Proposed Finding Against Acknowledgment

of the

Georgia Tribe of Eastern Cherokee, Inc.
(Petitioner #41)

Prepared in Response to a Petition Submitted to the Assistant Secretary – Indian Affairs for Federal Acknowledgment as an Indian tribe.

Date: MAY 06 2016

Acting Assistant Secretary – Indian Affairs

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Proposed Finding

The Georgia Tribe of Eastern Cherokee
(Petitioner #41)

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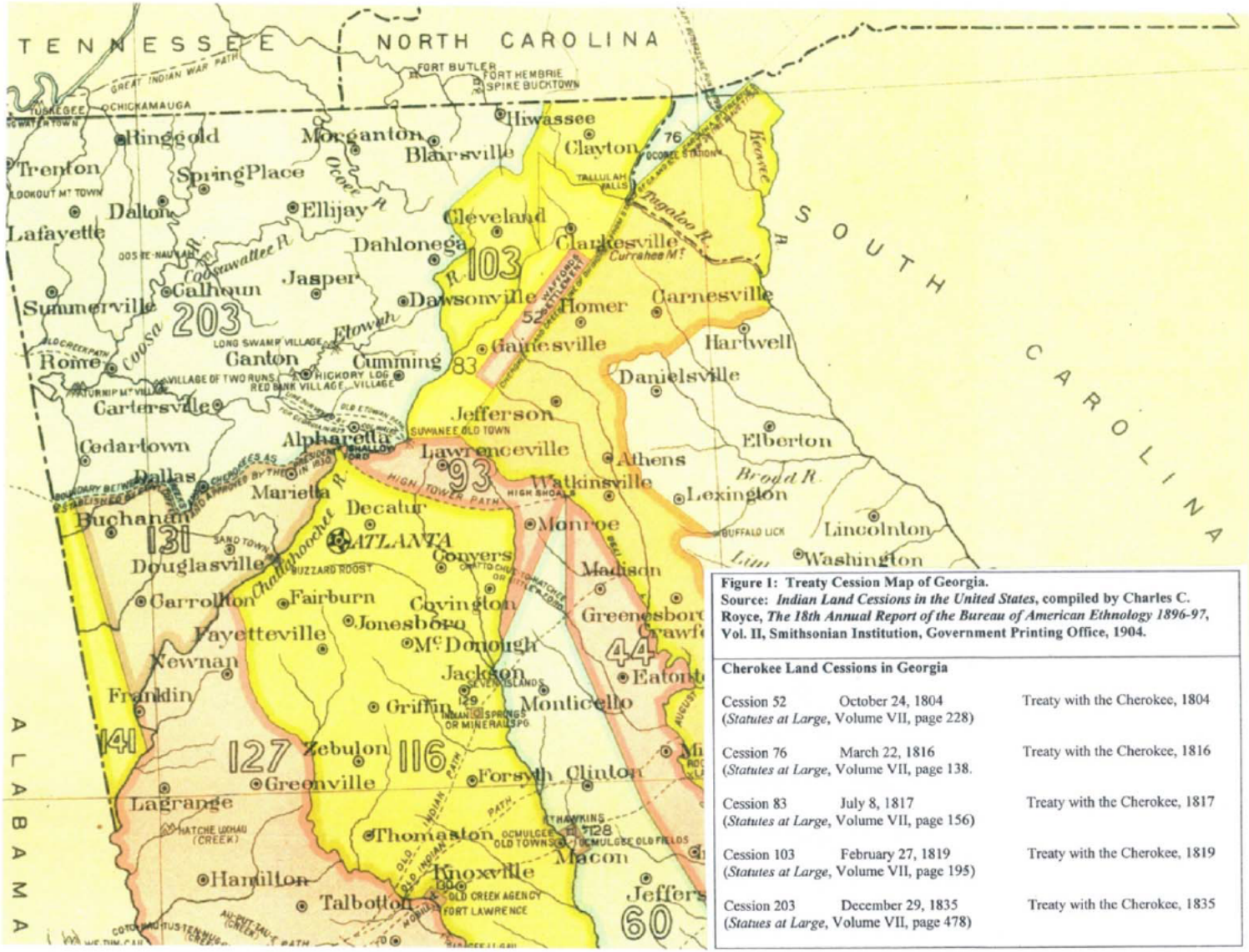
ACRONYMS and/or ABBREVIATIONS in THIS REPORT

AS-IA	Assistant Secretary − Indian Affairs
BAR	Branch of Acknowledgment and Research
BIA	Bureau of Indian Affairs
CN	Cherokee Nation
CFR	*Code of Federal Regulations*
DOI	Department of the Interior (the Department)
FR	Federal Register
FD	Final Determination
GTEC	Georgia Tribe of Eastern Cherokee, Inc. (the petitioner)
IBIA	Interior Board of Indian Appeals
ICC	Indian Claims Commission
IRA	Indian Reorganization Act
OFA	Office of Federal Acknowledgment
PF	Proposed Finding
SOL	Office of the Solicitor, Department of the Interior


TENNESSEE
NORTH CAROLINA
SOUTH CAROLINA
ALABAMA
GREAT INDIAN WAR PATH
FORT BUTLER
FORT HEMBRIE
SPIKE BUCKTOWN
TUSKEGEE
CHICKAMAUGA
Ringgold
Morganton
Blairsville
Hiwassee
Clayton
Trenton
Spring Place
Ocoee R.
Ellijay
Dalton
Lafayette
Cleveland
Dahlonega
Clarkesville
Currahee M.
Tallulah Falls
Tugaloo R.
Keowee R.
Coosawattee R.
Calhoun
Jasper
Dawsonville
Homer
Carnesville
Summerville
Coosa
Etowah
Gainesville
Hartwell
Rome
Ganton
Cumming
Danielsville
Cartersville
Jefferson
Alpharetta
Lawrenceville
Elberton
Cedartown
Athens
Dallas
Mariella
Watkinsville
Lexington
Broad R.
Buchanan
Decatur
Monroe
Lincolnton
ATLANTA
Douglasville
Convers
Madison
Washington
Carrollton
Fairburn
Covington
Greenesboro
Jonesboro
Fayetteville
McDonough
Newnan
Jackson
Franklin
Griffin
Monticello
Zebulon
Greenville
Forsyth
Clinton
Lagrange
Thomaston
Macon
Hamilton
Knoxville
Talbotton
Chattahoochee R.
Flint R.
Ocmulgee R.
Oconee R.
Savannah R.
Ogeechee R.
Altamaha R.
Lim
Buffalo Lick
Sand Town
Buzzard Roost
High Tower Path
High Shoals
Old Creek Path
Long Swamp Village
Village of Two Runs
Hickory Log Village
Red Bank Village
Old Etowan Path
Suwanee Old Town
Chattooga Old Town
Old Creek Agency
Fort Lawrence
Indian Springs or Mineral Spg
Seven Islands
Hawkins
Ocmulgee Old Fields
Hatchee Uchau (Creek)
Old Indian Path
Old Indian Path
Old Indian Path

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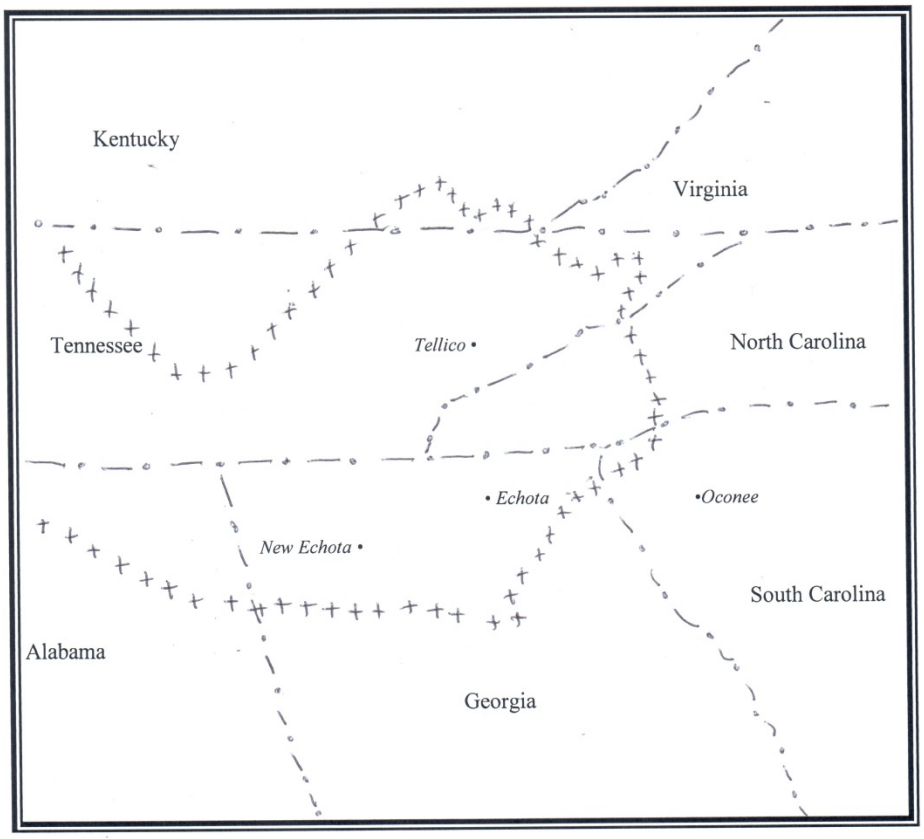
Area of the Cherokee Nation after the American Revolution



Source: Office of Federal Acknowledgment

Not to Scale: Figure based on a map in James Mooney's 1975 *Historical Sketch of the Cherokee*.

Key: __ . __ . = Approximate state borders with *Cherokee towns in italics*
+++++ = Approximate boundaries of Cherokee Nation after the American Revolution, ca. 1783

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INTRODUCTION

The Office of the Assistant Secretary – Indian Affairs (AS-IA) within the Department of the Interior (Department) issues this proposed finding (PF) in response to the petition the Department received from the group known as the Georgia Tribe of Eastern Cherokee Inc., (GTEC), Petitioner #41, headquartered in Dahlonega, Georgia. The petitioner seeks Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR Part 83), "Procedures for Federal Acknowledgment of Indian tribes." As permitted in section 83.7(b) of the regulations, effective July 31, 2015, the petitioner choose to have its petition evaluated under the previous version of the Federal acknowledgment regulations revised as of April 1, 1994 (1994 Regulations).

The evidence submitted by the GTEC petitioner and evidence Department staff obtained through its research does not meet three of the seven mandatory criteria for Federal acknowledgment: criteria 83.7(a), 83.7(b), and 83.7(c). The petitioner has submitted evidence sufficient to meet criteria 83.7(d), 83.7(e), 83.7(f), and 83.7(g). An explanation of the Department's evaluation of each criterion is presented in full in sections that follow this introduction. In accordance with the regulations 25 CFR Part 83, the failure to provide evidence sufficient to meet all seven criteria requires a proposed finding that the petitioning group is not an Indian tribe within the meaning of Federal law. Therefore, the Department proposes to decline to acknowledge the GTEC petitioner.

Regulatory Procedures

The acknowledgment regulations under 25 CFR Part 83 establish the procedures by which a group may seek Federal acknowledgment as an Indian tribe, establishing a government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit evidence documenting that the group meets the seven mandatory criteria set forth in § 83.7 of the regulations. Failure to meet any one of the mandatory criteria will result in a determination declining to acknowledge the group as an Indian tribe within the meaning of Federal law (§ 83.6(c)).

Section 83.10 of the 1994 Regulations specifies the timeframes for evaluating documented petitions. Publication of the notice of the PF in the Federal Register (FR) initiates a 180-day comment period during which the petitioner, and interested and informed parties, may submit arguments and evidence to support or rebut the evidence used in the PF. Such comments should be submitted in writing to the Office of the Assistant Secretary – Indian Affairs, 1951 Constitution Avenue, N.W., Mail Stop 34B-SIB, Washington, D.C. 20240, Attention: Office of Federal Acknowledgment. Interested and informed parties must provide copies of their submissions to the petitioner.

The regulations at section 83.10(k) provide the petitioner a minimum of 60 days to respond to any comments on the PF submitted during the comment period. At the end of this response period for the PF, the Office of Federal Acknowledgment (OFA) will consult with the petitioner and interested parties to determine an equitable time frame for consideration of written

arguments and evidence that are submitted during the comment and response periods. The OFA will notify the petitioner and interested parties of the date such consideration begins.

After consideration, the AS-IA will issue a final determination (FD) regarding the petitioner's status. The Department will publish a notice of this FD in the FR.

After publication of the notice of the FD, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures in § 83.11 of the regulations. A request for reconsideration must be made within 90 days of publication of the notice of the FD. Unless the petitioner or interested party files a request for reconsideration pursuant to section 83.11, the FD will become effective 90 days from its date of publication.

Administrative History

On December 3, 1978, Chairman Thomas B. Mote, and nine board members of the "Georgia Tribe of Cherokees, Inc." signed resolution "No 2-78" to apply for Federal acknowledgment.[1] The Department received it on January 1, 1979, and designated GTEC as Petitioner #41, under the provisions of the 1978 regulations, 25 CFR Part 54 (later re-designated as Part 83 without change). The petitioner submitted petition materials on February 5, 1980. The Department conducted an initial review of the petition on August 22, 1980, and issued a letter providing technical assistance (TA) under 83.9(b) of the 1978 regulations.[2]

Before the Department reviewed the GTEC petition, a group led by Mrs. Mary Ann Cain represented a faction of Petitioner #41 and filed a separate letter of intent to petition as the "Cane Break Band of Eastern Cherokee" on January 9, 1979. The Department designated the Cane Break group "Petitioner #41A."[3] By the early 1990s, the Department began to receive letters from other individuals claiming to represent Petitioner #41, including "The Georgia Tribe of Eastern Cherokee, Inc."; the "Georgia Tribe of Eastern Cherokee"; "Georgia Tribe of Eastern Cherokee - Echota Fire"; and the "Georgia Tribe of Eastern Cherokee Echota Fire UKB."

The major issue of disagreement expressed in the correspondence from Bill Dover, Thomas B. Mote, and others, was who "owned" GTEC, Inc., an organization established in 1977 by the newly created Georgia Indian Commission. Any Georgian of Cherokee Indian descent was eligible to join it. It was a 501(c)(3) tax-exempt non-profit organization, eligible for various grants and services. Thomas B. Mote and his mother Hannah (Corn) Mote, the duly authorized leaders of Petitioner #41, monitored this on-going argument. Over time and often

[1] The signers were Thomas B. Mote, Virgil G. Hopkins, Jr., Walker Dan Davis, J. W. Davis, Jr., Kay Hendricks, Carlton Seitz, C. S. Gaddis, Margaret G. Wilson, Mary Ann Cain, and Shirley Perry.

[2] The obvious deficiency (OD) letters referred to in the 1978 regulations were termed "technical assistance" (TA) letters in the 1994 regulations since they not only noted deficiencies, but also provided advice.

[3] By 1997, the Cane Break individuals rejoined Petitioner #41, and the Cane Break Band is no longer a separate petitioner.

simultaneously, the Motes, Walker Dan Davis, Bill Dover, John H. Chattin, Charles Thurmond, and Lucian Lamar Sneed, claimed ownership or leadership of "GTEC, Inc." Some of the individuals had previously associated with the GTEC petitioner's current leaders in an organization the State of Georgia had created through legislation in the 1970s. Others had no known connection to the State-created entity or the GTEC petitioner. The Department could not determine, at that time, whether there were genuine changes in a single petitioner's leadership over time, internal political disputes breaking up an original petitioner into several new entities, numerous separate entities with similar names but no prior history together, or some combination of these possibilities.

On August 10, 1998, Thomas B. Mote and other leaders of GTEC met with the Branch of Acknowledgment and Research (BAR), now OFA,[4] and delivered the petitioner's response to the Department's 1980 letter, including genealogical materials and documents that their initial filing had cited but not included. The GTEC leaders asked the Department to review all of their petition materials under the 1994 regulations. On January 19, 1999, the Department issued a TA review letter under § 83.10(b). Petitioner #41 responded to this letter on February 14, 2002, by providing additional documentation, and requested that the Department issue another TA review letter. However, demands on staff time did not allow another TA at that time (Fleming 5/1/2002).

On September 11, 2006, and October 3, 2006, the Department received additional materials from GTEC, including a new membership list certified and dated September 1, 2006. On October 23, 2006, the Department notified GTEC it had received the materials and was placing Petitioner #41 on the "Ready, Waiting for Active Consideration" list.

Beginning in 2010, the Department again began to receive letters from various individuals claiming to represent Petitioner #41. On January 27, 2010, OFA received a "letter of intent to petition" for "status clarification" from John H. Chattin, who styled himself as "Attorney General" for "The Georgia Tribe of Eastern Cherokee" (Chattin 12/1/2009; Pierce 4/28/2011).[5] Chattin and "five council members" signed this letter. On August 16, 2010, a letter supposedly signed by Thomas B. Mote, requested OFA change the address of GTEC to one in Cumming, Georgia, and identified Lucian Lamar Sneed, a resident of Cumming, as the contact person and "Council Chairman," but also identified Thomas B. Mote as the "original petitioner (re-elected chief)"(Mote and Sneed 8/16/2010).[6] Finally, on April 13, 2011, OFA received a mailing signed

[4] When GTEC submitted its petition and response to the TA letter, BAR, within the Office of Tribal Services in the Bureau of Indian Affairs (BIA), was principally responsible for administering the regulations, 25 CFR Part 83. BAR became OFA under the AS-IA on July 28, 2003. The duties and responsibilities of OFA remained the same as those of BAR.

[5] Because the group used the same name and came from the same town as Petitioner #41, OFA could not assign it a petition number without additional evidence demonstrating it was a separate group from, and not a splinter group or faction of, the GTEC petitioner (Pierce 4/21/2011).

[6] This letter also stated that the names of Walker Dan Davis as "chief" and Mae Cain as "contact person" should be "deleted." Nothing in this request corresponded with the evidence OFA had regarding the petitioner's previous discontent with Sneed's attempts to join GTEC and change its membership requirements. The mailing did not include minutes, election results, or other reliable evidence showing that the group had changed its address and contact information and accepted Sneed as a member and leader. The OFA notified Mote at the address on this

by Walker Dan Davis and seven council members that included a list of the "newly selected officials" as of March 21, 2011. Davis was listed as the "chief and primary contact person for Bureau of Indian Affairs" at the P.O. Box 607 address that had been long associated with the original petitioner (Davis 4/8/2011; Davis 3/21/2011).

With this latest in a series of claims regarding the group's leadership, it became clear that OFA did not have sufficient evidence to determine if there were genuine internal leadership disputes within a single GTEC entity, external individuals or entities claiming to represent GTEC, or splinter organizations separating from GTEC. On June 29, 2011, OFA notified four parties—Walker Dan Davis, Thomas B. Mote, Lucian Lamar Sneed [and Thomas B. Mote], and John H. Chattin—that the Department was providing them with the guidance published in the AS-IA's May 23, 2008, Federal Register notice, regarding the "emergence of splinter groups or leadership disputes." The OFA informed them that the conflicting claims prevented OFA from identifying "a single governing body as the point of contact for a petitioner" (73 FR 30146-8). This letter notified all parties that "the group's unresolved and conflicting leadership claims now hamper the Department of the Interior's ability to communicate and conduct business with Petitioner #41," and jeopardized its placement on the "Ready" list and its priority on this list (Pierce 6/29/2011).

To determine the duly authorized governing body, OFA asked that the claimants provide: (1) the current governing document and all past governing documents; (2) the current membership list and all past membership lists; (3) completed consent forms from every member; (4) copies of all minutes of meetings of the group's governing body since the filing of the letter of intent; (5) copies of documents reflecting changes in the composition of the governing body since the filing of the letter of intent, such as published election results, minutes, newspaper articles, or newsletters; and (6) any court order determining the legitimate leadership of the group (Pierce 6/29/2011, 2). None of the claimants provided all of these materials. However, by August 14, 2012, Mote and Davis had responded with sufficient evidence for the Department to make a preliminary determination that Thomas B. Mote and the officers and council who were reaffirmed in GTEC's January 28, 2012, special election, represented "the leadership of the group identified as Petitioner #41 in the Federal acknowledgment process" (Pierce 8/14/2012).

On May 31, 2013, in anticipation of circulating a "discussion draft" of proposed revisions to the Federal acknowledgment process for "review and comment," the Department offered some petitioners the option of suspending their petitions until the proposed new rules were published. On June 14, 2013, the Department notified Thomas B. Mote that a research team from the OFA had been assigned to review the GTEC petition, that active consideration would begin on July 31, 2013, and that the Department anticipated publishing a proposed finding (PF) on or before July 31, 2014. On June 21, 2013, GTEC notified the Department it waived its option to suspend evaluation, and elected "to proceed under the current standards and criteria" (Mote 6/21/2013).

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letter (a P.O. Box in Cumming, Georgia) that it could not carry out this request without a letter signed by all members of GTEC's governing body. Subsequent information questioned the authenticity of the Mote & Sneed letter. Thomas B. Mote later wrote, he had "…recently acquired a copy of the letter that [OFA] sent to 'Thomas B. Mote, P.O. Box 1915, Cumming, Georgia 30028,' dated April 28, 2011. That is not my address, nor has it ever been our Tribal address." The OFA's response to the Cumming address apparently went only to Sneed (Pierce 4/28/2011).

In July 2014, OFA notified GTEC that its sampling of birth or similar records submitted in 2013 was insufficient for analysis and gave GTEC an additional 180 days to obtain and submit the necessary documentation. The Department also notified the petitioner that administrative issues had diverted the evaluation team to another petition and litigation. Thus, the AS-IA found good cause to suspend active consideration under § 83.10(g) for 180 days to January 27, 2015, and extend active consideration under § 83.10(h) for up to 180 additional days, or until July 27, 2015 (Pierce 7/30/2014). The OFA provided GTEC with the list of members and ancestors lacking evidence demonstrating the child-to-parent link and a list of individuals with missing or incomplete addresses (Pierce 7/30/2014; Pierce 8/13/2014).

On July 28, 2015, the Department once again informed GTEC that administrative issues had required two members of the evaluation team to work on litigation and the third to complete evaluation of another petition. Thus, the AS-IA had found good cause to extend review of the GTEC petition for another 180 days, or until January 22, 2016 (Flavin 7/28/2015). This extension allowed the research team to make visits to the GTEC offices to review records and conduct interviews.

