by-laws or other governing documents.

MEMBERSHIP CRITERIA

Include in the petition a description of the application procedures, a copy of the membership application, a description of how the Florida Tribe of Eastern Creeks determines whether or not an applicant is eligible for membership, and a description of the group's procedures for the maintenance of official enrollment records.

Please explain the membership criteria for the earlier group(s), such as the Northwest Florida Indian Council, which you regard as having preceded the organization of the Florida Tribe of Eastern Creeks.

Criterion 83.7(e):

CURRENT MEMBERSHIP LIST

The membership roll which was certified by the council appears to be simply a mailing list with numbers such as "FT# 89013" and "EC# 11312," after each member's name. The membership roll does not include birthdates, parents' names, or other information to determine descent or to confirm family relationships among the current membership. Several people have the same numbers. Please explain the relationship of the number to the member.

The current membership list should include, at a minimum:

- Maiden names of women;
- Addresses, birth dates, nuclear family relationships (particularly parents' names);
- An explanation of the various numerical codes on the present list.

We cannot overemphasize the overall importance of a group's membership list. It defines the group, that is, those people who make up the community. If recognized, the list of members submitted for acknowledgment purposes will become the group's base roll for BIA purposes, and, as such, will be binding on the group for some time to come, except for minor corrections. Thus, it must be complete.

In evaluating other criteria such as (a), (b), and (c), this community defined in the membership list is the unit which will be focused upon. For this reason, it is extremely important that the membership be defined accurately. Otherwise, the petitioner runs the risk of failing to meet other criteria because the 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.

The group's membership list should include the separate certification by the group's governing body that it is the group's accurate, complete and current list.

You will be notified when the petition is being placed on active consideration. At that time, it will be appropriate to submit a supplemental list. The supplemental list should include those additions to the membership, such as new births, who are considered to be members, any individuals who were inadvertently omitted from the list submitted with the petition, and a note of those members on the original list who are deceased at the time the petition is placed on active consideration.

FORMER LISTS OF MEMBERS

Were other membership rolls made prior to 1995? If so, please include copies with your response.

EVIDENCE OF DESCENT FROM THE HISTORIC TRIBE (GENEALOGIES OF CURRENT MEMBERS OF THE GROUP)

Without genealogical data, the BIA can not determine how the membership of the petitioner descends from the historic tribe of Indians. At present, you have not provided evidence that the membership descends from a tribe of American Indians. Page 13 of the petition states that pedigrees and privately held family records are not in the petition, but will be made available to BAR

researchers during a site visit. This is not acceptable, because standard evaluation procedure is that a petitioner's membership list and genealogical information are entered into a data base for use of the BAR researchers before the site visit occurs. Further evaluation of the petition cannot be undertaken without adequate genealogical evidence that the petitioner does indeed descend from a tribe of American Indians.

The petition as submitted does not include ancestry charts and family group sheets for the group's membership (see the enclosed material on genealogy, which BAR provides to all petitioners, to indicate what needs to be included). It is not necessary that you use these specific forms if you already have the material entered on other styles of charts, or entered into a computerized genealogy program. However, you will need to provide some type of ancestry or pedigree charts and individual history sheets or family group sheets for the adults in the current membership. If there are several members from one family, then one pedigree chart and related individual history sheets will suffice. Documentation proving the descent of the individuals or families from a historic tribe should accompany the pedigree sheets.

The petition also states that the FTEC has an extensive genealogical section in the council house with many volumes of bibliographical materials. Please send samples from these files for some of the significant family lines, such as the Ward, Boggs, Ramsey, Daniels, Thomley, and Linton.

On the basis of the petition narrative, and work done by BAR on Eastern Creek groups in connection with prior Federal acknowledgment decisions, the Creek ancestry of families from the Poarch Band or related to the Poarch community, and of the descendants of Elizabeth (English) Ward, has been accepted. Members of the Florida Tribe who are descendants of these families would merely have to document their lineage to known Creek ancestors. We reemphasize that the documentation of Indian ancestry does not mean the continuation of Indian community under criterion 83.7(b). Many American families with North American Indian ancestry are not members of federally acknowledged Indian tribes.

However, the petition narrative concerning the Harjo/Boggs/Parrot family does not provide clear documentation that this family can show descent from the historic tribe. Chronologically, it appears that one generation too many is claimed during the 19th century: an entire generation is duplicated. The documented children of John and Mary (Musgrove?) Boggs are portrayed in the petition narrative as children of a Creek/Cherokee woman named Polly Parrot.

No contemporary documentation of the existence and ancestry of Polly Parrot was provided in the petition, nor was there any documentation of her supposed connection with the Creek Cochran

family (Tuske Harjo) or her interaction with the Blounts at the time the Boggs family settled in Florida at some time prior to 1850. Some of claims made were not possible: a woman born in 1784 cannot have married at age 16 in 1810; a woman born in 1784 cannot have borne a son in 1840; a supposed son of this woman, Coleman Boggs, appears to be identical to Ezekiel C. Boggs, a son of John and Mary (Musgrove?) Boggs.

BAR staff obtained the 1850 census of Jackson County, Florida, and the 1880 census of Jackson County, Florida to supplement the petition exhibits. These indicate that the earliest documented progenitors of this family were John Boggs, born ca. 1811 in Georgia, and his wife Mary, who was also born in Georgia. The petition presents nothing but family tradition concerning the parentage of this John Boggs. Nothing but family tradition is presented concerning the maiden name (Musgrove) of his wife. Both the 1850 census and on the 1860 census (submitted as a petition exhibit: Chapter 3, Exhibit 11) indicate that Mary, wife of John Boggs, was born ca. 1820 in Georgia. This does not conform to the narrative's claim that Mary Musgrove was a Florida Indian, born ca. 1800 at Miccosukee. Neither are the census birthdates compatible with the claim that John Boggs and Mary Musgrove married ca. 1817.

All of the 19th-century census records recorded this Boggs family as white.

Criterion 83.7(f):

MEMBERS OF THE PETITIONING GROUP MAY NOT
BE ENROLLED IN ANY RECOGNIZED TRIBE

A statement from the current members of the Florida Tribe of Eastern Creeks, perhaps included on an application for membership, that the applicant is not an enrolled member of a federally recognized Indian tribe would fulfill this criterion. Similarly, a formal statement from the governing body that the membership is not principally composed of enrolled members of other federally acknowledged tribes is adequate.

Summary:

Although there are significant omissions in the petition, we believe that we have adequate materials from this and your earlier petition, and our own files, to complete most aspects of a review of the Florida Tribe of Eastern Creeks' petition. We will however, require a revised membership roll, as described above, and the genealogical material, as described above, before we can place your petition on ready status. If you have additional material in your files pertaining to criterion 83.7(a), we urge that you also submit it as exhibits to the petition. As soon as you submit these materials, many of which you have on hand, we will consider your material ready for evaluation.

A determination that a petition is ready for active consideration means there are sufficient materials with which to conduct a review under the regulations. It is not a determination that the materials are adequate to answer all questions or that a decision has been reached concerning the petition for acknowledgment.

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

Sincerely,

/S/ HARRY A. RAINBOLT

Acting Director, Office of Tribal Services

Enclosures

cc: Apalachicola Band of Eastern Creeks
Creek Nation

Surname;440B;440Chron
Hold:VEDeMARCE:ved:x3592:10/13/95ved:2/8/96rs;
3/12/96gr;3/25/96jc;3/27/96gr - green letters5 disk\ftecrk.ta5