The GTEC was under active consideration when the AS-IA issued a final rule that revised the regulations (80 FR 37862-37895) effective on July 31, 2015. Under § 83.7(b) of these current regulations, GTEC was notified on August 28, 2015, that it had the option of proceeding under the current regulations or continuing the process under the 1994 regulations (Fleming 8/28/2015). All members of GTEC's governing body signed a letter on September 24, 2015, stating that GTEC wished to have the evaluation of its petition completed under the 1994 regulations (Mote 9/24/2015). OFA acknowledged GTEC's letter on October 30, 2015, and confirmed the projected January 22, 2016, date for issuing the proposed finding, subsequently extended to May 6, 2016 (Pierce 4/6/2016).

The Historical Indian Tribe

Based on the evidence the PF identifies the historical Indian tribe as the Cherokee Nation as it existed in the East before Removal in 1838. The petitioner claims to have evolved from the pre-Removal Cherokee Nation and to represent a specific Cherokee family that did not remove westward with the Nation in the 19th century. The vast majority of petitioner's members identify descent from Daniel Davis and his Cherokee wife, Rachel Martin, and primarily their three children who remained near Dahlonega, Georgia, after the Cherokee Nation removed to Indian Territory in the 1830s. The petitioner also stated that the Cherokee who remained near Dahlonega "clustered around the Davis Plantation" and that the "Davis family played a central leadership role in the tribe" (GTEC Narrative, Criteria 83.7(c), 12/14/2002, 5). The petitioner claims to connect historically to the Cherokee Nation in Oklahoma more than to the Eastern Band of Cherokee Indians in North Carolina. The GTEC's petition narrative maintains that its ancestors were part of the Cherokee Nation into the early 20th century.

The petition is ambiguous on what occurred with its membership after about 1900, when the Cherokee Nation stopped readmitting Georgia migrants and the Dawes Rolls closed membership to people still arriving from the East to join the Cherokee Nation. The Department's analysis

finds that the petitioner does not represent an entity that existed within the Cherokee Nation that evolved over time to form a distinct Cherokee community in Georgia. There is also a lack of evidence to show the formation of a separate entity of Cherokee descendants in northern Georgia. Therefore, the historical Indian tribe for this finding is the Cherokee Nation as it existed before 1838.

Historical Overview

The Cherokee inhabited the Southern Appalachian uplands for hundreds of years before European contact. During the American Revolution, the Cherokee sided with the British and suffered greatly as American forces destroyed many of their villages (Fogelson 2004, 337-339). Armed resistance to the Americans continued until the signing of the Treaty with the Cherokee on June 26, 1794 (Kappler 1904, 33-34).

In 1817 and 1819, the Federal Government negotiated large land cession treaties with the Cherokee. Given the limited option of selling their land and moving to west of the Mississippi to Arkansas, or each head (Article 8 1817 Treaty; Article 2 1819 Treaty) of a family receiving "a reservation of six hundred and forty acres" in Georgia, many of the Cherokee chose to stay in the east (Kappler 1904, 178; Prucha 1986, 86). Cherokee leadership hoped by retaining land individually in Georgia and refusing to negotiate any more land cessions in their eastern homeland to remain permanently in Georgia (Prucha 1986, 85; Blankenship 1992, 9).

Article 8 of the 1817 treaty specified that "each and every head of any Indian family residing on the east side of the Mississippi river, on the lands that are now, or may hereafter be, surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of six hundred and forty acres of land." This land was to include any improvements that the Cherokee family had made before the cession. The reserved land was to be "a life estate, with a reversion in fee simple to their children, reserving to the widow her dower." If the head of the family decided to move away from this "reservation" in the future, the land would "revert to the United States" (Kappler 1904, 143). More than 300 Cherokee heads of family secured life estates under the 1817 treaty (McLoughlin 1981, 6).

The Cherokee Treaty of 1819 ceded a large portion of land east of the Mississippi River for a section of land west of the Mississippi River in Arkansas. As had been the case with the 1817 treaty, Cherokee Nation members could choose to stay in the east on 640-acre reservation allotments, move to unceded sections of the Cherokee Nation, or remove west of the Mississippi River to Arkansas. On the "List of persons entitled to reservations under the treaty with the Cherokees of February 27, 1819," were family heads who could be on either the "reservations for life" or the "reservations in fee simple" (Jurgelski 2004, 146). The list contains 107 life estates, and 39 fee simple reservations to be located in North Carolina, Georgia, Tennessee, and Alabama. Within Georgia, 18 life estates and 5 fee simple reservations were surveyed by the Federal Government (Jurgelski 2004, 146; Kappler 1904, 180).[7]

[7] The five fee simple "reservees" in Georgia were Walter S. Adair, Daniel Davis, Jeter Lynch, John Martin, and George Parris.

The treaties of 1817 and 1819 did not assuage the land hunger of the southern states. With the election of Tennessean Andrew Jackson as President, the push to remove all Indians from the lands east of the Mississippi to the West became the focus of national policy. Georgia led this effort, and with the passage of the Indian Removal Act of 1830, Georgia could now use the mechanism of removal to realize the end of the Cherokee Nation in the State (Prucha 1986, 87-88). With the discovery of gold in Northern Georgia in 1828, the State moved aggressively to gain control of a region that remained largely part of the unceded Cherokee Nation. In 1828, Georgia lawmakers passed legislation extending the bounds of five counties across the Cherokee Nation. The State ignored the 1827 Cherokee Constitution and the authority of the Indians to govern their own people by extending these counties into the Nation's land (Shadburn 1989, 210). With the passage of another Georgia law on June 1, 1830, the State purported to dissolve Cherokee courts and nullified all laws passed by the Cherokee Council and National Committee (Shadburn 1989, 213; Amerson 2006, 28; Perdue and Green 2005, 75, 93; Cain 1978, 18). This 1830 act also included a land lottery provision to transfer ownership of Cherokee lands, including the life estates and fee-simple lands secured by the treaties of 1817 and 1819 (Perdue and Green 2005, 21). By 1832, Georgia began surveying the Cherokee Nation lands to prepare the land lottery for citizens of the State (Perdue and Green 2005, 85; Perdue and Green 2007, 99).

By December of 1835, the Federal Government concluded the Treaty of New Echota (Perdue and Green 2001, 94; King 2004, 359; Prucha 1986, 86). The treaty secured the remaining unceded lands in Georgia and called for the removal of the Cherokee from the State (King 2004, 358; Cain 1978, 18). The only available option to remain in Georgia was to choose to become citizens of the State. Such individuals would still receive their portion of the benefits from the treaty if they became Georgia citizens (Starr 1984, 91; Perdue and Green 2005, 146). The petitioner's ancestor, Daniel Davis (1785-1868), chose to become a citizen of Georgia. After the Senate ratification of the Treaty of New Echota on May 23, 1836, the Cherokees of Georgia had 2 years to remove to the West (King 2004, 358).

As part of the process to aid in the removal of the Cherokee, the Federal Government compiled the Henderson Roll in 1835. The roll enumerated the Cherokee by state and county and included all the Indians the Federal Government intended to remove to the West. The Henderson Roll contained the names of 2,627 Cherokee heads of households and a total count of over 16,000 Cherokee living in Georgia, Alabama, Tennessee, and North Carolina (Perdue and Green 2005; Blankenship 1992, 9).[8]

The ratified treaty included supplementary articles that modified certain sections of the 1835 treaty. Article 1 eliminated "all the pre-emption rights and reservations provided for in articles 12 and 13" (Kappler 1904, 448). The 1835 treaty signers signed and approved the ratified treaty of March 1, 1836. As the ratified treaty proclaimed on May 23, 1836, "the President of the United States has expressed his determination not to allow any pre-emptions or reservations his desire being that the whole Cherokee people should remove together and establish themselves in

[8] The Daniel Davis family was on the Henderson Roll. With his acceptance of a fee simple "reservation" of 640 acres through the 1819 treaty, Davis became a U.S. citizen. This citizenship did not preclude his being placed on the Henderson Roll, the removal list with 16,000 Cherokees, including the other "reservee" U.S. citizens from the 1817 and 1819 treaties.

the country provided for them west of the Mississippi river" (Kappler 1904, 448). As indicated by the 1835 Henderson Roll, the Federal Government intended to remove all 16,000 Cherokees in the east regardless of past treaty provisions and promises.

In the spring of 1838, many Cherokee remained in Georgia. The Federal Government with the assistance of the State militia began to gather the Cherokee into staging areas to force their removal from their homeland (Perdue and Green 2001, 96; Perdue and Green 2005, 178; Cain 1978, 26). By early July, the soldiers had concentrated most of the Cherokee population together and began to move them west to Indian Territory (Flanagan 1989, 584).

Even after Federal forces forcibly removed the remaining Cherokee in 1838, some Indians remained in the State. Throughout the 19th century, Cherokee individuals and families continued to remove to Indian Territory, and apply for re-admission to the Nation to become Cherokee citizens. Thus, Cherokee descendants in Georgia, even as late as the last few years of the 1890s, could still become members of the Cherokee Nation if they moved permanently to Indian Territory, the Nation readmitted them as citizens, and the Dawes commission included them on its roll. The "Dawes Roll," which closed in 1908, is the base roll for the Cherokee Nation, and descendants of those persons listed in 1908, even if they returned to Georgia after 1901, are eligible to enroll in the Nation at present. After 1838, the Federal Government dealt with the Cherokee Nation in Indian Territory, where the Nation reorganized in 1839, reuniting with some "Old Settlers" who removed earlier.

Daniel Davis married into the prominent Cherokee Martin family and settled in northern Georgia by the early 1800s. His family's land was part of the old Cherokee Nation. By marrying Rachel Martin, Daniel Davis was considered a Cherokee countryman and a citizen of the Nation. A number of White men had married into the Cherokee Nation and most became successful planters near the Davises (Shadburn 1989, 227). They built their homes on the Etowah and Chestatee Rivers within the boundaries of the Cherokee Nation (Shadburn 1989, 216).

By the Cherokee Treaty of February 27, 1819, Daniel Davis established a homestead on the Etowah River within the much larger cession of land proposed by the Federal Government. In northern Georgia, the Cherokee ceded their land east of the Chattahoochee and Chestatee Rivers. Daniel Davis was one of only five men who qualified for 640-acres in fee-simple land in Georgia (Shadburn 1989, 231). In a land lottery, Georgia seized these 5 fee-simple reservations plus the other 18 life estate reservations by 1825. Indian Commissioner Thomas McKenney wrote "all or nearly all of them have been purchased for the State of Georgia" (Jurgelski 2004, 146). In Lumpkin and neighboring counties, more than a dozen prosperous Indian countrymen and Cherokee sold their claims following this land grab by Georgia (Shadburn 1989, 223).

According to the petitioner, Daniel Davis repurchased much of his earlier improvements, his home, and hundreds of acres of land that was part of his 1819 fee-simple reservation. Davis also purchased more land near this property for himself and his sons (GTEC Narrative, Criteria 83.7(c), 12/14/2002, 23; GTEC Historical Overview, 2/5/1980, 5-6; Amerson 2006, 120). By the time of the Treaty of New Echota in 1835, Daniel Davis remained one of the wealthiest men in the Cherokee Nation. Part of the 1835 treaty involved the settlement of damages resulting from the alienation of the 640-acre reservation lands from the 1817 and 1819 treaties. Daniel

Davis and three of his sons made large claims on land located on the Etowah River (Shadburn 1989, 230). Eventually Davis received $13,607.75 for his claims as compensation for the loss of property and improvements.

Of the 15,000 Cherokee scheduled to be removed in 1838 only about 1,100 remained in North Carolina, with another 300 scattered in Tennessee, Alabama, and Georgia (Fogelson 2004, 341; Duggan 2002, 45). On December 29, 1838, the Georgia legislature granted citizenship to 22 families (Flanagan 1989, 585). As one of the 22 families, the Davises were exempted from the forced Removal in 1838. The Davises remained on the land purchased by Daniel Davis and continued to live as successful planters in Georgia until the Civil War. Like Davis, the other Cherokees who had accepted Georgia citizenship continued to run plantations and some operated ferries on the Chattahoochee River. Their stories mirrored the Davis family experience, with land lotteries and the loss of life estate and fee simple reservations.

With the granting of citizenship, these Cherokee planter families and their descendants would "enjoy all the rights and privileges that appertain and belong to the free citizens of this State; and . . . all disabilities heretofore imposed upon said persons of the Cherokee tribe of Indians [were] repealed" (Flanagan 1989, 585-586; GTEC Narrative, Criteria 83.7(c), 12/14/2002, 4). These Cherokee descendants in Georgia following the removal of the Cherokee Nation east of the Mississippi River did not form a distinct Cherokee entity. Daniel Davis and the other Georgia Cherokee represented a very small portion of the total Cherokee population. There is no evidence that the remaining families of Georgia Cherokee interacted with each other following removal of the Nation in 1838.

Following the Removal, the Davis family also appeared to have had very little connection to the Cherokee Nation, or Cherokee groups that evolved as the Eastern Band of Cherokee Indians (Eastern Band) in North Carolina. However, like many of the scattered Cherokee who did not live with either of these Cherokee tribal populations, the Davises did participate in the per capita payments that resulted from damages from the Treaty of New Echota in 1835. As part of the process to receive per-capita payments, lists had to be produced that identified the membership of the historical Cherokee Nation that still resided east of the Mississippi. The Siler Roll of 1851 listed 1,700 Eastern Cherokee entitled to a per capita payment under the Treaty of 1835 (Blankenship 1992, 10). Siler recorded Eastern Cherokee and their descendants born since 1835, who were living in North Carolina, Georgia, Alabama, and Tennessee (Finger 1984, 52; Blankenship 1992, 47). The 1852 Chapman Roll listed the Cherokee Indians East of the Mississippi, who actually received the per capita payment based on the Siler census. The 1884 Hester Roll was a tribal census of the Eastern Band of Cherokee. Using the earlier censuses by Mullay, Siler, Chapman, and Swetland, Joseph Hester, special agent of the Office of Indian Affairs, compiled the 5th census of the Eastern Band of Cherokee (Blankenship 1992, 10). The Davis family was included on the Siler, Chapman, and Hester Rolls.

By the 1890s, Cherokee descendants in the east, including the Davis family, were eligible to receive funds from the sale of Cherokee lands in the West. The Federal Government desired the 8 million-acre Cherokee Outlet for settlement. The land in question had been provided by the cession of the Cherokee homeland under Article 2 of the Treaty of New Echota in 1835. Therefore, any funds distributed per capita had to include all Cherokee descendants of the

original treaty. It is not clear if Davis family members received payments from the cession of the Cherokee Outlet in 1892.

The passage of the Dawes Severalty Act of 1887 and the Curtis Act of 1898 (30 U.S. Stat. 495) resulted in the division of tribal land into individual allotments by the beginning of the first decade of the twentieth century. For the Cherokee Nation in the Indian Territory, these acts resulted in the loss of over 6.5 million acres to the Federal Government. The Dawes Commission, established in 1896, judged the eligibility of Cherokee families to receive allotments in the Indian Territory (King 2004, 367). In addition to considering the names already on the Cherokee Nation's rolls, in 1896, the Dawes Commission began accepting additional applications from other Cherokee descendants for enrollment. Opening the enrollment resulted in thousands of new applications for the commission to investigate. Many of the claimants were Cherokee descendants who had remained in the east or settled in other states before or after the Removal era.

Some individual members of the Davis family applied for citizenship and allotments in the Indian Territory in 1902. The commission evaluated these Davis applications in 1905 and determined that some of the Davises, whose descendants are in GTEC, were on the Cherokee census roll of 1896 but had been born and resided in Georgia most of their lives. The only exception to this Georgia residence occurred from 1895-1896, when the Miller Davis family lived in the Indian Territory. The Miller Davis family moved back to Georgia and did not live in the Indian Territory after 1896. The Davises made their application for citizenship in the Cherokee Nation from Georgia, where they continued to reside. The commission quoted the Cherokee Constitution to make the point that "whenever any citizen shall remove with his effects out of the limits of this Nation and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease." The commission ruled that three of the four Davises were "not entitled to enrollment as citizens by blood of the Cherokee Nation, and their applications for enrollment as such are accordingly denied." The commission did accept on appeal one minor child, Lorenzo Newton Davis, as a citizen due to his being returned to Georgia as a minor child by his parents after a stay in the Indian Territory during the Daniel "Dan" Davis family's brief residence in the Cherokee Nation (Commissioner to the Five Civilized Tribes 12/27/1905).

With individual exceptions, most of the Davis descendants continued to live in Georgia near Daniel Davis' old home. During the same period that some of the family members were being denied Cherokee citizenship in the Indian Territory, the U.S. Court of Claims was established to resolve any claims against the Federal Government arising from previous treaty violations (Blankenship 1994, 4; GTEC Historical Overview 2/5/1980, 16). In 1905, the court decided in favor the Eastern Cherokee suit for damages from violations of the 1835 Treaty of New Echota. In 1906, Congress appropriated over a million dollars to cover the payment of claims to the descendants of the Cherokee Nation that had been party to the 1835 Treaty (Blankenship 1994, 3-4; GTEC Historical Overview 2/5/1980, 16). As had been the case in the past, a roll had to be produced to list all eligible Cherokee for the payment. In 1906, Guion Miller became appointed special commissioner to enroll Cherokees entitled to a share of the judgment fund appropriated by Congress to settle the case. The 1909 Guion Miller Roll of the Eastern Cherokee east and west of the Mississippi was not a membership list for either the Cherokee Nation or for the

Eastern Band of Cherokee, but a list of "Eastern Cherokee" living in 1835, or their descendants living in 1906, who were eligible to share in the distribution fund (Blankenship 1994, 3-4; GTEC Historical Overview 2/5/1980, 17). Some of the Davis family members residing in Dahlonega, Georgia, applied for and appeared on Miller's roll. In 1910, the local newspaper informed the community "Special Commissioner Guion Miller will be in Dahlonega on May 23 to pay off the Cherokee Indian claims allowed in Lumpkin County." The delivery of 123 checks in Lumpkin County was "for the benefit of the Cherokee Indians and their descendants." The "total amount paid out here was $16,382.37, all going to residents of this county" (*Nugget* ca. 1910).

Even after the 1838 Removal, Cherokee individuals and families remaining in Georgia continued to move west sporadically. On arriving in Indian Territory, the immigrants applied for re-admission to the Cherokee Nation to receive voting rights, membership, land allotments, or services. The Nation considered only individuals who removed permanently to Indian Territory to be eligible for re-enrollment and did not consider Cherokees residing elsewhere, including those in old Cherokee lands in Georgia, to automatically be considered members of the Nation. Throughout the last half of the 1800s, some Davis descendants moved to Indian Territory, where they reapplied for admission to the Cherokee Nation. However, these later immigrants are only a small portion of the Davis descendants in Georgia and their descendants are not members of GTEC.

The Department finds that the petitioner's Cherokee ancestors in Georgia did not maintain contact with relatives in Indian Territory after the deaths of the last generation born in the Nation when it was still in Georgia. Until about 1900, evidence indicates that a few Georgia descendants maintained ties to individual relatives in Indian Territory, but there is no evidence of any official connection between an entity in Georgia and the Nation after 1838.

In summary, the United States has never dealt with the petitioner as an entity within or separate from the Cherokee Nation at any time after 1838, nor have its ancestors in Georgia established an entity separate from the Cherokee Nation. The petitioner represents individual descendants of two Cherokee individuals, who were citizens of the Cherokee Nation of Georgia before 1838, and who did not interact with other Cherokee descendants to form a group after 1838 until some of their descendants first organized a non-profit association of descendants living in Georgia in 1976. Between 1839 and 1976, no Cherokee entity comprising the petitioner's ancestors existed in Georgia.

Unambiguous Previous Federal Acknowledgment (25 CFR §83.8)

The Department may evaluate a petitioner under section 83.8 of the 1994 regulations if the petitioner provides substantial evidence of unambiguous previous Federal acknowledgment (83.8(a)). The petitioner must show that the Federal Government took an action with a historical Indian group "clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States" (83.1). Further, the petitioner must show it is the same group as the previously acknowledged historical Indian tribe, or it evolved as a group out of that tribe.

The historical overview above outlines the Federal Government's unambiguous acknowledgment of the historical Cherokee Nation. It also describes the removal of the Cherokee Nation to Indian Territory. Since the Federal Government treated several times with the Cherokee Nation and forced its removal to Indian Territory in 1838, the Nation was clearly recognized when the members of the Davis family were citizens of the Nation before 1838. But, the Davis ancestors separated from the Nation when they did not remove with it. Clearly, the petitioner is not the same tribe that treated with the United States and was removed in 1838 and is still a federally recognized tribe. This means that the petitioner must show that it has evolved as a group out of the Cherokee Nation after 1838 in order to be evaluated under § 83.8.

The petitioner claims that the Federal Government separately acknowledged it when its ancestor Daniel Davis received a 640-acre fee-simple reserve by virtue of his marriage to his Cherokee wife Rachel (Martin) Davis under a provision in the 1819 Treaty with the Cherokee. The treaty negotiations of 1817, 1819, and 1835 all took place with the Cherokee Nation as an entity, not with individual family heads who received life-estates or fee-simple reserves under the 1817 and 1819 treaties. The issuance of a fee-simple reserve, which is simply an individual allotment of land with no trust provisions attached, does not constitute an unambiguous action by the United States to acknowledge either Daniel Davis or his family as an Indian tribe.

In addition, there is no evidence that GTEC's ancestors formed a distinct entity that evolved and continuously existed since 1838 to become the GTEC petitioner. The available evidence does not demonstrate that the ancestors did, at any time, form a distinct Cherokee entity in Georgia with other Indians who did not remove. The petitioner submitted no evidence to demonstrate that such a group existed between 1838 and 1978. The petitioner has not demonstrated that it is a continuation of either the Cherokee Nation or a portion of the Cherokee Nation that has existed continuously since the Cherokee Removal, as required under section 83.8 of the 1994 regulations. Moreover, the United States has never unambiguously acknowledged the petitioner, any of its individual ancestors, or the Davis family as distinct tribal entities at any time.

Therefore, the petitioner may not be evaluated under section 83.8 for previously acknowledged petitioners, and must satisfy the seven mandatory criteria as provided at section 83.7(a) through 83.7(g).

CONCLUSIONS UNDER THE CRITERIA (25 CFR 83.7)

The petitioner submitted evidence for this PF, and OFA staff conducted limited research to verify and evaluate the evidence, arguments, and interpretation that the petitioner and interested parties submitted. The OFA staff collected documentation during field trips in 2015. Additionally, OFA conducted research using Federal census records through the Ancestry.com website and other readily available sources to verify genealogical claims. Under the regulations, the burden of providing sufficient evidence under the criteria rests with the petitioner.

The proposed finding reaches the following conclusions for each of the mandatory criteria in 25 CFR Part 83.7:

Criterion (a) requires that a petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. The records show this petitioner is a recently organized group, almost entirely composed of descendants of the Davis family. A few records created between 1900 and the present identify individuals as Indian, but there are no contemporary identifications of the petitioner or any Indian entity in Lumpkin County. Many of the documents relate portions of the historical Cherokee Nation's history leading up to and through the Removal Era in the 1830s and identify Cherokee individuals on various historical lists. There are many duplicates of the same documents found in various sources, but few original, contemporary documents for 1900 to the present. This PF finds insufficient evidence of substantially continuous identifications of the GTEC petitioner from 1900 to the present. Therefore, the GTEC petitioner does not meet the requirements of criterion 83.7(a).

Criterion (b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The evidence demonstrates that petitioner's ancestors were active participants in Cherokee society before 1838. There is no evidence, however, that after the Removal the petitioner's ancestors established a separate and distinct community of other Cherokee who did not remove, but remained in Georgia, and there is no evidence that they continued to participate in Cherokee society in Indian Territory. The Davises and their non-Indian neighbors lived together in the Davis District neighborhood. This neighborhood, although very tightly knit, was not a distinct community of petitioner's ancestors and other Cherokee. Only one of these families—"the Davises"—were Cherokee descendants and are now enrolled in GTEC. In the 1990s, "the Davises" formally organized the Davis descendants as GTEC, but did not establish a distinct community. Therefore, the GTEC petitioner does not meet the requirements of criterion 83.7(b).

Criterion (c) requires that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. Between 1838 and 1976—for 138 years— the petitioner has not provided any evidence that the petitioner's ancestors maintained informal political relationships or a formal political organization that advanced issues of interest to Cherokee descendants. From time to time, Davis descendants consulted with one another on claims applications, but these activities would stop after the claims period closed. They participated in the political affairs of the Davis district neighborhood, but the neighborhood is not the petitioner or precursor entity. In 1976, a few of Rachel (Martin) Davis' descendants and others brought together persons, who

claimed Cherokee ancestry, from throughout Georgia to form an Indian entity in response to legislation in the Georgia Assembly. The State-sponsored group could not agree on membership requirements and documentation of Cherokee ancestry. The GTEC petitioner ultimately became this State entity.

For the modern period, the petitioner submitted almost no evidence showing how it organized activities, dealt with conflict and threats to Indian descendants, or represented the interests of its members other than in seeking acknowledgment and protecting GTEC's name in court. The petition does not describe political processes setting the group's priorities, undertaking group events, raising money, developing factions or interest groups, or organizing activities that may demonstrate GTEC meets criterion 83.7(c) from the Removal in 1838 to the present. Therefore, the GTEC petitioner does not meet the requirements of criterion 83.7(c).

Criterion (d) requires a copy of the group's present governing document, including its membership criteria. The petitioner has provided two versions of its 2002 constitution and by-laws, which describe how the group determines its membership and how it governs itself. The GTEC petitioner provided evidence that satisfies the requirements of criterion 83.7(d).

Criterion (e) requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes, which combined and functioned as a single autonomous political entity. The GTEC petitioner has satisfied all of the requirements of criterion 83.7(e). The current membership list, dated August 10, 2013, which was separately certified by the governing body, has the required elements, although it is incomplete in some instances. The petitioner demonstrated that about 90 percent of its members (413 of 458) descend from Cherokee descendants who remained in northern Georgia after the Cherokee Removal in the 1830s. Therefore, the petitioner satisfies the requirements of criterion 83.7(e).

Criterion (f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. Although every member of the GTEC petitioner has at least one ancestor who applied for the 1909 Miller Roll of the Eastern Cherokee east and west of the Mississippi, none of the current members or their ancestors are on the 1924 Baker Roll and are thus not eligible for membership in the Eastern Band of Cherokee. The OFA found no members of GTEC enrolled with the Eastern Band of Cherokee. Three sons of Lorenzo Dow Davis are on the 1909 Dawes roll; however, there are only 13 members of GTEC who are enrolled with the Cherokee Nation. The membership of the GTEC petitioner is composed principally of persons who are not members of any other North American Indian tribe. Therefore, the petitioner satisfies the requirements of criterion 83.7(f).

Criterion (g) requires that neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. No evidence has been found to indicate that the petitioner was subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(g).

Failure to meet any one of the mandatory criteria results in a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. The GTEC petitioner meets criteria 83.7(d), 83.7(e), 83.7(f), and 83.7(g), but does not meet criteria 83.7(a), 83.7(b), and 83.7(c). Therefore, this PF concludes that unless additional evidence is provided, the GTEC petitioner will not meet all the mandatory criteria to be acknowledged as an Indian tribe.

Criterion 83.7(a)

83.7(a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900…by other than the petitioner itself or its members.

INTRODUCTION

This PF finds insufficient evidence of substantially continuous identifications of the GTEC petitioner from 1900 to the present. Therefore, the GTEC petitioner does not meet the requirements of criterion 83.7(a).

EVALUATION

The records show GTEC is a recently formed descent group, almost entirely composed of descendants of the Davis family. Many of the documents relate portions of the historical Cherokee Nation's history leading up to and through the Removal era and identify Cherokee individuals on various historical lists. There are few original, contemporary documents relating to the period after 1900 as required by this criterion. A few records identify individuals as Indian, but there are no contemporary identifications of an Indian entity in Lumpkin County from 1900 to the present. There were identifications from 1977-1981, and again from 1996-2001, but this limited evidence is insufficient to satisfy criterion (a).

1900 to 1924

None of the documents from 1900 to 1924 identifies an Indian entity in Lumpkin County. Some letters and documents show the connection between individual members of the Davis family and their family members who went to Oklahoma. These documents, including some correspondence, Baker roll applications for the Eastern Cherokee Band of North Carolina, and Miller roll applications for per capita payment, make up the bulk of the record. Daniel Davis (1846-1924) and family in Hedwig, Georgia, were eligible to enroll as descendants of the historical Cherokee Nation and participate in the judgment claim. There are no available evidence that this single family is part of a group or band in Lumpkin County or in Georgia. The documents focused entirely on the Davis family. The petitioner also included school records that they characterized as from an "Indian school" in Davis District, Lumpkin County. However, there is no available evidence that identified it as an Indian school or that attendees were part of an Indian entity. Some letters show connections between Davises in Oklahoma and Georgia or that the Davises were Cherokee descendants, but none of them identifies the Davises as an Indian entity or group in Georgia. None of the available documents provide an identification of a Cherokee group in Georgia for the 1900-1924 time frame.

In 1902 the Daniel Davis (1848-1924) family had a representative apply for their enrollment in the Cherokee Nation as tribal citizens. In 1905 the Dawes Commission decided the Cherokee eligibility case for this Davis family. The commission denied enrollment to three of the four Davises in the Nation due to their U.S. citizenship and residence in Georgia. A lack of property

holdings within the Cherokee Nation also counted against the Davises. The Dawes Commission admitted the youngest child, Lorenzo Newton Davis (1882-1959), as a Cherokee citizen. Lorenzo, a minor at the time of the application for membership in the Cherokee Nation in 1902, had returned to Georgia from Indian Territory after the family's brief stay from 1895-1896. The documents included are not identification of a group, but of a single Cherokee individual from a single family (Miller 12/27/1905; GTEC Narrative 2001, 21-22).

During the early 1900s, when one Davis family attempted to gain citizenship with the Cherokee Nation, the Federal Government, through the Court of Claims, settled a case for damages from the earlier treaties of 1835 and 1846. Due to this decision and the judgment award of one million dollars to be distributed per capita, eligibility for payment had to be determined and payment rolls compiled. The payment was to be made to descendants of the historical Eastern Cherokee Nation that signed the treaties. Guion Miller was appointed Special Commissioner for the payment of the Eastern Cherokee descendants. Miller determined that the petitioner's ancestors qualified for this payment along with the more than 3,000 other Cherokee descendants east of the Mississippi River. These payments were to be made to individual descendants, and the applications do not identify an Indian entity in Georgia. The Miller roll applications in the early 1900s identify members of the Davis family in Lumpkin County, but not an Indian entity. The 1910 payment administered in Dahlonega by Special Commissioner Guion Miller to 123 individuals in Lumpkin County was one of many made throughout the country and does not demonstrate payment to a local Cherokee entity (Blankenship 1994, 3-4; Miller 5/1/1907; *Nugget* 5/27/1910). The payment from the Court of Claims to Cherokee descendants, by itself, does not provide an identification of an Indian entity in Georgia.

The petitioner submitted report cards from 1910 to 1911 from a Dahlonega Public School for a student, Rufe Davis, and a note on the page claims that it was the "Davis Indian School" before it came under the control of the Lumpkin County school system. The GTEC also included a photograph of Davis School children with subheading that "34 out of 45 pupils were Indian" and a list of the children in the photo. There is no source or date for this information, which appears to have been added at a later date. The petitioner did not submit, and Department researchers did not find, any records that identified the school in the Davis District as an Indian school, or that there was an Indian entity in Lumpkin County.

1925 to 1949

During this period, there are miscellaneous letters from the Davises in Lumpkin County, and transcripts of earlier records that provide identifications of individuals as Cherokee descendants, but no identification of a group. The individual applications for membership in the Eastern Band are all from the descendants of Rachel Martin and Daniel Davis in Lumpkin County. These unsuccessful applications for enrollment in the Eastern Band do not represent an entity, but are instead separate applications from individuals in one extended family. Thus, they are not identifications of an Indian entity.

According to the petitioner, they sent applications for membership with the Eastern Band of Cherokee of North Carolina in 1924. These actions coincide with the final determination of the Eastern Band membership and the inclusion of eligible Cherokees on the Baker Roll in 1924.

The roll also determined the distribution of land through allotments for the Eastern Band at that time. However, the decision to reject all the applications from Georgia did not occur until 1927. Fred Baker, the head of the Enrolling Committee from the Department of the Interior, listed nine reasons the petitioner's ancestors did not qualify for membership with the Eastern Band. The reasons stated include: the Georgia applicants did not have any affiliation with the North Carolina tribe, were not recognized as members by the Cherokee community in North Carolina, had made no contribution to acquiring tribal lands; some applicants had affiliation with the Cherokee Nation of Oklahoma; and all applicants were born outside the Indian community in North Carolina. The Davis family members' efforts to obtain membership with the tribe in North Carolina is not identification of an entity by Baker or the enrolling commission, but are instead individual applications of closely related family members (Baker 3/29/1927). Thus, they are not identifications of an Indian entity.

The petitioner provided school censuses from Lumpkin County in the 1940s. These censuses do not identify an Indian school, but rather individual students. Further, the photocopy of the original school census appears to have been altered or enhanced at a later date. Accordingly, these censuses are not sufficient evidence.

1950 to 1974

There is a book published in the 1950s with abstracts of death notices from Lumpkin County, newspapers, and some deeds and death certificates, but there were no identifications of an Indian group in that book. The 1960s history of rural schools about Plain View or Davis School, but makes no mention of it being an Indian school and is not an identification of an Indian entity. An article in the *Atlanta Journal* about a Boy Scout project to clean a historical trail in Lumpkin County, tells of the gold rush and a retrospective history of Daniel Davis. However, in his interview with Mrs. Roy Calhoun, a direct descendant of Daniel and Rachel Davis, the author of the article does not mention a group of local Cherokees living in the area in the 1960s. The petitioner also included correspondence from Walker Dan Davis to Indian Services asking how to apply for funds "due" both his father Rufe Davis and himself from the 1962 Indian claims act for heirs of Cherokees enrolled on the final membership roll of the Cherokee Nation of Oklahoma. None of these documents is an identification of a Cherokee entity or any other Indian entity in Georgia.

In 1961, the Indian Claims Commission settled a damages case for the underpayment for the Cherokee Outlet in 1893. Some of the petitioner's ancestors applied in the early 1960s to receive a portion of the over $14 million judgment award. Very few of the petitioner's ancestors were successful in gaining this payment due to the requirement that only individuals that could trace their lineage to the final Dawes Roll in 1907 were eligible. The letter from the claims examiner explained they may not have qualified for enrollment because they did not reside in Oklahoma and only individuals listed on the final Dawes Roll and their heirs could share in the distribution. Many of the persons listed on the Guion Miller Roll "were not approved for the final enrollment because they failed to establish residence in what is now the State of Oklahoma between the years of 1880-1896. Since your family was not enrolled on the final membership rolls, you will not be eligible to share in the judgment fund awarded the Cherokee Nation of Oklahoma." The only exception for the petitioner was for the descendants of Lorenzo Newton Davis, the minor

child that qualified for membership with the Cherokee Nation in 1905 (Busey 5/1/1963). These documents indicate individual Cherokee ancestry but are not identifications of an Indian entity in Georgia.

The Boy Scout article from 1962 focused on the past history the Davis family in Lumpkin County. Lila Mae (Davis) Calhoun (Mrs. Roy) showed the boys historical family artifacts, the Davis house built in 1829, and some of the land that she described as making up the family "reservation" from the 1819 treaty. Calhoun gave the Boy Scouts a retrospective family history but the article did not mention the existence of a contemporary tribe or Indian entity of Cherokee in the local area in 1962 (*Atlanta Journal and Constitution* 1962).

1975 to 1999

There are few documents about the creation and incorporation of the Georgia Tribe of Eastern Cherokee in the mid-1970s. There are some records in the petition that seem to indicate that the Georgia Indian commission was formed with Bill Dover, Thomas Mote, and others associated with what would later become the GTEC petitioner. Thomas Mote was the incorporator of GTEC. The State recognized GTEC as a 501(c)(3) tax-exempt, non-profit organization of Cherokee descendants, originally opened broadly to anyone of Cherokee Indian descent. Also in the record, are newspaper articles beginning in the late 1970s, that discuss the organization of GTEC, and in the early 1980s, the petitioner's efforts to become a federally recognized Indian Tribe. It appears that the petitioner experienced external threats from outside groups claiming to be "GTEC" during the 1990s. There were identifications from 1977-1981, and again from 1996-1999, but this evidence is insufficient, by itself, to satisfy criterion (a).

The formal organization of the Georgia Tribe of Eastern Cherokee, Inc. in 1977 provides the first identifications of GTEC in the 20th century. On April 7, 1977, the State accepted the incorporation of the "Georgia Tribe of Eastern Cherokee Indians, Inc." This incorporation document serves as an identification of what would become Petitioner #41 (Fortson, Jr., 4/7/1977). The documents in the record suggest that the original organization of GTEC in 1977 centered on a State effort to organize a larger pan-Indian group while simultaneously supporting the incorporation under the laws of Georgia of a local group in Lumpkin County (*Times* ca. 1977; General Assembly 3/21/1977). An Executive Order from Georgia Governor George Busbee concerned both the appointments of members of the State Commission on Indian Affairs and the planned role of the GTEC organization in a State effort to provide resources to eligible state citizens. The Executive Order serves as an identification of the petitioner: "the Georgia Tribe of Eastern Cherokee Indians, Inc. is hereby designated as the legal tribal organization of Cherokee Indians in the State of Georgia" (Busbee Executive Order 5/9/1977). An article from November of 1977 also identified the petitioning group and the leadership of "Thomas D. Mote, chief of the Georgia Tribe of Eastern Cherokee" (*Times* 11/24/1977).

A 1978 commemorative event held for the 150-year celebration of the founding the historical Cherokee Nation's newspaper, the *Cherokee Phoenix*, provided another identification of the petitioner in 1978. The event held in New Echota, Georgia, included representatives from the Eastern Band of Cherokee Indians of North Carolina, the Cherokee Nation of Oklahoma and

"Mr. Thomas Mote, Chairman, Georgia Tribe of Eastern Cherokee." This article identified a GTEC entity in 1978 (*Cherokee One Feather* 2/21/1978).

A local article identified the petitioner in 1981 describing the existence of a Cherokee group in Dahlonega and their effort to gain Federal acknowledgment. According to the article, the group "calling themselves the 'Georgia Tribe of Eastern Cherokee Indians,' had petitioned the "U.S. Bureau of Indian Affairs (BIA) for official acknowledgment as an Indian tribe" (Unknown Newspaper 1981).

The next identification occurred in 1996 with an Atlanta newspaper article describing mostly internal divisions within GTEC and the apparent existence of rival groups claiming to be the petitioner. Ken Edelstein, the author of the newspaper article, interviewed Thomas Mote who described the problems raised by another individual who had repeatedly misrepresented himself as a leader of the GTEC petitioner. The confusion made it difficult to identify "who actually led the Georgia Tribe of Eastern Cherokee." To indicate Mote's position as the leader of the real GTEC petitioner, Edelstein quotes an outside expert who stated, "it is my professional opinion and my personal opinion that Tom Mote's Georgia Tribe of Eastern Cherokee is the only legitimate tribe in Georgia." The article's discussion of the internal conflict of the petitioner provided an identification of an entity (*Creative Loafing* 12/14/1996).

2000 to Present

There is very little evidence in the record for the petitioner since 2000. The GTEC's internal issues and issues with other groups claiming to be the "real" GTEC hampered Petitioner #41's efforts to pursue Federal acknowledgment. The limited evidence after 2000 is focused on these internal schisms and the outright appropriations of the petitioner's name.

A hearing was held on January of 2001 in Lumpkin County Superior Court, with the petitioner as the plaintiff. The GTEC petitioner was seeking a "temporary and permanent injunction against certain named individuals who collectively are claiming to be members of the Georgia Tribe of Eastern Cherokee." Senior Judge Robert Strueble ruled that "Plaintiffs by virtue of their long standing operation since 1977 of GTEC are entitled to proceed with the corporation and the name of GTEC." The court case provides identification of petitioning group in 2001 (Strueble 1/2/2001).

CONCLUSION

There is a lack of available evidence identifying the group even after the date it incorporated in 1977. There are many claims of lawsuits and court actions, but very little actually in the record at this time. Many of the records that may have been intended to address criterion (a) appear to be self-identifications generated by the petitioner, retrospective accounts, or Indian identifications of individuals and not of a group.

The evidence in the record does not demonstrate that external observers have identified the GTEC petitioner as an Indian entity on a substantially continuous basis from 1900 to the present. There were identifications from 1977 to 1981, and again from 1996 to 2001. Because the petitioning group has not been identified on a substantially continuous basis since 1900, the PF concludes that the GTEC petitioner does not meet the requirements of criterion 83.7(a).

Criterion (b)

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.

INTRODUCTION AND OVERVIEW

Introduction

The petitioner claims to have evolved from the pre-Removal Cherokee Nation, once located in present-day north Georgia and bordering states, before the United States forced the Nation to remove west. The petitioner implies it remained part of the Nation until about 1900, but provides little evidence to show its ancestors continued as part of the Nation, or that they evolved to become a distinct community in Georgia after the final Removal in 1838 or after 1900.

To meet criterion (b), the acknowledgment regulations require that the GTEC petitioner demonstrate it has continued to exist as a community from historical times to the present. Although the petitioner's ancestors were active members of the Cherokee tribal community in Georgia until 1838, their known Indian associates, kin, and in-laws removed with the tribe, while the GTEC ancestors did not. Their ancestors also did not form a distinct community with other Cherokee individuals and families remaining in Georgia. Instead, they primarily stayed in a small rural settlement composed of some Davis descendants and non-Indians. Accordingly, the petitioner's ancestors did not maintain a distinct community from 1838 to the present.

Overview

The petitioner's 458 members descend from two Cherokee ancestors in Georgia before the Removal. The great majority, 82 percent (n=378), claims descent only from Rachel (Martin) Davis (1788-1843). Eight percent (n=38) claim descent only from Pinkney Howell (1824-1895), and 10 percent (n=44) claim descent from both Davis and Howell. In 1830, the Howell and Davis families resided near one another in the Cherokee Nation.[9] Rachel Davis was an adult and parent in her household and Pinkney Howell was a child in his parents' home. Both families were citizens of the Cherokee Nation. Rachel Davis' descendants have identified themselves as the "Davis family," or "the Davises" after her husband's surname.

The GTEC ancestors Rachel Davis and Pinkney Howell lived through the Removal Era, but neither removed. Rachel Davis had 10 children between 1809 and 1831. The petitioner's narrative implies that Rachel Davis' descendants in Georgia remained members of the Cherokee Nation after the Removal, but such membership did not in fact continue.

[9] The Federal census of 1830, GA, Hall Co., p. 132: on line 3 are Jesse Howell [father of Pinkney Howell], 1fwm [free white male] under 5, 1fwm [free white female] 5-10, 1fwm 20-30; 1fwf under 5, 1 fwf 20-30, and on line 5: Daniel Davis [husband of Rachel (Martin) Davis], 1fwm under 5, 2fwm 5-10; 2fwm 10-15; 2fwm 15-20, 1fwm 20-30, 1fwm 40-50; 1fwf under 5, 1fwf 5-10, 1fwf 40-50.

After 1838, Davis descendants—mainly Lorenzo Dow Davis' descendants—stayed in an area near the original Davis plantation in Lumpkin County. They were not, however, a distinct group within the area. The Davis descendants joined non-Indian neighbors through marriage and association in a small, tightly knit, rural neighborhood. Together, Indians and non-Indians attended the local school and chapel, and used the chapel's cemetery through the mid-20th century. The families of both Indian descendants and "Whites" in this neighborhood—called the "Davis District" on Federal censuses from 1840 to 1940—had resided there since before the Cherokee Removal. The petitioner did not submit evidence of how the petitioner's ancestors were distinct within the rural neighborhood.

In 1976, a few of Rachel Davis' descendants and others brought together Georgians who claimed Cherokee ancestry to form a "Georgia Tribe of Eastern Cherokee," which the State created by legislation. These efforts led to the formation of the GTEC petitioner, with a membership comprising primarily descendants of Rachel and Daniel Davis and located in the historical "Davis District" of Lumpkin County. About 44 percent, or 203 of 458 members, report residing in or near this area, and another 8 percent, or 35 persons, reside in neighboring Mill Creek (GTEC 2013). Residents report that they can walk from their own homes through the woods to neighbors' houses in Davis District and Mill Creek (Walker Dan Davis 11/9/2015; Rhonda Bennett 11/5/2015). At present, Davis District has Baptist and Methodist Churches attended by the Davises and non-Indian neighborhood residents. Other GTEC members attend church in Mill Creek.

THE DAVIS FAMILY IN THE HISTORICAL CHEROKEE NATION, GEORGIA

The petitioner's members primarily descend from Rachel (Martin) Davis and a minority from Pinkney Howell. The available evidence about her birth family demonstrates they were active in the Cherokee Nation's affairs in Georgia and part of Cherokee society before the Removal. (See Anthropologist's Work Paper on Community)

In 1831, Georgia Governor Gilmer requested information about Indian leaders. The responses describe social ties among leading Cherokee families. The documents lay out a social network linked through marriages among Adairs, Martins, Thompsons, Lynches, Millers, McDaniels, Davises, and others named on treaties, as officers of the Cherokee Nation, as persons permitted to employ non-Indians, and as neighbors on censuses or associates on other documents (Wales 1831; Montgomery 7/2/1831 and 10/2/1831; Tarvin 1831; Scudder 1831). White men among them appeared on lists of non-Indian "Cherokee countrymen"[10] with "Indian families."

Five decades later in Indian Territory, John T. Adair, son of Walter "Black Wat" Adair, described social ties between his own family and the three Martin siblings, who were related by the marriage between John T. Adair's uncle, Thomas Adair, and Rachel Lynch, daughter of Nannie and Jeter Lynch:

[10] "Cherokee countrymen" were White men married to Cherokee women who were Cherokee citizens in most respects.

> I knew a Nancy Lynch, who was Jeter Lynch's wife, in the old Nation. She was understood to be the sister of Judge Jack Martin. Jack Martin had an other [as appears in text] sister named Rachel, who married Daniel Davis . . . My father's family and that of the Lynch's and Martin's were very intimate, there was hardly a week but that some of us were backwards and forwards to each others houses. (John T. Adair 1888)

Various documents describe similar relationships linking families of Cherokee countrymen in Georgia and high status Cherokee families in a social network. The Davises were linked through kinship and marriage to this network, variously described by academic researchers as the "Red bourgeoisie" (McLoughlin 1972, 361), the "planter class" (Champagne 1985, 129), or the "ruling elite" (Fields 1998, 186). Governor Gilmer, who advocated the Cherokee Removal, stressed the mixed-race backgrounds of this class (Young 1958, 33). He noted in 1831 two classes of Cherokee, "half breeds" with "both wealth and intelligence" and "unmixed aboriginal people" (quoted in Jennison 2012, 207).

Rachel and Daniel Davis chose initially to remain on their original lands, ceded to Georgia in the 1819 treaty and awarded in fee simple to Davis. Their family and associates also stayed at first, but very soon vigilantes forced them to move from their original treaty reserves in 1820. The Davises appear to have stayed on their original reserve until 1825, when they moved about 5 miles northwest of Dahlonega, which was still part of the Cherokee Nation. A circa 1845 letter from Daniel Davis' attorney to the Board of Commissioners appointed under an 1835 treaty describes how Davis lost his 640-acre "reserve"[11] on "Little River," in Hall County, Georgia.[12] Shortly after the treaty, Georgia held a land lottery. Even though Daniel had "in good faith, compl[ied] with all the conditions & restrictions upon which said reservation was so granted to him," in 1825 he "was forcibly turned out of the possession of the lands . . . and wholly deprived of its use & benefit . . . contrary to his will & the true intent . . . of the Treaty" (Gathright circa 1845). He was able to reestablish his family on a plantation 5 miles west of Dahlonega. Through a variety of activities, Davis and his brother-in-law, John Martin, had enough cash to replace lands they had lost during the land lottery.

By 1830,[13] the Davis family resided on a plantation on the Hightower, now Etowah, River.[14] The 1830 and 1835 Federal censuses enumerated the Davises in Hall County, Georgia (U.S. Federal Census 1830).

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[11] The petitioner sometimes calls Davis' land a "reservation," implying it was a special apportionment the United States gave to Indians. It was provided in the 1819 treaty and called a "reserve," but it was held in fee simple and it was Davis' private property. Georgia demanded that special in-holdings in ceded lands, such as the Davis plantation, be private and not Indian lands; in other words, it was part of Georgia, unencumbered by Federal trust.

[12] Hall County was formed in 1818, Lumpkin County was formed in 1832 out of Hall, Cherokee, and Habersham counties.

[13] Estimates of the Indian population around 1830 vary. Hightower resident Jacob Scudder places the Georgia population at "3,000 full-blood" Cherokee, in 700 to 800 family units (Scudder 8/17/1831). W. J. Tarvin of New Echota estimated there were "7,000 Indians in Georgia, exclusive of negroes and descendants of the Whites" living in about "1,100 families of 6 persons each" (Tarvin 1831; Warren and Weeks 1987, 92). Col. Hugh Montgomery, the U.S. Agent to the Cherokee in 1831, estimated from the Cherokee census of the entire Nation in 1825, that "a little upwards of four thousand full Blooded Indians [are] in Georgia, and as their families are generally small it may not be far from correct to Estimate them at one Thousand Families" (Montgomery 1831). The Cherokee census of

Other Cherokee planters residing near the Davises appeared on the 1830 Federal census of Hall County, but were listed as "White," even though they were actually Cherokee planters. They were not the kin and in-laws with whom the Davises were known to have interacted before 1825. They included Uriah Hubbard [life estate, Hall p. 132, line 20]; Bryant Ward [life estate, Hall p. 132 line 12]; James Ward (life estate Hall p. 132, line 13]; and John Terrell [life estate, Hall p. 131 line 25).[15] Local historian Don L. Shadburn named "Indian countrymen, recognized as leading planters of the period," as "Lewis Ralston, Silas Palmour, Daniel Davis, John Satterfield, and James Landrum" (Shadburn 1989, 227). During claims adjustments in the 1830s, these men sometimes testified for each other (Shadburn 1989, 227-231). The evidence, however, does not demonstrate actual social connections, including marriages, between the Davises and nearby Cherokee planter families between 1840 and 1900.

Although evidence implies that similarly situated planter families that included the Davises may have resided in Lumpkin County, the petitioner has neither identified nor traced forward in time a community composed of these families, during or after the Removal Era. Some non-GTEC families residing in the Davis District share surnames with such families (including Satterfield, Fields, perhaps others), but Departmental researchers have determined these specific families are non-Indian in-laws, step-kin, half-siblings, or not at all related to Indian descendants with the same surnames. These non-Indian families lived in close proximity to the Davis families before and after 1838, and some of their descendants continue to live in the Davis District neighborhood. The evidence submitted by the petitioner shows social interaction between these non-Indians and Davis descendants. This neighborhood does not represent a distinct community that evolved from Indian citizens within the Cherokee Nation when it was in Georgia.

Analysis of Community post-Removal to 1865

The 1840 Federal census lists Daniel Davis, residing in Lumpkin County, in "Capt. Davis' enumeration District." Marriage and residence patterns indicate that Rachel and Daniel Davis' descendants socially interacted with Whites. Although the available evidence indicates that the Davis descendants were active in non-Indian society, there is no evidence that the Davises were also part of a distinct community of Indian descendants.

Removal "dramatically altered the social landscapes of those Cherokees who remained" (Greene 2009, 72). It broke apart families and networks of friends and neighbors. The Davises saw many family members removed, including virtually all of the Martin family—other than Rachel's descendants. After 1838, the Davises continued to interact socially with non-Indians

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1825 had enumerated 13,563 citizens of the Nation, 6 years before these estimates were made and many had already removed (Montgomery 10/2/1831).

[14] On the land were, "an orchard of more than 900 peach, apple, and pear trees . . . 40 acres of woodland under fence. . . .60 acres of upland, and . . . 152 acres of bottomland on the river" (Shadburn 1989, 230). Davis also reported to claims evaluators that he had owned grist and saw mills (Thomas & Kellogg 1836).

[15] The latter two men enrolled themselves, their families, and their slaves for emigration in 1831 and 1832.

in the area. The Department has not been able to identify a distinct community of Indian descendants, of which the Davises were a part, after the Removal.

Locations of Rachel and Daniel Davis' Children after 1838

Rachel and Daniel's sons, John and Martin, established farms in Walker County, Georgia, about 80 miles northwest of the family's plantation. John Davis (1813-1892) moved before 1850 to Walker County in the western part of the old Cherokee lands in Georgia. His brother Martin Davis (1817-1862) and family soon joined him before 1850. The brothers married non-Indian sisters and established adjacent farms on Chickamauga Creek, in an area called "Davis Crossing."[16] Martin would die in 1859, leaving six children, none of whom has descendants in GTEC, primarily because they moved to Indian Territory and rejoined the Cherokee Nation. John Davis, however, has 123 descendants in the group; all trace to another ancestor—Coleman or Lorenzo Dow Davis, or Pinkney Howell—in addition to John.

The only daughters of Daniel and Rachel, Delilah and Amanda, remained on the family's plantation near Dahlonega, where they cared for their father and a disabled brother after Rachel died in 1843. Coleman and Joseph Davis established households next to one another near Dahlonega. Lorenzo Dow Davis, a justice of the peace in Lumpkin County, bought, sold, and traded land, amassing property in Davis District. The youngest son, Earl Elias Davis (1824-1876), removed before 1850, when the Federal census enumerates him in Lavaca County, Texas.[17]

The Department's researchers consulted contemporary sources to evaluate whether the Davis family was part of a Cherokee community following Removal. They analyzed the papers of the Fourth Cherokee Board of Commissioners; letters received in the War Offices; several rolls to enumerate Cherokee east of the Mississippi River after 1838, including the Siler, Mullay, and Chapman rolls; and local resources in Lumpkin County, Georgia. Several Cherokee families remained in Lumpkin County post-Removal, but there is no evidence of social interactions of the Davis descendants with other Cherokee descendants. Cross-referencing the 1851 Siler and 1852 Chapman Rolls of Cherokees East of the Mississippi with the 1850 Federal census reveals 14 households with Cherokee descendants in Lumpkin County around 1850. These families are in four enumeration districts (three are contiguous), south and west of Dahlonega. There is no evidence in the record that these families of Cherokee descendants interacted socially or formed their own community. (Appendix A: Chart of Cherokee in Dahlonega District circa 1850.)

The petitioner's ancestors resided in Davis District, where the Davises generally lived on lands belonging to Daniel Davis or his sons. Between 1850 and 1860, White families headed by

[16] Julia Ann Tate married Martin Davis around 1839, and Jane Saphronia Tate married John Davis around 1847.

[17] The 1860 and 1870 Federal censuses enumerate Earl Elias Davis, his Cherokee wife, Amanda Brown, and their children in Lavaca County, Texas. Earl was the only Davis child to marry an Indian. Amanda came from an "Old Settler" family ("Old Settler families" resided in Indian Territory prior to December 1835, when the main body of the Nation began to remove). He was buried in Muskogee, Indian Territory, in 1876. His descendants appear on the Dawes Roll.

agricultural laborers resided in the Davis District neighborhood; some had been there before the Removal.

Evidence indicates the widower Daniel Davis advised Federal officials who were creating rolls of Cherokee descendants in Georgia. The 1851 Siler Roll listed Cherokees still living in the East, who would receive per capita payments based on the 1835 treaty. Agent David Siler compiled this census and arranged it by state and county. It provides a roll number, name, age, sex, and race for 1,959 individuals in four states. The roll contained at least 28 descendants of Rachel Davis or Pinkney Howell. It listed members of other Lumpkin County families named in citizenship acts of the Georgia Assembly. Agents interviewed applicants at the Davis plantation. This evidence implies that Davis was knowledgeable about Cherokee individuals, but does not document social connections between the Davises and other Cherokee known to reside in Georgia. Although censuses, claims rolls, and other evidence document Cherokee, Cherokee countrymen, and their families residing in Lumpkin County after 1838, the evidence does not show that they formed a distinct community of post-Removal Cherokee.

Daniel Davis, Sr., died in 1868. Copies of Daniel Davis' last will and testament and probate appear in the record submitted by the petitioner (Davis 1868). The inheritance of the plantation went primarily to his unmarried daughters Delilah and Amanda, who remained there through their lives. Many of the plantation lands have remained to the present in the hands of Davis descendants. The area represents the geographical center of the part of the Davis family that remained in Lumpkin County after Removal.

ANALYSIS OF COMMUNITY POST CIVIL WAR PERIOD: 1865 to 1908

During this period, Cherokee workers from North Carolina seasonally visited the Davis Plantations in Lumpkin County, where a group usually camped in the Davis cane break to gather cane for baskets on the Etowah River. There is no evidence that the Davis family in Georgia was part of the tribal groupings in North Carolina. Rather, the Davises represented one family of Indian descendants among several non-Indian families residing in a rural neighborhood in Lumpkin County.

One writer implies that the Davises hired North Carolina Cherokee seasonal agricultural workers. A local history of Lumpkin County maintains that after the Removal until about 1882, Cherokee from the North Carolina band trekked annually to Georgia in search of employment (Cain 1978, 28-30). Because the North Carolina Cherokee arrived during the fall harvest season, it seems likely that they performed agricultural tasks for local farmers, including the Davises, although there is no direct evidence of it in the current record. Historical connections and ownership of the cane break makes the Davises likely employers of the seasonal Indian visitors. Nevertheless, the Davises were not a part of the North Carolina Cherokee as the Georgia Davises were not included on the Baker Roll.

Relationships between Davis Family Members in Georgia and in Indian Territory

As discussed above, the Davis family members in Georgia continued to interact with members of their family who removed and remained in Indian Territory. Throughout the second half of the

19th century, Davis family members went as individuals or nuclear families to Indian Territory. Evidence of continuing family contacts include an obituary for Delilah Davis (Rachel and Daniel's daughter), a letter from a family member in Indian Territory to Georgia Davis asking "Aunt Biddie" for money, testimony before the Dawes Commission, and presumed relations maintained with their brother or uncle, Earl Davis' family, and other Davis descendants who moved to Indian Territory before 1900. Yet, even these ties appear to have attenuated over time. This evidence does not support a finding that the Davis' remained part of the Cherokee Nation or Cherokee society.

The Cherokee Nation allowed Cherokee descendants from Georgia to re-enroll in the tribe until about 1900, but only if they could show they intended to reside permanently in Indian Territory. During the 19th century, some descendants of Rachel and Daniel Davis continued to remove. There is some evidence that Davis cousins and in-laws helped their close kin who migrated to Indian Territory before 1900. The descendants of those Davises who lived permanently in Indian Territory are not in the petitioner at present.

Earl Davis, the only child of Rachel and Daniel Davis to remove to the West before 1850, eventually ended up in Indian Territory by way of Texas. Earl Davis died in January 1876, and a judge in the Canadian District of the Cherokee Nation (west) made his wife Amanda Davis administrator of his estate on March 7, 1876.[18] The 1885 obituary of another of Earl's sisters, Delilah "Miss Biddie" Davis, in the *Dahlonega Signal* states that she is a well-known and wealthy public figure in the area. It describes her "plantation [as] one of the finest in Lumpkin County," and her professed Cherokee connections, both genealogically—as "one-fourth Cherokee Indian"—and socially:

> She was regarded by all the Cherokee Indians east of the Mississippi river as a person to whom they could go for protection and advice, and in all their troubles she was the first one they would consult. No person ever went to her house and came away hungry. She will be sadly missed by many poor families in her community, of whom she was the principal support. The deceased has many relatives in the Cherokee nation, among which is Capt. Wm. Penn Adair. (*Dahlonega Signal* 1885 in Cain 1978, 342)

Evidence suggests that Delilah Davis, born in 1815, continued to assert her status in the Cherokee elite throughout her life. The above references to the "Cherokee nation" and "Capt. Wm. Penn Adair" refer to the Cherokee Nation in Indian Territory.[19] If Delilah protected "all the Cherokee Indians east of the Mississippi river," other evidence would likely exist to support this claim. Such evidence is not in the record.

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[18] The petitioner claims erroneously in a note on a transcription of that court order that Earl's sister Amanda Davis (1831-1901), who lived in Georgia, was the administrator named by the court. However, Earl's wife Amanda (Brown) Davis—mother of his seven children—administered the probate.

[19] Confederate Col. William Penn Adair (1830 - 1880), Delilah's first cousin once removed, removed to Indian Territory and died five years before the obituary appeared.

A letter signed by "Georgia" (Georgianna) Dunagan in Indian Territory requests financial help from her aunt Delilah Davis (Dunagan 1880). She is the daughter of Delilah Davis' brother, John Davis. The plausible writer is Georgianna (Davis) Dunagan (1848-1907).[20] It is likely that Georgianna Davis wrote it after marrying Ezekial Jackson Dunagan—she refers to her husband as "Jack"— about 1875 and moving to Indian Territory between 1876 and 1880, before Delilah died on March 23, 1885. The letter states its writer is in Indian Territory and asks Delilah for a loan and grape cuttings and agricultural items from her kin, including "Dock." The letter supports the petitioner's contention that kin in Indian Territory sought assistance from the Georgia Davises,[21] but that such interactions were rare. Georgianna writes news of several relatives in Indian Territory who appear to live in Webbers Falls, where she also lives. The record contains no evidence that Delilah corresponded with descendants of other Cherokee families in Georgia.

The Davis District Neighborhood: 1870 to 1900

Members of the extended Davis family in Georgia continued to reside in the Davis District neighborhood after the Civil War. The petitioner correctly claims that Davis descendants have remained connected by residing in the same neighborhood, attending the same church, burying their dead in the same cemeteries, and attending the same schools. Analysis of these institutions indicates that, although many Davis descendants remained in the area and attended these institutions, they were not distinct Cherokee entities. Non-Indian residents of this rural district also utilized these institutions. These neighbors sometimes married the Davis descendants. No document in the record dating to the period 1870 through 1900, and later, identifies any of these institutions as Indian, although, according to oral histories with current group members, outsiders did associate them with the "Davises."

Amanda and Delilah Davis remained on the original plantation, as did numerous descendants of Rachel and Daniel Davis. The Davis family's stake in the neighborhood, the building of the Davis Chapel, its associated cemetery, and local school, signify a continuation of the Davises in Lumpkin County in 1870 that would continue into the 20th century. (See OFA Anthropologist's Work Paper on Criterion 83.7 (b).)

In 1889, Amanda Davis donated a half-acre of land in the Davis District neighborhood to the Methodist Episcopal Church for a new church, known as "the Davis Chapel." The petitioner submitted a three-page listing of 66 adults and children attending the "Davis Chapel Sunday

[20] The copy the petitioner submitted appears to be a photocopy of an original letter with over-writing and added annotations, one of which incorrectly dates the letter to "1850." Delilah Davis' niece Georgianna (Davis) Dunagan, born in 1848, in Walker County, Georgia, could not have a baby in 1850. The handwritten words, "Document #119," obscure a date. However, the Dunagan letter can be dated to March 1880 because Georgianna mentions her two little children; the youngest "Minnie Lu" is only 6 months old. The tombstone for "Minnie L. Dunagan" in McIntosh County, Oklahoma lists her birth date as September 14, 1879.

[21] The petitioner submitted many documents with dating and provenience problems. Photocopies of handwritten transcriptions are nearly illegible, and overwriting obscures original text. The petitioner needs to submit clean, unannotated photocopies, information about the location of documents, and details of their creation. (See OFA Anthropologist's Work Paper on Criterion 83.7 (b).)

School" in 1893 (Anonymous 1893).[22] Gabrilla (Davis) Satterfield's 1921 will, which she drafted long before her death in 1936, refers to the chapel's cemetery as the "family burial ground." It is another identification of the Davises with the church and neighborhood. The petitioner refers to it as the "Old Indian burial ground," which seems to be a recent innovation because no historical document describes it in these terms, and such a name is not an accurate description.

The Department's analysis of the congregation's composition shows that the chapel served Davises and others residing in the Davis District neighborhood. The Department's researchers cross-referenced the names on an 1893 Sunday school list with the 1870, 1880, 1900, and 1910 Federal censuses and other records to describe the composition of the congregation and determine whether the congregation constituted an Indian organization. Of the 66 persons listed, the Department's researchers could identify 49 individuals (about 74 percent).[23] The Department concluded that at least 25 of the 49 identified individuals (51 percent) were descendants of Daniel Davis and Rachel (Martin) Davis, 19 from their son Lorenzo Dow Davis. The Sunday school list represents a rural population comprising Davis descendants, some of their in-laws, and other non-Indian neighbors.

Only 8 out of 82 households (10 percent) on the 1880 Federal census of Davis District contained descendants of the petitioner's Indian ancestors. In 1900, there were 12 such households in Davis District and 1 household each in nearby Mill Creek and Hightower. Even though the neighborhood near the old Davis plantation was home to many ancestors of the petitioner's current members, it was not an exclusive Indian settlement nor a distinct community composed of Indian descendants from 1870 to 1900. Rather, it was a rural residential area where the Indian descendants resided with non-Indian families, some of whom resided in this area since before the Removal.[24] These families also attended the chapel financed in part by the Davis family. Although some non-Indians marry into the Davis family, the Department's researchers could not discern a pattern of marriage among Indian descendants, which could define an Indian marriage network as distinct from the general population of the Davis District after 1838. There is insufficient evidence for petitioner to meet criterion 83.7(b) after Cherokee Removal to 1907.

[22] The list appears to be a photocopy of a handwritten transcription of a document, an extraction of names found in an original document, or a recreation made from someone's memory. The original list, if available, would facilitate identifying the 30 unknown individuals.

[23] A fire destroyed almost all of the 1890 Federal census, so evidence from that census is unavailable for Georgia, except for one enumeration district in Muscogee County.

[24] Families from the Davis District neighborhood in 1870 and 1880 have surnames found on the Sunday school list, including Odom, Cain, Satterfield, Seitz, Perdew, Jones, and Free. A few members of these families, but not all, had already in the 1880s or, in later years, married into the Davis or other families associated with them. About 20 individuals on the Sunday school list are non-Indian in-laws of Davis descendants.

THE DAVIS FAMILY DURING THE 20TH CENTURY AND ANALYSIS OF COMMUNITY

Continuing Family Connections between Davises in Georgia and Indian Territory: 1907 to 1925

Available evidence does not show that Davis descendants moved from Georgia to Indian Territory after 1900. A series of documents about the Joseph Warren Davis (1850-1916) family describe their connections with persons in Georgia and Oklahoma after statehood in 1907 (Davis, Mattie 1916 and 1917). Earlier transactions of the Davises with the Dawes Commission from 1898 to 1908 support the contention that Davises in the two locations communicated with one another. The information in these letters combined with evidence from Dawes Commission records mention only close relatives and in-laws and do not refer to other Cherokee. The letters do not show that the Davises in Georgia were a part of the Cherokee community in Oklahoma, only that they maintained personal connections with a few members of their own family.

Davis District Neighborhood 1910 to 1930

The evidence submitted to demonstrate community during this time period concerns the school and church and cemetery. As analyzed below, this evidence does not demonstrate a distinct community of Indian descendants.

Evidence from the Plain View School: 1910 to 1930

The petitioner claims that a school in the Davis District neighborhood was an "Indian School," but there is no evidence that it ever was considered an "Indian School."[25] Like the Davis Chapel and the surrounding neighborhood, it was colloquially called "the Davis" school, but officially the "Plain View School." None of the county documents identified Plain View School as an Indian School. The petitioner submitted three report cards for Rufe Davis (b. 1903), and a photograph of students in front of the schoolhouse. The students' names are typed under the photo, and above it someone has typed "Davis School." Based on the children's ages, the photo must date to 1919 or 1920. The 1911 report cards identify the same school as "Plain View School," and a local history maintains the Dahlonega and Lumpkin County School System ran it (Cain 1978, 255).

The petitioner's caption below the school photo reads "34 out of 45 Pupils were Indian." Department researchers could identify 22 children out of 39 pupils, or 56 percent, as Indian descendants. All 22 children descend from Rachel and Daniel Davis, at least 17 through their son Lorenzo Dow Davis. The 1910 and 1920 Federal censuses of Davis District of Lumpkin County, Georgia listed the children with their families. The children come from 13 nuclear families residing in Davis District in 1920 and from 11 nuclear families residing in Davis District

[25] A description of the Plain View School in the one-room schools of Lumpkin County states that after 1902, an "iron bridge" crossed the Etowah River and children from both sides attended. Based on oral history from "Gail Davis," who is not an eyewitness, the school was 5 miles west of Dahlonega on Highway 52. This history does not associate the school with Indians.

in 1910. Eight families were on both censuses. The Sunday School List of the Davis Chapel had listed many of the students' parents and grandparents in 1893. About a third of the individuals on the 2013 membership list (155 of 458) have ancestors pictured in the school photo. The children attending this school come from a core group of Indian and non-Indian families, historically and continuously associated with Davis District.

The 1910 and 1920 Federal censuses enumerate other families who descend from Rachel and Daniel Davis. These families have school-age children, who are not at the school, even though the 1910 and 1920 census enumerations indicate they attended school in the preceding year. Some Indian descendants in the neighborhood do not attend the Plain View School, and some non-Indians do attend it. Thus, the evidence does not support the petitioner's contention that the "Davis School" or Plainview School was an Indian institution; rather, it appears to serve neighborhood farming families. These ancestors of the petitioner were an integral part of this rural, non-Indian neighborhood. Evidence does not indicate that they formed a distinct Indian community in the same rural area.

Evidence from the Pleasant Grove Methodist Church and the Davis Chapel Cemetery
In August 1943, J.C. Seitz gave to Dan Davis, Newt Davis, J.C. Seitz, Mrs. Winslow Christian, and Mrs. Jennie Garrett, trustees of the Davis Chapel church of the North Georgia Conference of the Methodist Church, and their successors in office, a piece of property, where a new Methodist church would be built. Thus, in 1943, a new church named Pleasant Grove Methodist Church replaced the old Davis Chapel Church, which had closed "years earlier," according to a website listing the burials in the associated cemetery. "In the early years of the church, it served all faiths as that was the makeup of the neighborhood." There is no mention of the church being an "Indian church," as the petitioner refers to it.[26]

Analysis of the burials of the old church indicates that 52 of 87 graves, or 61 percent, could not be connected to a known Indian ancestor from the group; that is, they had no genealogical link to the Davis or Howell families. Of the total 87 graves, 35 (39 percent) positively linked to the Davis ancestors, primarily Lorenzo Dow Davis, Coleman Davis, and John Davis, sons of Rachel and Daniel Davis. Of the 52 non-Indians identified and linked to others in the FTM database as enhanced by OFA, 10 (12 percent) are connected to Davises through marriage, and 3 are siblings or parents of a person married to a Davis descendant. Only two are more distant collateral relatives to a Davis descendant. These data indicate that Davis descendants provide an important core group of those buried and most likely the families associated with this church. However, only 28 percent, or 133 persons out of the GTEC membership of 458, descend from someone buried in the Pleasant Grove cemetery.

[26] The petitioner submitted a list entitled "Old Davis Sunday School Book" on the front cover and "Davis School Records" at the top of one page of 17 pages. The petitioner maintained it dated to 1926, although this date is not shown on the actual list. The year 1926 appears on an otherwise illegible document. The list is probably not for the Plainview School year of 1926 because it lists persons who are adults by 1926. The list names 153 individuals. The persons whom Department researchers identified had birth dates ranging from 1875 to 1923, and the earliest death dates occurred from 1930 to 1940. After each name is a line of "As" and "Ps," presumably signifying absent and present. The Department's researchers made no further analysis of the list because its provenance and purpose is unknown, and large portions of it are illegible.

Almost all of the families using this cemetery—both Indian and non-Indian—trace residence over generations either to the Davis District neighborhood or to Mill Creek, a similar nearby neighborhood from which the Davises descendants took spouses, and where some Davises lived. Yet, persons who did not have known connections to the Davis District neighborhood were also among those interred in the cemetery, probably because they attended the church or had connections to congregants. Interviews in 2015 indicated that "cousins of my cousins," or cousins or non-Indian relatives from one's non-Indian or non-Davis "side" often resided in the neighborhood and attended church and school with the Davises. People expressed a sense of relationship to these distant non-Indian in-laws of other Davises, even if they were not one's own in-laws. Many of these families had lived in the neighborhood for generations, but they were not Indian descendants, "Davises," or GTEC members, currently. Thus, the church membership overlaps only partially with the petitioner's membership and ancestors, and most members are not GTEC members or its ancestors.

The Davis District Neighborhood: 1930 to 1940

The Davis family members residing in the Davis District neighborhood in the 1930s and 1940s felt familial solidarity, according to Marie (Davis) Calhoun (1929-2010), who grew up there. In an interview in 2000, she stated: "a lot of people did not want to cross the Davis family, no way. Because it was a big family, and if you hurt one you hurt them all and you didn't usually come out ahead, there was no way. You had to whip them every time you met them" (Calhoun 3/8/2000). In retrospect, she attributed people's perceived reactions to the Davises to tracing "it back from Indian blood. When they got in trouble they said they was Indian, you know, when it was some good . . . they forgot they were Indian" (Calhoun 3/8/2000). Others shared this belief about "crossing" Davis family members. Oscar Newton Davis, a small child during WWII, said that people did not "mess with" Davis family members, but he had never heard anything derogatory about Indians. He claimed "everyone knew" the Davises were Cherokee (Oscar Newton Davis 2000). Edna Earl Seitz Seabolt's daughter was present at her mother's interview. The issue for her in her youth had been the distinction between "town-do"—Dahlonega residents—and "country."

During their interviews, both Edna (Seitz) Seabolt (1915-2003) and Oscar Davis (b. 1935) described the close-knit neighborhood in Davis District. In those "days, you knew everyone." Edna referred to the depression era as the "hard old days," and Oscar relayed that the period was very difficult for the local population. His father migrated to West Virginia and North Carolina to find work. Everyone in the neighborhood maintained a garden, hunted, and fished, whether Indian descendant or not. They ate what they grew. Edna said that visiting was limited, but neighbors fed those who had no food. Neither interview describes a distinct Cherokee neighborhood; rather, the neighborhood is made up of families of Davis descendants and non-Indians who know each other well, had roots in the neighborhood, and attended church and school together. These neighbors are not necessarily Indian descendants. As Edna's daughter explained, "They had community get-togethers, and kin to her came to that." Oscar Davis described his non-Indian mother's family—also a long-term local family—participating in neighborhood events, such as sing-alongs at the Davis chapel (Edna (Seitz) Seabolt 2/21/2000; Oscar Newton Davis 2000). The evidence submitted for this period does not demonstrate a distinct community under the regulations.

Community from 1940 to 1976

The petitioner did not submit evidence of community for this period, and the Department's researchers did not locate any. Accordingly, the available evidence for this time period is insufficient to demonstrate a distinct community composed of Indian descendants in the Davis District.

The petitioner submitted no evidence about modern community from 1940 to the present. The petitioner submitted several newspaper articles dating to the 1970s, but they dealt with the historical Cherokee Nation when it was located on lands that are now in Georgia. They discuss in the most general terms the gold rush in Dahlonega (Vardeman 1976; Rensi 1977), and European contact from DeSoto to traders in 1800 (McRay 7/4/1976a). They do not refer to a contemporary Cherokee entity existing in the State. These articles occur about the same time that the State Assembly took actions concerning Indians in Georgia, and state legislation regarding the "Georgia Tribe of Eastern Cherokee." By 1978, a few Davis descendants and others had formed GTEC and claimed they represented this State-law entity. A GTEC council formed, and the group began to bring together Cherokee descendants and put together a membership list.

Community from 1976 to the Present

The July 28, 1979, council meeting reports, "A Davis Reunion was held on July 18, 1979, at Amicalola Falls State Park, 200 members of the Georgia Tribe of Eastern Cherokees were Present." The 1978 membership list contains 390 names, and 200 persons reportedly attended the reunion. However, the names available in other petition materials are limited to people representing four or five nuclear families of Davis descendants. The petitioner has provided no evidence concerning the relationship between the named leaders and the rest of the persons at the reunion or on the membership list. The petitioner's Historical Overview describes "The homecoming, or annual reunion," which is "held the first Sunday in September . . . Davis descendants come from everywhere to talk, eat and make plans for the coming year" (GTEC 2/5/1980, 21). The group's secretary said in an interview for a newspaper:

> Our entire family is well-known as Indians . . . And they got together from time to time. But they couldn't call it an Indian meeting because it was against the law for Indians to meet. They called it a homecoming. (Harmon circa 1981)

Although this 1981 quote references meetings "from time to time" the record contains no other evidence of these events, which are essentially a family reunion.

The field visit of the Department's researchers in November 2015 produced some information on the petitioner's modern community, although it does not remedy the petitioner's complete lack of other evidence on this subject. Researchers found that the core geographical settlement, or neighborhood, described for earlier periods still exists, maintaining, somewhat unchanged, its general composition of the descendants of Daniel and Rachel Davis and non-Indian families who

have resided in this area for generations. Both Indian and non-Indian extended families build houses on acreage historically held by their families.[27] In short, there is insufficient evidence to demonstrate community from 1976 to the present.

SUMMARY

In summary, the petitioner's ancestors—the Davises—were active participants in the Cherokee community in Georgia before Removal in 1838. Although 14 households with Cherokee descendants remained in Lumpkin County in the 1850s, no evidence shows that they formed a distinct community. Some Davis descendants moved to Indian Territory and re-enrolled in the Cherokee Nation, but those individuals remaining in Georgia lost their connections to their relatives and others in Indian Territory by 1900. Evidence after 1900 does not demonstrate the petitioner maintained a community at any time from 1900 to the present. The Petitioner failed to submit evidence to show it maintained a distinct community at any time after 1838.

CONCLUSIONS

The evidence submitted by the petitioner about a community of the petitioner's members and their ancestors does not demonstrate that the petitioner has maintained a distinct community at any time after the petitioner's ancestors did not remove to Indian Territory with the Cherokee Nation in 1838. Therefore, the GTEC petitioner has not satisfied the requirements of criterion 83.7(b).

[27] The neighborhood, nonetheless, does provide a geographical core, which is important to the members' definition of their group. The annual "homecoming" celebration—sometimes described as a "family reunion"—now held at Pleasant Grove Church reportedly attracts two or three hundred individuals. Among attendees are in-laws and "cousins of cousins," who, although neither Davis descendants nor Indians, have known the Davises in the churches, at schools, and in the neighborhood for generations. The petitioner has not submitted any documentary evidence, such as captioned photos or sign-in sheets, to supplement and corroborate information gathered in interviews. When asked to further describe the "Homecoming," and whether it included a "business meeting," or whether it was "basically a social event for Davis descendants," a member stated, "I think it is basically a social event. There may be some men and women out in the churchyard talking about things—like you [the interviewer] said 'gossip,'—but basically we get together and enjoy. It's like a family reunion kind of thing" (R. O. Bennett 2015). The evidence does not show a distinct community of Indians. The oral interviews provided some anecdotal evidence, but it is insufficient to show community, because the oral interviews conflicted with each other, and it impossible to gauge the attendance at the annual event and the composition of those attending.

Criterion 83.7(c)

83.7(c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.

INTRODUCTION AND OVERVIEW

Introduction

The GTEC petitioner claims to have been a part of the Cherokee Nation when it was in Georgia before the Removal in 1838 and after the Removal to about 1900. It provides almost no evidence to demonstrate criterion 83.7(c), other than varying claims about individuals being GTEC leaders, after 1838 to the present.

Overview

Rachel (Martin) Davis' kin, in-laws, and associates in the Cherokee Nation in Georgia before the Removal were politically connected within the Cherokee Nation. The Federal Government had urged the Cherokee to remove west for decades, before it finally forced the Nation's citizens to remove to Indian Territory in 1838. At first, most Cherokee, including the Martins and Davises, resisted. However, between 1789 and 1838, some Cherokee families, including many of the Davis family's Cherokee relatives and in-laws, relocated to Arkansas, Texas, and Indian Territory, even though Cherokee leaders wanted the Nation to stand its ground. The petitioner's ancestors stayed in Lumpkin County, Georgia.

After the Civil War, a few Davis descendants moved to Indian Territory, where the Cherokee Nation readmitted them as citizens. Their descendants do not appear on GTEC membership lists. Cherokee descendants remaining in Georgia after 1901 could no longer join the Cherokee Nation, and neither the Nation nor the United States viewed them as potential Cherokee citizens. The ancestors of GTEC members stayed in Georgia. Evidence demonstrates that Rachel (Martin) Davis was a citizen of the Cherokee Nation when the Nation was located in the East, but the Nation did not consider her or her descendants in Georgia to be its citizens after 1838. Therefore, the political influence and authority of the Cherokee Nation after 1838 in Indian Territory cannot provide evidence to demonstrate criterion (c) for the GTEC petitioner.

The evidence does not demonstrate the existence of either a Cherokee entity composed of GTEC ancestors in Georgia after Removal, or an Indian entity evolving to become the GTEC organization, and dealing with issues of concern to Davis and other Cherokee descendants as a group. In addition, the Davises who stayed in Georgia did not join other Cherokee descendants to establish an autonomous Cherokee political organization in Georgia after the Removal.

The evidence available for criterion 83.7(c) does not reveal a political organization of Cherokee descendants in Georgia before 1976. In that year, State legislation proposed a Cherokee organization. Some Davis descendants incorporated GTEC under State law and then claimed

it was the only "State recognized tribe." This organization is the current petitioner. It limits its membership to persons whom their membership knows, almost all of whom are Davis descendants. Although current GTEC leaders maintain they enroll persons who descend from historical Federal Indian rolls of Georgia Cherokee, the members actually descend from only two historical Cherokee individuals.

Between 1838 and 1976—for 138 years—no available evidence shows the petitioner's ancestors maintained informal political relationships that advanced issues of interest to Cherokee descendants. From time to time, Davis descendants consulted with one another on individual claims applications, but these activities would stop after the claims period closed. The petitioner submitted almost no evidence showing how the petitioner organized activities, dealt with conflict and threats to their community, or represented the interests of its members other than in seeking Federal acknowledgment as an Indian tribe in the 1970s and protecting the GTEC name in court in the 1970s. The petition does not describe political processes setting the group's priorities, undertaking group events, raising money, or organizing any other activities that would demonstrate GTEC meets criterion 83.7(c) from the final Removal in 1838 to the present.

THE DAVIS FAMILY: CITIZENS OF THE PRE-REMOVAL CHEROKEE NATION

Citizenship Status of Cherokee Planters and Countrymen

Members of Rachel (Martin) Davis' birth family were active citizens of the Cherokee Nation when it was located in Georgia before 1838. The Martins held political positions within the Nation. Individuals in their social network of Cherokee planters represented the Nation before non-Indians, including Federal treaty parties. Rachel Martin's brother, John Martin, Jr., was the first justice of the Cherokee Supreme Court and established the Cherokee court system. Cherokee countrymen, like Daniel Davis, who were in-laws and associates of the Nation's leaders, interacted and consulted with them. See the anthropologist's work paper on political influence.

In 1835, it is ambiguous whether the Cherokee Nation and Daniel Davis continued their political relationship, established when he took land in the Nation by virtue of his Cherokee wife, even though a year later he told U.S. Agents that he had not made up his mind about removing (Thomas and Kellogg 1836, #1112). His wife, Rachel, and their children were most likely citizens until 1838, when they did not remove.

DAVIS DESCENDANTS DURING THE POST REMOVAL PERIOD: 1838 TO 1900

The Period Immediately Following the Removal

In December 1839, the Georgia General Assembly passed an act "to grant the rights and privileges of citizenship to certain persons or their descendants of the Cherokee tribe of Indians, herein named, and to remove all legal disabilities heretofore imposed on said tribe of Indians, so far as respects said persons" (McDonald 1839, 32). Four nuclear families, all residing in Lumpkin County, are named in the act: "the wife and children of Daniel Davis …, Mrs. Barnhill and her children, Benjamin R. Dougherty and his children, and the wife of Isaac Morris and her

children." No evidence in the record indicates that the Davis family has any known links or interactions with these other three Cherokee families in Lumpkin County. The laws of Georgia thereafter applied to those Cherokee descendants and Cherokee Countrymen who did not remove.

Daniel Davis provided information to U.S. Agent David Siler on Lumpkin County families of Cherokee descent when Siler compiled a roll in 1851. Siler suggested that the Government utilize residences of Davis and five other men with substantial property as places to disburse funds during the claims payout. He described Davis and Lewis Blackburn as "men of undoubted veracity."

After Rachel's death in 1843, her children began to marry and establish their own households. Her son Lorenzo Dow Davis was particularly important in the area of the historical Davis plantation. Three boxes of his papers currently reside in the small Lumpkin County Library and detail some of his personal business dealings, which often involved buying land, providing lumber for building projects, and purchasing items for home consumption. He also acted as a justice of the peace in Lumpkin County in 1852 and 1861, and he was trustee for three orphans. The petitioner submitted only two pages, which it entitled "Samples from L D Davis Court records originals in tribes possession," however, it did not submit photocopies of the records' cover(s), or any other information about the document. It and the other archived documents do not appear to represent any sort of distinctive Cherokee political record. Instead, analysis of the materials shows that Lorenzo Dow Davis dealt with the general non-Indian population. The actions on these two pages submitted by the petitioner represent judgments handled by Lorenzo Dow Davis involving debt collection for the local Sheriff. Department researchers extracted 18 names from these two pages and found that only one person named, Lorenzo Dow Davis, himself, appeared on an Indian roll between 1851 and 1883. In addition, few of the 18 names could be specifically located on the 1850 Federal census because of a lack of information (birthdates, other family members, actual full name). Persons found on the Federal census of 1850 were located in many locations in North Georgia, not just Lumpkin County.

The OFA researchers located a newspaper article from *The Mountain Signal* published in Dahlonega during the Civil War. It states under the heading "Law Days and Justices of the Peace:"

> 935th District – At Davis' Court Ground, on the 3rd Saturday in each month. – Justices – Wm. E. Beard and L.D. Davis. (*The Mountain Signal* 1864)

Lorenzo Dow Davis is most likely acting in his capacity as a justice of the peace and not in any political capacity for a Cherokee group. Oral histories claim that citizens used this "law" or "court ground" until the mid-20th century. Thomas Mote (b. 1944) described the use of it probably in the 1940s and 1950s:

> Best I remember being in the Davis lawground, first ones that got there would build a fire, fix the coffee pots and it was a regular all day meeting. And as they come in, they'd decide who they was going to vote for. And at the time, Davis voting district was the biggest voting district in the county except for Dahlonega. And as Davis district went, the election went.

> But when you got there, they'd decide who to vote [for]. They'd go in with you, and saw who you vote, and you better vote like you was supposed to. Cause if they told whoever was running they had 199 votes, there'd be 199 votes there … What little control they had was that was their politics. Thought they could get somebody to help them. (Mote and Cane 7/13/2000)

This recollection describes voting in what must be local, State, and Federal elections in the 1940s and 1950s. Without more evidence, it is ambiguous whether the "Davis' Court Ground" and the "Davis lawground" refer to the same place, and whether government business was transacted there between 1864 and the 1950s. That the District voted as a block, to have their issues and interests taken seriously, most likely applies to the whole population of the Davis district, not merely to "the Davises" or to a group of Cherokee descendants. Therefore, it is not evidence of political influence or authority within the petitioner.

The GTEC's Claims about Leaders in the Post-Civil War Period: 1865 to 1900

The petitioner submitted little evidence concerning political authority for the period after the Civil War to 1900. That the Davises continued to remove to Indian Territory throughout this period, and that the Cherokee Nation in Indian Territory accepted their applications and re-enrolled them, implies that some Davises felt they were part of the Cherokee Nation. The petitioner's 1980 Historical Overview describes Lorenzo Dow Davis (1817-1862), his unmarried sisters Delilah Davis (1850-1885) and Amanda Davis (1831-1901), son Daniel Davis (1848-1824), and daughter Gabrilla Davis (1857-1936) as successive leaders of "the families," which appears to refer to various lines of descendants of Rachel and Daniel Davis. These identified leaders were primarily responsible for the maintenance of the original Davis plantation house and lands and came to their position at the death of the person previously performing that duty.

The petitioner's Historical Overview implied these leaders looked after people's welfare. It states that Lorenzo Dow Davis' son, Dan Davis (1846-1924), "was the leader of the clan for many years until his death in 1924. When anyone in the family was ill, Dan and his wife went and helped out until the illness was over" (GTEC 2/5/1980, 16). It also describes Gabrilla Davis' role as more varied: "After Gabrilla Davis' brother died in 1924, she became the leader, trustee, record keeper, historian, looked after the land, and divided farm crops. She also kept the record of the Davis Chapel Church" (GTEC 2/5/1980, 21). Delilah and Amanda also supported the Davis Chapel, and Delilah's obituary states that she was generous. The evidence does not describe political processes that involved an autonomous Indian organization other than the family. These identified leaders also descend from Rachel Davis through her son Lorenzo Dow Davis, the largest group of descendants in the current GTEC.[28]

[28] Lorenzo Dow Davis (1817–1862) was the son of Daniel Davis and Rachel (Martin) Davis. He never removed to Indian Territory and he lived his entire life in Georgia. About 62 percent (284 of 458) of the petitioner's members descend from him.

It is not known whether these identified leaders are named because they are the head of a large extended family and maintain the original plantation, or because they are the leaders of a group of Davis descendants that includes other families represented in the current petitioner who are not descendants of Lorenzo Dow Davis. There is no evidence in the record, however, of such a group. Keeping the original lands in the family was an important duty. Maintaining the core geographical settlement historically associated with the family also maintained the connections among the Davis descendants who viewed the Davis District neighborhood as their family's historical home. The petitioner, however, did not submit any contemporary evidence to support the claims about leaders. The activities that the petitioner describes in its Historical Overview generally describe individuals taking personal action and not acting on behalf of a larger group. Many of the activities, if they do involve a larger group, such as of Delilah and Amanda Davis' support of the church, are on behalf of non-Indian institutions.

In 1890, farmers in Georgia were undergoing economic hardship (Soule 1992). Dan Davis (1846-1924) ran for elected office. An 1889 newspaper announcement from *The Dahlonega Signal* contains the political notice reading, "Dan Davis, the alliance candidate, was in town Saturday. He is in the field right sure, and will be there till counting day. Give the 'Injun' a chance" (*Dahlonega Signal* 1889). In October 1890, "Dan Davis [was] Elected to Legislature," and the Dahlonega "court house was the scene of a big jubilee . . . after the result of the election was known." The "Hon. Dan Davis was lifted high in the air" and "carried to the speaker's stand. He thanked his constituents for the favors conferred upon him in a few timely remarks amid a perfect ovation" (Cain 1978, 350). The Alliance party was primarily a political party for White farmers and others, including teachers, ministers, and physicians, trying to raise the position of farmers through cooperative efforts. While they established co-op stores, warehouses, and cotton gins, there is no evidence that Dan Davis' participation in the party resulted in establishing co-operative institutions for an Indian entity in the Davis district (Hild 2014). Although he sat in the State legislature, nothing about his political activities imply that he represented an Indian entity. The petitioner claims that Dan Davis was a leader of the "clan for many years until his death in 1924," but there is no evidence describing activities he undertook specifically on behalf of a Cherokee entity.

After the Civil War, evidence shows the Davis family plots of land were becoming smaller in each generation, as illustrated by Delilah Davis' will and probate records and by the suit against Susan Miller Davis concerning her administration of her husband Lorenzo Dow Davis' estate in 1889. Land and inheritance disputes were resolved in local courts, not by leadership internal to an Indian entity, and thus do not provide evidence of political processes within the petitioner.

<u>The Post-Civil War Relationship of the Georgia Davises with the Cherokee Nation</u>

In 1898, Congress passed the Curtis Act, which provided for the abolishment of Indian tribal governments and courts for tribes in Indian Territory by March 6, 1906, and the allotment of Cherokee lands in Indian Territory, previously exempt from the 1887 General Allotment Act. Congress set up the Commission of the Five Civilized Tribes, known as the "Dawes Commission," to implement it. Between 1893 and 1909, the Dawes commission created a "final roll" of Cherokee citizens, and the "Dawes Roll" is the official base roll of the modern-day Cherokee Nation. The documents created by the Commission can be used to evaluate the

petitioner's claims that the group's ancestors in Georgia continued to interact with Cherokee in Indian Territory through the 19th century.[29]

Both Miller Davis (1859-1940) and Daniel "Dan" Davis[30] (1846-1924) took their families to Indian Territory, in the mid-1890s, but returned to Georgia, and almost all of their children also lived the rest of their lives in Georgia. Enrollment on the Dawes roll is merely a snapshot of whether individuals met certain criteria under the Curtis Act. It did not acknowledge a group of relatives in Georgia as members of the Cherokee Nation nor did it establish a political relationship among those Cherokee that ultimately remained in Georgia.

LEADERSHIP AND POLITICAL AUTHORITY: 1900 to 1976

The petitioner submitted almost no evidence of leadership or political authority for the period 1900 to 1976. Interviews from 2015 did reveal that distilling whiskey had become an important source of cash for a number of families during the first half of the 20th century (*Dahlonega Nugget* 6/17/1910).[31] These interviews did not show how petitioner's ancestors acted as a group within the district, their political organization, the existence of political factions within an Indian entity, and the sources of leadership and disputes in the current group. Thus, this limited evidence is insufficient to demonstrate political authority.

The petitioner identifies Lila Mae Davis Calhoun (1905-1987) as a leader between about 1950 and her death in 1987. Typically, she maintained historical documents, was active in the local church, and generally played a caretaker role in the Davis district. In 1962, evidence in the record indicates that some Davis descendants are publicizing their earlier connections to Indians. Yet, their recollections of their ancestor's tribe vary from Cherokee and Pocahontas to an unnamed Virginia tribe, displaying confusion about the Davis ancestry. A 1962 newspaper article about a local Boy Scout troop's project to have a state historical marker placed on Daniel Davis' plantation, describes a presentation by "Mrs. Calhoun," most likely Lila Mae (Davis) Calhoun. She consistently refers to "the family" when discussing the Davis descendants and this evidence does not demonstrate political authority.

In addition, in the 1960s, Walker Dan Davis and some of his family members write several letters to DOI's Indian Service in Muskogee, Oklahoma (R. Davis 12/5/1962; W. D. Davis 12/5/1962). His letter contained information about his parents and other relatives. His son Rufe's letter specifically requested "information and proper forms. Regarding the inher[i]tance

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[29] Department researchers identified 69 individuals on the Dawes Roll who are descendants of Rachel and Daniel Davis. Only four of these individuals have descendants in GTEC: Daniel Davis (b. 1846), his son Lorenzo Newton Davis (b. 1882), Joseph Warren Davis (b. 1850) and Miller Davis (b. 1859). Between them, these four individuals have 120 descendants on the GTE membership list.

[30] He will be called by his nickname "Dan" in this report to distinguish him from his grandfather and patriarch of the Davis family, Daniel Davis (1785-1868), who was married to Rachel Martin.

[31] The term "blockader" refers to distillers of illegal corn whiskey, or "Moonshiners." The Sheriff's office and the courthouse most likely have records on these activities that may reveal more about the organization and politics of alcohol production in Davis district, and also the social organization of the district. Several persons interviewed revealed they held family documents, including letters, describing events during this period.

of ~~funds~~ the Eastern Cherokee Indian funds." The reply of January 29, 1963, to Rufe Davis, received within a month, reveals that the BIA had assumed that he wanted to enroll his family in the Cherokee Nation of Oklahoma. It states that Daniel Davis, Jr., Dan C. Davis, Rufe Davis, and Lila M. Davis did not appear on the "Final Rolls of the Cherokee Tribe, which were approved by Congress in 1907" (Busey 1/29/1963a). It also points out that they did appear on the roll "prepared by Guion Miller," and states, it "is possible they did not qualify for enrollment on the final rolls of the Cherokee Nation of Oklahoma because of their failure to establish residence in what is now the State of Oklahoma" (Busey 1/29/1963a). Others in Dahlonega sent similar requests to the Muskogee Area Office of the BIA because the record contains an almost identical letter, also of January 29, 1963, to Mr. Cicero M. Odom, a second cousin to Rufe Davis. (See the Anthropologist's Work Paper on Criterion 83.7(c) for discussion of other letters.) Because the dates of these letters are similar, an organized effort may have triggered these requests, but no other evidence shows who led the effort or any political processes used to organize it. Without additional information, the content of the letters indicates the requests are individual and personal and not community based. Petitioner has not submitted any evidence to suggest that these activities in the 1960s led to the effort by the same individuals to have the Georgia Assembly create a State Cherokee entity in the 1970s.

GEORGIA AND A CHEROKEE ORGANIZATION: 1976 to THE PRESENT

The Georgia Assembly and a Georgia Tribe of Eastern Cherokee

Materials dating to the 1970s show that a Cherokee group was forming. It was composed of Davis descendants and others who claimed Cherokee descent. Bill Dover, Neil McCormick, with two Davis descendants, Thomas B. Mote, and his mother Hannah Lee (Corn) Mote, spearheaded passage of State legislation to organize a group of Georgians claiming Indian ancestry. On January 20, 1976, the Georgia General Assembly passed "A Resolution Paying tribute to the Cherokee and Creek Indians; and for other purposes" (Georgia General Assembly 1976). This commemorative act clearly refers to the historical Cherokee Nation, not a contemporary Indian entity in Georgia. The evidence does not reveal any political processes within the petitioner beyond the involvement of Hannah and Thomas Mote. Yet, on March 23, 1977, Georgia created a State Commission on Indian Affairs, which aimed to organize Georgians claiming Cherokee or Creek descent. Commission Chairman Bill Dover, describes the new commission as "the first fulltime state agency working on Indian problems and needs since the Removal … in the 1830's." The Commission's Executive Director believed there were "many more Indians in Georgia than the 2,000 persons enumerated as 'Indians' on the 1970 Federal Census" and began creating a roll (Ralston 1977).[32]

Thomas B. Mote (b. 1944), Hannah (Corn) Motes' son and current GTEC chairman, incorporated the "Georgia Tribe of Eastern Cherokee Indians, Inc." on April 7, 1977. It is the first post-Removal Cherokee organization in Georgia with Davis descendants in its membership, although it was still in the planning stages, and no available evidence indicates it existed before 1977. On May 9, 1977, the Georgia Governor signed an Executive Order designating "The Georgia Tribe of Eastern Cherokee Indians, Inc. . . . as the legal tribal organization of Cherokee

[32] The OFA has not located any such roll.

Indians in the State" (Busbee 1977). Because the State designated and named a single Cherokee organization, various claimants, leaders, and entities arose to claim the mantle of that one organization. The GTEC, led by Thomas B. Mote and comprising the Davis descendants of Lumpkin County, was only one of several organizations claiming the state designation between 1977 and the present.

Bill Dover, who is not a Davis descendant or member of the current GTEC petitioner, claimed "in Lumpkin County alone, some 2,500 people will probably qualify as Indians. Most . . . are of Cherokee background."[33] Dover's estimate describes a different group than the current petitioner, which had 390 members in 1979 and currently has 458 members, less than one-fifth of Dover's figure. "Dahlonegan Thomas Mote has been appointed temporary Cherokee chief," Dover told reporters, "until the Bureau of Indian Affairs officially recognizes a Cherokee tribe." He explained, "Creek Chief Neil McCormick … who is the recognized Indian leader in the state" had appointed Mote (Ralston circa 1977).[34] Thus, evidence indicates that members of a GTEC entity did not choose Thomas Mote, and GTEC was not formally organized when the Motes incorporated it. The available evidence indicates that the State sought to establish a state wide Cherokee entity for diverse Cherokee descendants, not by identifying an existing Cherokee entity.

The petitioner submitted a draft "By-Laws of . . . the Georgia Tribe of Eastern Cherokee Indians, Inc." which was probably written in 1977. Article II laid out its purpose, and named the officers of the organization: Thomas B. Mote (President), Bill Dover (Vice President), Walker Dan Davis, II (Secretary), and Hannah Lee Mote (Treasurer). The Motes and Davis descend from Rachel and Daniel Davis.[35] The "By-Laws" give the "President" significant control of the new organization, including appointing all committees, overseeing the books, reports, and certificates, and signing checks.

Thomas Mote called a meeting for Saturday, July 30, 1977, which aimed to "begin a program to identify and assist people of Indian descent in Georgia," which was also a general aim of the commission (Unknown Author 7/27/1977). Thomas Mote had announced that the "meeting will be open to all Cherokee Indians in the state and all those of Indian descent who are interested in preserving Cherokee culture and achieving Indian recognition," which implied the group might include Cherokee descendants who do not link to Rachel and Daniel Davis or Pinkney Howell (Unknown Author 7/27/1977). Most of the materials submitted by the petitioner and dating to the remainder of 1977 dealt with business of the Indian commission, not of the petitioner. An exception is a photomontage captioned "1977 – Annual Cherokee meeting – Amicalola State

[33] The Davis descendants do not accept Bill Dover's claims of Cherokee ancestry and do not believe he has documented his claims.

[34] In 1977, Neil McCormick represented the Lower Muskogee Creek – East of the Mississippi, Inc., which the Department would designate as Petitioner #8 for Federal acknowledgment as an Indian tribe, when the acknowledgment regulations became effective a year later. McCormick's group had first approached the BIA on February 2, 1972. The Federal Government subsequently declined to acknowledge that petitioner, and its decision became final December 21, 1981.

[35] The Government has no documentation of Bill Dover's ancestry. Newspaper articles in 1977 state "Dover and Mote are both representatives from the Cherokee Indians to the panel" (Ralston 6/30/1977).

Park Dahlonega," but it includes no identification of people pictured or description of the event. Documents from following years and interviews in 2015 indicate that this event may have been a Davis family reunion, which was and still is a social, not political, event.

In late 1977, a newspaper article described individuals combing archives to find Indian ancestors, based on vague statements of older relatives. Few people could document Indian ancestry (Teel 1977). In a November 1978 letter to the AS-IA, Hannah Mote states she is "disgusted with people claiming to be Indian descendants with no proof of ever being listed on a Federal Roll," and she notes, "Groups are springing up all over the state especially ones in Atlanta . . . and Columbus . . ." (H. Mote 11/11/1978, 2). She even questioned Bill Dover when he could not produce links to a 19th-century Federal roll. As a result, in November 1978, Hannah and Thomas Mote signed amendments to the "By-Laws," removing Dover as Vice President, making him "Honorary Vice-Tribal Chief as an affiliate member" until "the ownership of the corporation" accepts that he can document his ancestry and meets the requirements for membership (Mote 11/1/1978).

The GTEC Petitions for Federal Acknowledgment as an Indian Tribe

While the officers constituted only three or four individuals, the specific members of the council, board, and other advisors changed from one month to the next, although they generally represented the Davises of Lumpkin County (See OFA Anthropologist's Work Paper on Criterion 83.7(c).) Hannah L. Mote's November 11, 1978, letter to the Federal Acknowledgment Project requesting "federal acknowledgement as an Indian Tribe" named six "council members" and six "honorary members and advisors to the council" in addition to "Chief" Thomas B. Mote and "Vice Chief" Virgil Graham Hopkins, Jr. (b.1920).[36] The persons on the council and honorary council had known each other for decades, most likely throughout their lives, and they had lived in the "Davis District" neighborhood or close-by. One month later, in December 1978, the group submitted another document entitled, "Resolution No 2-78 Application for Federal Recognition," which is the group's letter of intent to petition for Federal acknowledgment under the 1978 regulations. Ten individuals described as "the Board of Directors of the Georgia Tribe of Eastern Cherokees, Inc." signed the resolution. Thomas B. Mote signed as "Chairman."

Through the spring of 1979, the Motes dealt primarily with the Georgia Indian Commission and not specifically with GTEC. Thomas Mote claimed that there were "some 1,500 individually recognized Cherokee Indians living in Dawson, Lumpkin and Cherokee counties," yet the petitioner's membership list in 1979 included only 390 members (Thomas 1979). The "Historical Overview" submitted by the petitioner in 1980 narrows the membership further and claims, "[m]ost of the Indian descendants of this group are descended from Daniel and Rachel Davis' fifth child, Lorenzo Dow Davis" (GTEC 2/5/1980, 12). The GTEC began to hold meetings in the Lumpkin County Courthouse. Small numbers of "members" attended. Minutes from April 20, 1979, list 11 members" and note that five board members were absent. Minutes from June 16, 1979, name 11 members attending. Meeting minutes dated July 1, 1979, list 15 "members" attending. The persons attending form a small group often related as kin to the

[36] Although a descendant of a person on the Chapman and Miller Rolls, Hopkins is not a Davis descendant, and he does not appear on any GTEC rolls after 1979.

original organizers Hannah and Thomas Mote and the group's secretary Walker Dan Davis.[37] The business discussed at the July 1, 1979, meeting is the lack of board member attendance at meetings and "the Davis Reunion, to be held at Amicalola Falls on July 15" (GTEC 7/1/1979). The minutes of July 28, 1979, list names of 15 members attending.

By January 1980, legislation in the Georgia Assembly had abolished the Indian Commission and transferred its functions to the Georgia Department of Archives and History.[38] This change in Georgia's position toward Indians appears a result of arguments among various GTEC claimants. One argument centered on Bill Dover, the Georgia legislator who introduced the Indian Commission Bill before the Georgia Assembly in 1977. The records from this period are confusing because there are several groups claiming to be the state designated group. Communications with the Federal Government fall off around 1980 and do not resume for almost a decade. According to a circa 1988 newspaper clipping, "Dissension split the group … when the founding tribal president, Thomas B. Mote of Dawsonville … stepped down and was replaced by state Rep. Bill Dover (D-Clarkesville)," but it is not clear that Mote did step down, and Dover and others may only be claiming he did. "Mrs. Odom, her sisters … and Walker Dan Davis" claim that "Dover's leadership jeopardizes their chances of being [federally] recognized, since Dover's Cherokee ancestors were part of a different community" and plan to "sever ties with Dover and to answer BIA questions" (Harmon circa 1988).[39]

Leadership Disputes in GTEC with Other Groups Claiming to be "GTEC"

Between 1980 and 1987, the Department had no correspondence from the petitioner. The Odoms and Walker Dan Davis submitted an acknowledgment petition, from a Dahlonega-based group named the "Cane Break Band of Eastern Cherokee," which the Department received on October 6, 1987. This letter identified Mrs. Mary Ann [Odom] Cain (b.1946), a descendant of Lorenzo Dow Davis, as the leader. Because there were already dealings with GTEC (Petitioner #41 lead by Thomas Mote), the OFA designated this new petitioner as #41A. Problems involving Mote's relationship with Bill Dover and others and frustration at the slow pace of progress informed the decision to file the "Cane Break" petition. In 1988, Walker Dan Davis and others from Petitioner #41, met with the OFA and learned that Thomas Mote had received an August 22, 1980, letter providing technical assistance (TA), and that Mote, who reportedly had not shared it with other members of the group, had not responded to it. Subsequently, a third group, the "Eastern Cherokees of Georgia," also wrote to the BIA, claiming to "all be cousins" of the Cane Break group (#41A) and GTEC, Inc. #41, even though they "do not associate with the other TWO bunches at present" (Lance ca. 7/17/1990).

[37] Of these 16 persons, 1 is the non-Indian spouse of a member, 5 are Hannah and Thomas Mote's close relatives, 3 are sisters and 1 of their spouses, 2 are a mother and daughter, and 3 are relatives of Walker Dan Davis.

[38] It also abolished some archaic laws from the Removal period that discriminated against Indians. There is no evidence in the record that the Davis descendants were subject to these discriminatory laws after legislation made them citizens of Georgia.

[39] The article is supposed to be from around 1980; however, known events discussed in it indicate it was most likely from a later date, even from 1988, after Walker and others had visited the BIA.

The evidence submitted by the petitioner, collected by the Department's researchers during the evaluation process, or held in the Department's administrative files, does not clearly explain these events or the relationships among the several groups and within the petitioner's leadership.[40] Interviews in 2015, however, indicate that those associated with the Motes (GTEC, Inc.), and those associated with Walker Dan Davis (temporarily called the Cane Break Band of Eastern Cherokee until reclaiming the GTEC name), represented internal disputes between two leadership claimants within the GTEC petitioner. The Motes, Walker Dan Davis, and Mary Ann Odom are third cousins, based on their descent from Daniel and Rachel Davis, and they are past and current members of GTEC. There is no available evidence, however, to indicate which members of the group supported which named leader or whether it is only a dispute among named leaders. Thus, the dispute contributes little to understanding what political processes, if any, may be occurring within the petitioner.

Various other groups claim to be the state GTEC tribe, including GTEC-Echota Fire, a GTEC group led by Bill Dover, and a group "recognized" by the federally recognized United Keetoowah Band of Cherokee Indians (UKB). These groups are separate from the GTEC petitioner, representing completely different groups of different character, aims, and ancestry.

Some evidence implies that neither #41 nor #41A maintained administrative records, created meeting minutes, or held regular meetings of the governing body or membership. In fact, #41 and #41A represent two leadership claimants within the petitioner, not two distinct entities. Interviews in 2015 indicate that the extended families of Walker Dan Davis and Thomas Mote have been in conflict for three generations. While members appear to know about this internal conflict, they are not willing to discuss it or submit documentation to explain it, and focus instead on disagreements with non-members running their own separate "GTEC" organizations, such as Bill Dover, Johnny Chattin, and Lamar Sneed.

For instance, on May 20, 1996, Charles Thurman contacted the OFA, indicating that GTEC had been "taken in" as a satellite group by the UKB. At this point, Thurman, was associated with Dover and two other Cherokee claimants, Lamar Sneed and Johnny Chattin. Also in 1996, Walker Dan Davis informed the BIA that it intended to respond to the BIA's 1980 TA review letter, and also complained of Dover's group and its relationship with the UKB (Walker Dan Davis 1996).

Davis' letter listed the officers and council members of the petitioner, who were generally the same families that had been present in 1977, when the group was first organized, including Walker Dan Davis (Chief). Thomas Mote and Mae Cain also wrote to OFA on September 10, 1996, stating that although Bill Dover had temporarily taken over as acting chief of the original GTEC, he had refused to meet GTEC membership requirements (Mote and Cain 1996). Another letter indicates that in 1996, Mote had joined with Dover to take advantage of the UKB proffer (Pulliam 7/12/1996). The argument among GTEC and external groups came to a head in December 1995, when

> Mr. Johnny Chattin II, of Dahlonega, Georgia, supposedly acting at the direction of Mr. Dover, maliciously "locked out" approximately fifty tribal

[40] The OFA has a membership list only for petitioner #41, not #41A.

> members at the Lumpkin County Senior Citizens Center until Mr. Dover and Mr. Thurmond arrived to "conduct the tribal meeting." It was after dark with temperatures approaching twenty degrees with a wind-chill factor in the lower single digits. . . . When Mr. Mote requested that Mr. Chattin unlock the doors for the comfort of everyone present, Mr. Chattin … stated that he "wasn't opening the doors for anybody" until Mr. Dover arrived. Thus, ended the unified association of the Georgia Tribe of Eastern Cherokees. Some tribal members chose to follow Mr. Mote as chief, others chose to follow Mr. Dover. This is the current status of this tribe. (Pulliam 7/12/1996)

For almost its entire existence from about 1980 through 1996, GTEC has focused on maintaining its unique Cherokee character (the Davises of Davis district) and on being recognized as the State referenced Cherokee entity. By this point, the Cane Break group (#41A) no longer appears to exist. The group began documenting its activities and perhaps having formal meetings and other group activities. The petitioner submitted sign-in sheets for meetings on May 19, 1996; October 13, 1996; and a third date not recorded on the sheet. The record contains undetailed minutes for subsequent meetings on October 27, 1997; December 15, 1997; August 2, 1999; and March 19, 2000. On the advice of consultants, the group had decided to document members' involvement in politics and support of leaders. On August 10, 1998, members Martha Perry, Mae Cain, Joseph Davis, Thomas Mote, and Dan Davis traveled to Washington and met with OFA staff. They presented a resolution #GTEC 10-97 signed by the council and three officers on August 7, 1998. It states that GTEC "wishes to address the deficiencies of" its petition in the August 22, 1980, TA review letter" and "to continue with whatever path necessary to achieve recognition."

On January 19, 1999, OFA sent a second TA review letter to the petitioner, which stated that the petition still had "significant omissions" It stated:

> Many Indian descendants have not maintained their tribal connections . . . They descend from an Indian individual who left or was separated from his or her tribe long ago. The modern [descendants] of these individuals would not meet the criteria for acknowledgment under 25 CFR 83, which only acknowledged Indian tribes which have continued to exist as social and political entities.

It advised that the petitioner needed to "show your group doing things together, such as making decisions, having arguments, and resolving disputes." If possible, they could identify settlements, show members following their leaders or maintaining property such as a cemetery as a group. It requested specific information about the petitioner's ancestors and activities especially in the 20th century and "the modern period." The GTEC's response focused on a general history of the Cherokee Nation. There was little documentary evidence to support opinions expressed in interviews, and, in fact, the available evidence often undermined the interviews.

A newsletter dated March 14, 2000, notifies members that an election will be held at the March 19, 2000, GTEC "membership meeting" (GTEC 3/14/2000), but no information about

the actual election is in the record. The newsletter implies that GTEC's leadership is limited to a few families, and states: "We would like to see more of the different family groups of the tribe represented on the Council" (GTEC 3/14/2000). The March 19, 2000, minutes indicate that "Dr. Ray Rensi and Carl Weinberg" are recording "video histories." After the relationship with the consultants ended, the group returned to practices that characterized it before the ANA grant, including few, if any, meetings, rarely documenting events, if they occurred, and scant communication.

Disagreements between the petitioner and the other so-called "GTEC" groups continued. During 1999, the group's leadership prepared a lawsuit "against another group … using our name and our heritage for their own gains" (GTEC 8/1999). Even though the group fired its lawyer in February 2000, the suit proceeded, and the Superior Court of Lumpkin County ordered Johnny Chattin and other defendants not to use the GTEC name, although they could identify their group as GTEC-Echota Fire (Mote et al. 2000). It also ordered the Echota Fire group not to interfere with the acknowledgment petition of GTEC (Strueble 2000). The July 2001 GTEC newsletter named the persons they believed "were [falsely] presenting themselves as members, even as leaders of" GTEC, including "Bill Dover, Johnny Chattin, Harold Boultinghouse, [and] Charles Thurmand" (GTEC 7/2001, 2). The court found that Thomas Mote's GTEC entity was the petitioner for Federal acknowledgment: "Vice Chief Mote is quoted as saying many things, but the evidence is clear that whatever he said, he spoke personally and such talk was not based on any official or binding authority from GTEC" (Strueble 2001).

Two years later, five GTEC council members (Mae Cain, Donna Collins, Marie Davis, Joseph M. Davis, and David L. Mobly) and GTEC Vice Chief Walker Dan Davis wrote two letters to Secretary of Interior Gale Norton. They state that "our own chief, Thomas Mote," has joined forces with a Lamar Sneed to "take over" GTEC's "name and recognition status in the State of Georgia" (Walker Dan Davis, et al. 4/16/2004). Thus, leadership disputes are arising again, with Walker Dan Davis on one side and Thomas Mote on the other. The GTEC council members write, "our Council and Tribe is opposed to our chief's affiliation with this plan. He acts on his own volition, against the express wishes of our people" (Walker Dan Davis, et al. 4/16/2004). Both leaders claimed to represent Petitioner #41.

The Department declined to "become involved in internal conflicts" (Pierce 5/12/2004). A 2007 report from the Georgia Council on American Indian Concerns reviewed the history of the dispute. It dismissed claims by Lamar Sneed and Johnny Chattin in favor of the GTEC petitioner, which it states Walker Dan Davis leads.

One submission from the petitioner included five one-half page meeting minutes dated between April 2002, and August 31, 2006, signed by Martha Perry. Although the minutes refer to "a reunion" and a spaghetti dinner, no other documentation of these events are in the record. The petitioner also sent photos of historical Cherokee sites and of individuals visiting the Cherokee Nation in Oklahoma, but did not provide any evidence concerning the GTEC membership's political influence or extent of participation. The minutes of April 2002 (apparently a council meeting) attended by 8 individuals state: "It was suggested that meetings be less frequent than monthly by Ralph Mote, due to the fact that we have finished the petition." The council agreed, "meetings would take place as needed and would be on a "call-basis" (Perry April 2002). The

field visit in 2015 confirmed the absence of political authority until modern times because members who were interviewed could not describe any activities the group organized and claimed that efforts to improve education, housing, or other activities would take place after GTEC was recognized. The evidence in the record does not show that the group did anything together except for the family reunion. This lack of evidence in recent times supports this PF that petitioner has not satisfied the political authority criterion.

SUMMARY

The petitioner's ancestors were from a politically influential Cherokee family and political network that advanced interests within the Cherokee Nation. The group's ancestors were politically active in the Cherokee Nation when it was in Georgia. After the Removal, the petitioner's ancestors—the Davis family—did not establish an autonomous political organization made up of Cherokee who remained in Georgia and did not remove in 1838, nor did they continue to participate in the political activities of the Cherokee Nation in Indian Territory. The petitioner submitted documents dating to between the late 1800s and 1925 about the church and school in the Davis District neighborhood, but these institutions were not Indian institutions. Rather, they served Davis descendants and non-Indians together, and do not provide evidence of political influence or authority within the petitioner.

Although the petitioner named specific individuals as leaders between 1870 to the present, its claims were not supported by documentation showing political processes within an Indian group involving leaders and its members. The evidence submitted shows that in 1976, three Davis descendants and others claiming Cherokee ancestry successfully lobbied the Georgia Assembly for legislation to designate a "Georgia Tribe of Eastern Cherokee." The legislation did not recognize an existing group and provide for its formal organization. It only provided that Cherokee Indian descendants from throughout Georgia could come together and organize an entity that had never previously existed. Problems concerning membership requirements prevented this statewide entity from forming as a single entity.

Since about 1980, the GTEC petitioner's quarreling leaders have focused intermittently on gaining Federal acknowledgment and on combating other groups or individuals also claiming to be the State designated entity. The documents submitted by the petitioner do not demonstrate political authority.

CONCLUSIONS

The evidence submitted by the petitioner about political activities of the current GTEC and its ancestors does not demonstrate that the petitioner has maintained political influence or authority over its members as an autonomous entity at any time after the petitioner's ancestors did not remove to Indian Territory with the Cherokee Nation in 1838. Therefore, the GTEC petitioner has not satisfied the requirements of criterion 83.7(c).

Criterion 83.7(d)

83.7(d) A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

CURRENT GOVERNING DOCUMENT

The petitioner provided a 2002 and a 2012 version of the constitution that it adopted on January 20, 2002. The two versions are almost identical, although the titles and subjects covered by the numbered articles are not in the same order. The version submitted in February 2002 has internal dates of 1996 and 2001, which the 2012 version does not have. The version submitted in April 2012 includes a statement that GTEC adopted the constitution in January 2002.

The constitution provides evidence of how the GTEC petitioner defines its membership requirements. Individuals are eligible for membership if (1) their names appear on the 1978 "Hannah Lee Corn Mote Roll;" (2) they are lineal descendants of the individuals on that list; or (3) their "Cherokee ancestry can be traced and documented to the 1910 Guion Miller Roll or other government approved Cherokee rolls containing names of persons residing in North Georgia area at the time of their enrollment" (GTEC Constitution and By-laws 7/25/1996, Art. III.)[41] In each case, the individual having "kept continuous tribal affiliation" qualifies the potential for membership with GTEC. These criteria help to define membership of a specific group associated with the Davises in Lumpkin County, Georgia, in contrast to the initial "descent only" criteria in the initial 1977 Articles of Incorporation (By-laws 1977).

Section 3 of Article III also states the council has the power to pass "enrollment ordinances governing future membership, loss of membership, and provisions for a procedure" to include individuals on the membership list, "provided that no person shall ever be admitted to membership in GTEC who cannot trace and document Cherokee descent from one of the rolls cited in Section 1 (A),(B), or (C)" (GTEC Constitution and By-laws, 7/25/1996, Art. III).

Other articles in the constitution deal with the composition and duties of the governing body (eight members in the tribal council, "chief," and "vice-chief"), elections, meetings, quorums, referendums, amendments to the constitution, and in general, how the group governs itself. (See OFA Genealogist's Work paper "GTEC Governing Documents" for additional details.)

In October 2011, GTEC held a special election and published eight propositions, all of which the governing body reported were accepted, unanimously. One of the propositions was that members of federally recognized tribes could not also be members of GTEC. If their names

[41] The "1978 Hannah Lee Corn Mote" list appears to be the membership list dated December 1, 1979, that GTEC submitted with its initial petition. The Department found no evidence that Hannah Mote compiled a separate list in 1978, or evidence of any earlier membership lists for the GTEC group.

appear on GTEC rolls, the names are to be "struck off." (See Criterion 83.7(f) for additional information). Other propositions dealt with individuals and groups claiming or using the "Georgia Tribe of Eastern Cherokee Indians" name or claiming to be members of and represent GTEC.

Either the 2002 or the 2012 version of the group's constitution satisfies the requirements of criterion 83.7(d). However, the petitioner should clarify when and how the governing document was revised and adopted. It should also clarify if the group has adopted any subsequent amendments, propositions, enrollment procedures, or restrictions.

CONCLUSION

The petitioner has provided two versions of its 2002 constitution and bylaws, which describe how the group determines its membership and how it governs itself. The GTEC petitioner has provided evidence that satisfies the requirements of criterion 83.7(d).

Criterion 83.7(e)

83.7(e) The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.

INTRODUCTION

To meet criterion 83.7(e), a petitioner must demonstrate that its current members descend from a historical Indian tribe, or tribes that combined and functioned as an autonomous political entity. Thus, the petitioner must (1) identify its current members; (2) document the historical Indian tribe and the individuals in that historical Indian tribe from whom its current members descend; and (3) document that descent.

The current record identifies 458 members of the GTEC petitioner in a 2013 certified membership list.[42] The historical Indian tribe, claimed by the petitioner and verified by the Department, is the Cherokee Nation as it existed before Removal to Indian Territory. The record also includes rolls or censuses created before the 1837-39 Cherokee Removal showing the Cherokee who were living in northern Georgia, and rolls of the Cherokee descendants who remained in Georgia that were created after the Removal.

Almost all of the GTEC members (420 of 458, or almost 92 percent) claim descent from Rachel (Martin) Davis (1788-1843), a Cherokee Indian descendant. Eighty-two GTEC members descend from Pinkney Howell (ca. 1826-1895), a Cherokee descendant who resided in Lumpkin County after the Removal. Forty-four of those Howell descendants also descend from Rachel (Martin) Davis. Therefore, only 38 of the 458 GTEC members (about 8 percent) descend solely from Pinkney Howell, and about 82 percent descend solely from Rachel (Martin) Davis.

For purposes of this PF, the Department relied upon five documents to define the historical Indian tribe (the Cherokee Nation), or its descendants, residing in northern Georgia. The 1817-1819 "Reservation Rolls" listed the Cherokee citizens who were entitled to 640 acres under the provisions of the 1817 and 1819 treaties, and the 1835 Henderson Roll identified the Cherokee Indians in Alabama, Georgia, Tennessee, and North Carolina, whom the Government intended to be removed to Indian Territory. These two historical records included the petitioner's claimed Davis ancestors as part of the historical Cherokee Indian tribe residing in northern Georgia (Kappler 1904, II: 455-461; Henderson 1835). The 1851 Siler, 1852 Chapman, and 1884 Hester rolls identified the "Cherokee Indians East of the Mississippi" who did not remove west and who were eligible for per capita payments under the provisions of the 1835 treaty. These latter three rolls identified both the Daniel Davis family and the Pinkney Howell family among the Cherokee

[42] There are 472 names on the petitioner's 2013 membership list; however, the petitioner submitted evidence in 2014 and the Department researchers found other evidence in 2014-2015 that confirmed that persons on the list were deceased. As a result, the Department found 458 living members on the 2013 membership list for the calculations in this report.

Indian descendants who remained in Georgia after the Cherokee Removal. The petitioner did not identify, and the Department did not find, any other Cherokee Indians on these historical lists who have descendants in the GTEC petitioner.

The petitioner provided evidence and the Department located additional evidence that demonstrates that about 90 percent of the members (413 of 458) have documented each child-to-parent link between themselves and their Cherokee ancestor on the historical Henderson, Siler, or Chapman Rolls. About 10 percent have not demonstrated their claimed descent: 21 members have not provided a birth certificate naming their own parents, and another 24 members have a parent, grandparent, or great-grandparent lacking evidence to identify his or her parents. Thus, the lack of parental verification for these individuals—born between the 1920s and the 1960s, whether living or deceased—prevents verification of descent from the historical Cherokee Indian tribe for their descendants. The petitioner may remedy this deficiency by providing the necessary evidence, such as birth certificates, marriage records, death certificates, obituaries, probate records, Bible records, school records, or other reliable evidence that verifies the child-to-parent links.

DESCENT FROM THE HISTORICAL CHEROKEE INDIAN TRIBE

Documentary Evidence of the Cherokee Indian Presence in Northern Georgia 1817-1884

The 1817 and 1819 treaties provided Cherokee families residing on ceded lands in Tennessee, North Carolina, Georgia, or Alabama the option of remaining on their lands in exchange for U.S. citizenship and 640 acres of land "reserved" for them in the ceded lands. Under the 1817 treaty, there were 18 individuals who received reserved lands "for life" in Georgia (meaning the Indians were entitled to use and profit from the land but could not sell or give it away and, at the Indian's death, it reverted to the State). None of the petitioner's known ancestors received "for life" reservations that may have reverted to the State upon the owner's death. The 1819 treaty also provided that Cherokees "who were felt able to handle their own affairs," a provision that often included families with a White husband acting for his Cherokee wife and children, could be granted lands reserved in "fee simple," meaning the reservee would have clear title to the land and could sell it or give it away (Kappler 1904, II: 456; Hampton 1979, i-ii). The petitioner's ancestor, Daniel Davis, received land reserved in fee simple (Kappler 1904, II: 456). Even though Davis and others received land in fee simple, Georgia later included the life estate and fee simple "reservations" in a State land lottery. See the Historical Overview and Crtierion 83.7(b) sections above for additional details.

Daniel Davis was one of the five persons granted a fee simple reservation to lands where he resided in Georgia, within the bounds of the former Cherokee Nation. Two others with fee simple reservations in Georgia were related to Rachel (Martin) Davis: John Martin was her brother and Jeter Lynch was her brother-in-law, husband of Rachel's sister Nanny Martin (Warren and Weeks 1987, 73).[43] However, the current record does not show that any

[43] *Whites Among the Cherokees*, includes a transcript of Indian Agent Hugh Montgomery's 1831 letter to Governor Gilmer concerning the "persons alluded to in the list of Reservees annexed to the Treaty of 1819" (Warren and Weeks 1987, 73). Agent Montgomery stated "Mr. Linch (Lynch) [Jeter Lynch] died shortly after the Treaty and a Notification was filed by his widow who died shortly thereafter . . ." and that the heirs (unnamed in Montgomery's

descendants of John Martin or Jeter and Nannie (Martin) Lynch are, or have been, members of the GTEC petitioner.[44] The Martin and Lynch families removed with the Nation to Indian Territory. The petitioner does not claim and has not demonstrated that any of the Cherokee with life or fee simple reservations in Georgia (or elsewhere in North Carolina, Tennessee, or Alabama), have descendants in the group. The GTEC membership descends almost exclusively from one Cherokee woman, Rachel (Martin) Davis, who remained in what is now Lumpkin County, Georgia, until her death in 1843.

In the 1820 and 1830 Federal censuses, Daniel Davis, his wife, and children were enumerated as "free whites" in Hall County, and in 1840 they were "free whites" in Lumpkin County, which had been formed out of parts of Hall, Habersham, and Cherokee Counties in 1832 (1820, GA, Hall Co., Capt. Reid's Dist., p. 139; 1830, GA, Hall Co., [no Dist.], p. 132; 1840, GA, Lumpkin Co., 935th MG, Capt. Davis Dist., p. 257). These three counties and others in north Georgia were created from Cherokee lands that had been ceded by the treaties. Although none of the residents of these counties was identified as Indian on the 1850 Federal census, when Siler and Chapman compiled rolls (circa 1851-1852) of Cherokee descendants east of the Mississippi who were entitled to per capita payments under the 1835 treaty, they identified about 83 individuals in Lumpkin County, including members of the Davis and Howell families. (See OFA Genealogist's work paper "Census Summary 1820-1940" for additional details.)

Several historical rolls identify members of the Cherokee Nation as it existed in the East before the Removal Era and other rolls identify the Cherokee descendants who remained in the East as well as many who removed to the Indian Territory or elsewhere.[45] Of the five historical rolls used by the Department to identify members of the historical Cherokee tribe, or their descendants, who were in Alabama, Georgia, North Carolina, or Tennessee, the 1835 Henderson Roll, the 1851 Siler Roll, the 1852 Chapman Roll and the 1884 Hester Roll identified "Cherokee Indians residing east of the Mississippi River" by state and county, and provided names, ages, and family relationships.[46] Thus, the Department was able to verify child-to-parent relationships in the 19th century Davis and Howell families, and to determine that about 92 percent

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letter) did not get the reservation, "but were paid $3000 by the Government for it" (Warren and Weeks 1987, 73, 90). The OFA researchers did not find a Jeter Lynch or Nanny Lynch on the 1820 Federal census. (Also see Hampton 1979, 15.) Some transcribers of the original hand written document interpreted the "J" in Jeter as "P" and misidentified the reservee as "Peter Lynch." George Parris and Walter S. Adair were the other two men with fee simple reservations in Georgia.

[44] John Martin removed to Indian Territory in 1838 and died in what is now Muskogee County in 1840. Jeter Lynch died shortly after the 1819 treaty and Nannie (Martin) Lynch McWhorter died about 1821-1825, most likely in Habersham County, Georgia. See John Adair testimony, U.S. Citizenship Case Files in Indian Territory, 1896-1897, accessed on Ancestry.com on 7/24/2014. (Copy in OFA files.) Nanny and Jeter Lynch's children went to live Indian Territory with John Martin, their mother's brother.

[45] There are at least 35 rolls, lists, or censuses of Cherokee Indians in the East or West that were taken for various purposes between 1817 and 1909. See Mooney's *Exploring Your Cherokee Ancestry* for details about each of those historical records. The five rolls the Department used for this PF were the most helpful ones for identifying the Cherokee who remained in northern Georgia.

[46] Litton 1940, 210, *quoting* the page heading on the Siler Roll.

(420 of 458) of the GTEC members descend from Rachel (Martin) and Daniel Davis, who were themselves, or whose children and grandchildren were, on all five of these rolls. The remaining 8 percent of GTEC's members (38 of 458) appear to descend solely from Pinkney Howell, who was on the 1851, 1852, and 1884 rolls.[47] (See OFA Genealogist's Work Paper "Analysis of the Petitioner's Descent from the Historical Cherokee Tribe" for additional details.)

The Petitioner's Claim

The petitioner identified the "Cherokee Countryman" Daniel Davis (1785-1868) and his Cherokee wife, Rachel Martin (1788-1843), as its Cherokee progenitors. The 1978 letter of intent to petition for Federal acknowledgment included a brief narrative of the group's origins and the following statement:

> Under the treaties with the Cherokees, July 8, 1817 and February 27, 1819 our ancestor Daniel Davis was entitled to reservation. This was purchase[d] for the state of Georgia under the provision made by Congress for that purpose. We are still residing here in Lumpkin County, Georgia on parts of that same reservation. It has been handed down from one generation to the next through all these years.
>
> Our people are listed on the Cherokee Census of 1835, Henderson Roll of 1835, Siler Roll of 1851, Chapman Roll of 1853, Hester Roll of 1883, and Guion Miller Roll of 1909-1918. (GTEC Letter 11/11/1978, 1)

The petitioner also stated that the Cherokee who remained near Dahlonega "clustered around the Davis Plantation" and that the "Davis family played a central leadership role in the tribe" (GTEC 2002, Narrative). However, the petitioner has not identified any Lumpkin County residents, other than Davis descendants in the vicinity of the original Davis Plantation ("Davis District" on U.S. censuses) who are Cherokee Indian descendants or a part of the petitioner's membership. The group's claim for descent from the historical Cherokee Indian tribe rests almost entirely on descent from one of the three sons of Daniel and Rachel Davis who remained in Georgia after the Removal in 1838. Pinkney Howell, the other Cherokee descendant ancestral to some GTEC members, lived in Davis District in 1850 and in Auraria or Dahlonega Districts in subsequent census years. The payment rolls 1835-1884 indicate that more Cherokee descendants resided in north Georgia, but the petitioner has not demonstrated that any of them are also ancestral to GTEC members.

The group's governing document limits membership to those persons on the "1978 Hannah Lee Corn Mote Roll," their lineal descendants, or individuals "whose Cherokee ancestry can be traced and documented to the 1910 [*sic*] Guion Miller Roll or other government approved Cherokee rolls containing names of persons residing in North Georgia area at the time of their enrollment" (GTEC Constitution and By-laws 7/26/1996, Article III, Sec.1). The petitioner has not provided evidence that it uses anything other than the Miller Roll as a "government

[47] For this PF, the Department's focus was on the members of the Cherokee Nation and their descendants in north Georgia. The 1817-1819 "Reservation Rolls" did not specify a county, but Daniel Davis was identified as a resident of Hall County, Georgia, in 1820 and on the 1835 and later rolls, the Davis and Howell families were in Lumpkin County, Georgia.

approved" Cherokee roll. The provision that the applicants must have "kept continuous tribal affiliation" with GTEC limits the potential for membership growth, which could include thousands of prospective members if descent alone from Cherokee rolls such as Siler, Chapman, Hester, or Dawes, as well as Miller, was acceptable. Thus, the petitioner apparently limits its membership to the Davis descendants who constituted the vast majority of individuals on the "1978 Hannah Lee Corn Mote Roll," and the Pinkney Howell descendants who were on the Guion Miller Roll. The Howell descendants first appear on the GTEC membership list in 2001. Some of Howell's descendants were also Rachel and Daniel Davis descendants, thus, although there were no Howells on the 1979 list, they were closely related to the Davises who were on the 1979 list and were known Cherokee descendants in Lumpkin County.

The Department's Analysis

In 1980, the petitioner submitted 128 ancestry charts, most of which listed one or two generations of each member's ancestry (to about 1909 — the Guion Miller Roll era). In 2002, GTEC submitted a Family Tree Maker™ (FTM) genealogical database. The Department's researchers made a copy of this database and added information from the group's ancestry charts, vital records, and the group's 1979, 2001, and 2006 membership lists to update and enhance the information from petitioner's original FTM database for the PF review. The Department also added information from the petitioner's August 2013 submission, again linking the new members to their respective parents and creating a fact field for each individual who appeared on the 2013 membership list. Where possible, the Department also used the petitioner's submissions and other records readily available through the Internet (such as Federal censuses, Georgia death and marriage records, FindAGrave.com, Ancestry.com, Fold3.com, and other sources) to corroborate or correct family relationships and add birth, death, and marriage dates.[48] The GTEC petitioner provided the Department with additional materials that confirmed parental links during the staff's November 2015 research trip to Dahlonega.

When the evidence in the record confirmed the child-to-parent relationship, the Department added a "fact field" for "parentage verified." The Department also added fact fields to show the inclusion on the Cherokee rolls described above, the Guion Miller Roll, and Dawes Roll for members' direct ancestors and collateral relatives found on those censuses or rolls. Thus, the Department-enhanced FTM database, which illustrates each generation between the current members and their claimed Cherokee Indian ancestors, is the genealogical database the Department used for analyses in this PF.

The Department's analysis of the current record finds that about 92 percent of the GTEC petitioner's members (420 of 458) appear to descend from the historical Cherokee Indian tribe through its citizens, Rachel (Martin) and Daniel Davis. The remaining almost 8 percent

[48] The OFA located historical documents such as the Guion Miller Roll (Eastern Cherokee Claims) and Dawes Roll (Cherokee Nation in Oklahoma) applications, and Federal censuses from 1820-1940 to verify residences, child-to-parent connections and other family relationships, marriages, migrations, or any affiliations with the Cherokee Nation in Oklahoma or Eastern Band of Cherokee in North Carolina.

(38 of 458) appear to descend only from Pinkney Howell.[49] The following summary shows how the petitioner's membership descends from these two individuals:

1. Rachel Martin (1788-1843) was the daughter of John "Jack" Martin (1745-1823; non-Indian) and Susannah Emory (1755-aft. 1788; Cherokee). Susannah was the daughter of William Emory (1720-1780; non-Indian) and Mary Grant (1732-1788; Cherokee). Mary Grant was the daughter of Ludovic Grant (1675-1760; non-Indian) and "Mary Cherokee" (1712-1760; Cherokee).

Emmet Starr's *History of the Cherokee Indians* (originally published in 1921) provided background for the parentage and siblings of Rachel Martin, although he misidentified Joseph Martin rather than John Martin as the father of Rachel, Nannie, and John Martin (Starr 1984 reprint, 305). *Whites Among the Cherokees,* compiled by Mary Bondurant Warren and Eve B. Weeks, which includes transcriptions of correspondence and records relating to the Cherokee in the Georgia State Archives, quoted an 1831 letter to Governor Gilmer that identified John "Jack" Martin as the father of Rachel, John (Cherokee treasurer), and Nannie Martin (Warren and Weeks 1987, 93). This source corrected other published statements (and on-line genealogies) that General Joseph Martin (the brother of John "Jack" Martin) was their father.[50] Rachel Martin married Daniel Davis in 1808 in South Carolina, had ten children, and died in 1843 in Lumpkin County (Daniel Davis Bible, Rachel Davis tombstone). Daniel Davis and five of his and Rachel's children and five of their grandchildren were on the 1851 Siler and 1852 Chapman Rolls of Eastern Cherokee Indians.[51] Four children of Rachel and Daniel Davis died without issue (William, Jeter, Delilah, and Amanda).[52] Two other sons (Martin and Elias) had issue, but

[49] The OFA's FTM illustrates these connections; however, as explained above, about 10 percent of the total membership have not documented their claimed descent. It is expected they will be able to do so by providing their own birth record naming parents or a similar document verifying the link in an intervening generation between the current member and the historical ancestor.

[50] *Whites Among the Cherokees* cites Benjamin Cleveland's 8/29/1831 letter that "the father of John Martin was a native of Virginia the brother of Joseph Martin the first Agent of the Cherokee Nation after the Revolution(.) I have been acquainted with John Martin since he was about 10 years old(.) we went to school together when we were boys(.) he has been raised principally by a brother in Law who was a verry decent white man, Martin (') father died when he was nearly grown(.)" (Warren and Weeks 1987, 93). [Punctuation and spelling in the original.]

[51] Guion Miller used these rolls as major sources for determining eligibility on the Roll of Eastern Cherokee in 1906-1909.

[52] It is possible that a fifth child, Joseph C. Davis (1823-1889), also died without issue, as stated by the Davis descendants who filed Miller Roll applications and included information about their uncle, Joseph C. Davis (for example, see, John B. Davis, Miller Appl. #98). However, another Miller Roll applicant, Amanda C. (Davis) Summers (1845-1912), named Joseph C. Davis as her father and Manesa Wyly as her mother (Amanda Summers, Miller Roll Appl. #217). Her claim conflicts with Siler's 1851 statement that identified "Amanda C. Young" as the "illegitimate daughter of John Davis a native by a white woman, she lived with William Martin, Lumpkin Co., Ga" (Siler Roll, [supplemental application] No. 2-rejected). In 1850, William Martin (age 40), Manesa (27), John (8), Amanda (5), and Mary (1 1/2?) are in the same household, supporting both part of Siler's statement about Amanda C. Young's circumstances, and part of Amanda Summer's statement that she had a brother John and mother Manesa. However, Department researchers were not able to resolve these conflicting claims for the father of Amanda C. Young/Davis. She has no descendants in GTEC.

their descendants are not in GTEC.[53] The three sons who have descendants in GTEC are as follows:

- Lorenzo Dow Davis Sr. (1817-1862) has 284 descendants in GTEC, 63 of whom also descend from John Davis through a first cousin marriage that occurred in 1878, and 49 of whom descend from Coleman Jefferson Davis through a second cousin marriage that occurred in 1904. (Twelve of Lorenzo's descendants descend from both Coleman Jefferson and John Davis.) One of Lorenzo's 284 descendants in GTEC also descends from Pinkney Howell. Thus, 184 of the current members claim descent from Rachel Martin solely through her son Lorenzo Dow Davis. Forty-seven of Lorenzo Dow Davis' descendants applied for the Miller Roll and 16 applied for the Dawes Roll: 15 were admitted to the Dawes Roll and 1 applicant was noted as "doubtful." Thirteen of these same Dawes Roll applicants also appear on the Miller Roll. Fourteen of Lorenzo Dow Davis' descendants in GTEC are also enrolled with the Cherokee Nation.

- Coleman Jefferson Davis (1819-1887) has 142 descendants in GTEC, 49 of whom also descend from Lorenzo Dow Davis, and 27 of whom descend from John Davis. (Again, this includes the 12 members who descend from all 3 Davis brothers.) Thus, only 78 current members claim descent from Rachel Martin solely through her son Coleman Jefferson Davis. Thirty-three of Coleman Jefferson Davis' descendants applied for the Miller Roll and 25 are on it. Miller initially rejected six Coleman J. Davis' descendants from his union with Elmira Beck, but after submitting additional information, the Beck descendants were later accepted and are on the supplemental Miller roll (Martin V. Beck, Miller Roll Appl. #11341). None of Coleman Jefferson Davis' descendants is on the Dawes Roll.

- John Davis (1813-1892) has 121 descendants in GTEC (39 are from his marriage to Jane Sophronia Tate and 82 are from his union with Nancy Bird.) Sixty-three of John's descendants also descend from his brother, Lorenzo Dow Davis, and 27 also descend from his brother, Coleman Jefferson Davis.[54] These numbers include the 12 members

[53] The eldest son, Martin Davis (1809-1859), died in Walker County, Georgia, but several of his children migrated to Indian Territory between 1870 and 1880, settling in Craig or Tulsa Counties. None of Martin's known descendants is in GTEC. Daniel and Rachel's youngest son, Elias Earl Davis, went to Texas before 1850 where he married Amanda Brown, a Cherokee "Old Settler" (Starr 1984, 311; Jeff Davis, Miller appl. #4758). They moved to the Indian Territory (Oklahoma) between 1870 and 1876. Some of Elias Earl Davis' descendants were on the Dawes Roll and some may be members of the Cherokee Nation. None of Elias Earl Davis' known descendants is in GTEC.

[54] John Davis appears to have been the father of Nancy Bird's three daughters. Some of Nancy Bird's descendants applied for the Miller Roll, but were initially rejected because no one could testify that John Davis had admitted he was the father. However, some witnesses said it was "understood" in the neighborhood that John was the father, and some witnesses said old Daniel Davis treated Nancy Bird's three girls "like his grandchildren." The Miller Roll applications included an 1895 document signed by a former Justice of the Peace in Lumpkin County, McDuffey R. Moore, stating that in 1867 Nancy Bird "had made oath" before him naming John Davis as the father of her illegitimate daughters, Rachel and Caroline Bird. If the affiant's testimony is accurate, Nancy Bird filed this affidavit shortly before the death of Daniel Davis, the reputed grandfather of her daughters Rachel, Caroline, and Julia Ann Bird. Julia Bird was not mentioned in that particular 1867 oath. Julia Ann (Bird) Perdew's Miller Roll application in which she named John Davis as her father, was rejected (Miller Roll Appl. #3775). In 1908, the

who descend from all 3 Davis brothers. The remaining 43 John Davis (and Nancy Bird) descendants also descend from Pinkney Howell through the 1920 marriage between the great-grandson of John Davis and the great-granddaughter of Pinkney Howell.[55] Thus, all of the current members who claim descent from Rachel Martin through her son John Davis also descend from Lorenzo Dow, Coleman J. Davis, or Pinkney Howell. Thirteen of John Davis' descendants applied for the Miller Roll, and 10 are on it. Three Davis/Bird descendants were rejected for the Miller Roll. Twenty-four of John's descendants applied for the Dawes Roll—23 were admitted and 1 was noted as "doubtful." Three of the Dawes Roll applicants are also on the Miller Roll.

2. Pinkney Howell (ca.1826-1895) is the only known non-Davis Cherokee Indian descendant who is an ancestor to some of the petitioner's members. His claim for Cherokee descent comes through his mother, Mary Ann (Martin) Howell Langley (1806-1876), who was on both the Siler and Chapman Rolls, and living in Murray County, Georgia. Mary Ann was the daughter of Nellie Morton (or Moton), a White woman, and a Samuel Martin, who Siler identified as "mixed-blood" (Warren and Weeks 1987, 236 and Siler Roll #83, Rejected).[56] Pinkney Howell and his two children born before 1851 were on the Siler and Chapman Rolls in Lumpkin County. Fifteen of Pinkney Howell's descendants applied for the Miller Roll of Eastern Cherokee Indians and 14 were admitted, 1 applicant was rejected. None of their applications identified any other Cherokee ancestors. None of Howell's descendants is known to have applied for the Dawes Roll.

- Pinkney Howell had 12 children by two unions; however, all 82 of his descendants in GTEC descend from one granddaughter, Savilla (Howell) Brackett. As described above, 44 of Pinkney Howell's descendants also descend from Rachel Martin and Daniel Davis.

Reverend J. B. Brown, age 71, testified that he knew both Julia Ann Bird and John Davis for 55 years and that it was "always understood" that John Davis was the father of Julia Ann Bird, as well as Rachel and Caroline Bird. Three other "old people," who had each known Julia Ann Bird and John Davis, testified to the same (Miller Roll Appl. #3775).

[55] Blanche Brackett (1906-1971) married Talmadge Odom (1900-1975) in Lumpkin County on November 23, 1920.

[56] Department researchers have not been able verify any familial connection between this Samuel Martin (born before 1785) and Rachel (Martin) Davis (1788-1843). Although they were close in age and lived in Lumpkin County or environs, no evidence was found that they were brother and sister or cousins. Emmet Starr identified a Samuel Martin as the son of Joseph Martin and Susannah Emory (making him a cousin of Rachel (Martin) Davis). However, Starr did not identify Nelly Morton/Moton as a spouse or mother of any of this Samuel Martin's children (Starr 1984, 306). Instead, Starr listed Mary Martin, wife of Levi Jones, as this Samuel Martin's child, and stated that she died without issue. In contrast, the historical records demonstrate that Mary Ann Martin, daughter of Nelly Morton/Moton (and reputedly of Samuel Martin), had three children by her husband, Jesse Howell, including Pinkney Howell, and that she later married Jackson Langley. There is no evidence in the current record that indicates Mary Martin who married Jones is the same woman as Mary Ann (Martin) Howell Langley. James R. Hicks, author of *Cherokee Lineages*, identifies Mary Ann Martin as the wife of Jones, Howell and Langley and the daughter of Samuel Martin, son of Mary Emory and General Joseph Martin. If this family configuration is correct, Samuel Martin and Rachel (Martin) Davis would be double first cousins—their Cherokee mothers were sisters and their White fathers were brothers—and Rachel's children and Pinkney Howell would be double second cousins. However, Hicks does not cite any sources to confirm the proposed family relationships. The current record does not include evidence that connects Pinkney Howell to any of the life or fee simple reservees in Georgia.

The current record identifies Pinkney Howell as the only Cherokee Indian ancestor for about 8 percent (38 of 458) of the GTEC members.

MEMBERSHIP LISTS

The Current Membership List

In response to the Department's notice that GTEC was going on active consideration for Federal acknowledgment, the petitioner provided the Department with the "Official Membership Roll as Approved by Tribal Council August 2013," as well as birth records for some individuals and other materials (Pierce 7/14/2013; Mote 8/15/2014). The GTEC governing body certified the membership list on August 15, 2013. It included full names (including maiden names), birth dates, and residential addresses of 432 of its 458 members. Attached to the membership list and certification was a separate list of new members added since 2001 (50 names), and a list of members who died since 2001 and did not appear on the 2013 list (28 names). The Department interpreted the governing body's 2013 certification of the membership list to include the list of 50 new members added since 2001. In September 2014, GTEC sent a new list of 10 members on the 2013 list who were deceased. After adding the 50 new names, eliminating 4 duplicate entries (2 women recorded by both maiden and married names, and 2 members who appeared on both the official membership list and the list of new members added since 2001 list), and accounting for the deceased individuals, the Department determined there are 458 living members represented on the 2013 membership list.[57]

Although the 2013 membership list included all the required elements, certain fields were incomplete in some instances. At the Department's request in 2014, GTEC provided complete addresses rather than Post Office box numbers, and birth dates to correct these minor deficiencies. The GTEC's response also included some vital records that verified the names of the parents of many of the current members.

A GTEC newsletter from 2012 announced that Glenn Jones would head a genealogy committee to update the membership list that had been submitted with the original petition (The Tribal Beat ca. 9/2012, 2). The petitioner's certification of its current membership list did not specifically describe the circumstances surrounding preparation of the membership list (83.7(e)(2)), but stated the council validates "each new member will have the same rights and privileges and responsibilities as all other members" (Mote, et al., 8/13/2013). The Department assumes that the new members and updates to the 2002 membership list, which resulted in the 2013 list, are a result of the genealogy committee's work; however, the petitioner should provide a clear statement regarding preparation of the 2013 membership list.

[57] Of the 50 new members recorded on the 2013 list, 23 had a parent or siblings who appeared for the first time on the 2006 membership list, and 22 had a parent or grandparent who appeared on one or more of the 1979, 2010, or 2006 lists. Five of the new members on the 2013 list did not have a parent, grandparent, or sibling on any of the previous lists. The 2013 list of new members also included all of the required elements and other items described above.

Previous Membership Lists

The petitioner submitted membership lists dated December 1, 1979 (the list the petitioner refers to as the "1978 Hannah Lee Corn Mote Roll"); August 10, 1998; August 1, 2001; and September 1, 2006 (GTEC Membership List 12/1/1979; GTEC Updated 1979 List 8/10/1998; GTEC Membership List 8/1/2001; GTEC Revised 9/1/2006 Membership List).

Each list had the member's full name, including maiden name, birth date, and residence, as well as the individual's birthplace. The 2001 and 2006 lists included other helpful information, such as full names of both parents. There are no significant differences in the membership from 1979 to the present. The group's membership has always been composed almost exclusively of the descendants of Rachel (Martin) Davis. The few individuals on the 1979 list who are not Davis descendants do not appear on any subsequent lists.

In 2002 the petitioner submitted a narrative and evidence to supplement its petition. Under the section on 83.7(e)(2), the petitioner explained, "The current certified membership list [2002] is an updated version of the original membership list that was submitted in 1979. . . It has been purged to exclude members who have since died, to include new births, and current addresses" (Weinberg and Rensi 2002). The petitioner updated the initial "Hannah Corn Mote roll" in 1998, 2001, 2006, and 2013 by adding new births, removing the names of deceased members, and correcting contact information.

The Department used the information from all of the available membership lists to supplement and enhance its FTM program, and connect the new members to the families already depicted in the genealogical database. (See OFA Genealogist's Work Paper "Previous Membership Lists" for additional details.)

SUMMARY

The petitioner provided a membership list and evidence demonstrating its members descend from two Cherokee Indian progenitors, Rachel (Martin) Davis and Pinkney Howell, who were citizens of the Cherokee Nation as it existed before the Removal in the 1830s. The Department-enhanced FTM database illustrates how all 458 current members descend from either Rachel (Martin) Davis or Pinkney Howell, or from both. About 90 percent (413 of 458) of the members have documented each child-to-parent link between themselves and a member of the historical Cherokee Indian tribe as it existed before the Cherokee Removal. The remaining 45 individuals are siblings, children, or grandchildren of documented descendants, but they did not provide the necessary evidence to demonstrate their own lineage prior to the Department's review for this proposed finding.

The petitioner did not provide a clear explanation of the circumstances surrounding the preparation of the current membership list or some previous ones, as required under 83.7(e)(2). However, it did make reference to the work of a genealogy committee in 2012 and the GTEC council "validating" the 2013 roll. The comment period provides the petitioner the opportunity to provide explanations for the preparation of its 1998, 2001, 2006, and 2013 membership lists for the FD.

CONCLUSIONS

The GTEC petitioner has satisfied the requirements of criterion 83.7(e). The current membership list, dated August 10, 2013, which the governing body separately certified, has the required elements, although incomplete in some instances. The petitioner has demonstrated that about 90 percent of its members (413 of 458) descend from the historical Indian tribe, the Cherokee Nation. Therefore, the petitioner satisfies the requirements of criterion 83.7(e).

Criterion 83.7(f)

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

The GTEC's constitution does not address the issue of dual enrollment in GTEC and a federally recognized tribe. However, the group's December 21, 2011, petition calling for a special election included "Proposition #3," which would bar members of federally recognized tribes from being members of GTEC and would require the names of members of tribes to be removed from the GTEC membership list. The petitioner reported that the proposition was unanimously accepted, and identified one individual who "is now a member of the Cherokee Tribe in Oklahoma" in its September 19, 2014, letter to the Department (Bennett 9/19/2014).

THE DEPARTMENT'S ANALYSIS

Because a significant number of the petitioner's ancestors applied for the Dawes Roll or Miller Roll, the Department reviewed those records for possible membership in either the Cherokee Nation or the Eastern Band of Cherokee Indians. The Department provided the Cherokee Nation with a list of 120 names in the GTEC membership who had a direct ancestor on the Dawes Roll. The Cherokee Nation identified 13 of those individuals as being on its membership roll and 1 who has an application pending for membership in the Cherokee Nation. The 13 individuals who are members of the Cherokee Nation do not represent a significant portion of the GTEC membership (13 of 458, or about 3 percent).

Although every member of the GTEC petitioner has at least one ancestor who applied for the 1909 Miller Roll, none of the current members or their ancestors are on the 1924 Baker Roll and are thus not eligible for membership in the Eastern Band of Cherokee Indians. The Department found no members of GTEC who were enrolled with the Eastern Band.

CONCLUSION

The membership of the GTEC petitioner is composed principally of persons who are not members of any other North American Indian tribe. Therefore, the petitioner satisfies the requirements of criterion 83.7(f)

Criterion 83.7(g)

83.7(g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

In its petition, the petitioner states, "the Tribal Council of the Georgia Tribe of Eastern Cherokee, affirm that neither our Tribe nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship" (GTEC Narrative, Criteria 83.7(g) 2-14-2002).

There is no evidence in the record that indicates the petitioner, its members, or their ancestors have been subject of congressional legislation that has expressly terminated or forbidden a relationship with the Federal Government.

CONCLUSION

No evidence has been found to indicate that the petitioner was subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(g).

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APPENDIX A

Cherokee Descendants in Lumpkin County circa 1850:
(Known GTEC ancestors are italicized and those receiving Georgia citizenship through state legislation are underlined.)

Dahlonega District:

Luis [Lewis] Ralston, wife Elizabeth, daughters Elizabeth, Frances, Nancy, Luisa, Agnes, Amanda and sons, John, Lewis, Henry, Zacharias, and James in dwelling #6;

John Satterfield (Cherokee countryman) in dwelling #156.

Savannah District:

John Palmour, wife Elizabeth and son Benjamin in dwelling #69;

Silas Palmour, wife Sarah, daughters Mary, Elizabeth and Jane and son Wilson in dwelling #71;

Frances Morris, daughters Mary and Sarah, sons John, Benjamin and Chad[?] in dwelling # 73;

Frances Daugharty and daughters Nancy, Susan, and Sarah in dwelling #34;

Priestly Willis, daughters Susan, Mary, Martha, and Sarah; Mary Barnhill in dwelling #32;

Susan (Willis) Russell and sons John A. and William H. in dwelling #09.

Kilaughs District:

Siblings Mahala (aka, Mary Ann) and Edly Satterfield in dwelling #48.

Davis District:

William Martin in hh #84;

Pinkney Howell and daughter Nancy Howell in dwelling #14;

Lorenzo Dow Davis, sons *Daniel* and *Joseph* and daughter Delila in dwelling #77;

Daniel Davis (1785-1868), and children William, *Coleman*, Joseph, Amanda, and Delila in dwelling #113;

Martin Davis, daughters Jane, Rachel, Mary, and son John in dwelling #115.

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APPENDIX B: ANCESTRY AND KIN OF RACHEL (MARTIN) DAVIS

Mary Grant = William Emory
Cherokee (1732-1787)

John Martin = Susannah Chiles
b. England b. Virginia

Elizabeth
|-(2 ch by R. Due)
| (5 ch by J. H. Rogers, including Capt. John Rogers, Jr., chief)

William

Mary Emory = 1) Brigadier General Joseph Martin (1740-1808)
Cherokee (1749-) |- Samuel Martin (1766 - 1823)*
= 2) Rim Fawling (2 children)
= 3) Ezekiel Buffington
|-(7 children, including Annie who married James Daniel, Cherokee Judge)

Susannah Emory = 1) John Stuart (1730-1779)
Cherokee (1755-1788) |- (1 child, Busheyhead – on McMinn Co., TN 1835 roll; voted anti-treaty on Smith Resolution in 1835; immigrated 1838)
(sister of Mary Emory)
= 2) Richard Fields (1740-1780)
|-(6 children, including Richard Fields, Jr., Chief)
= 3) . . . . . .John (Jack) Martin (1745-1822)
(brother of General Joseph Martin)

John Martin = 1) Nellie Mc Daniel
(1781-1840) = 2) Lucy McDaniel
(Judge, Treasurer of Cherokee Nation)
|-8 children by Nellie, including
Martha Martin = George Washington Adair
(son of John Adair, half-brother of Walter "Black Wat" Adair)
|-8 children by Lucy,
including Charlotte = Joseph M. Lynch

Nancy (Nannie) Martin = Jeter Lynch
(1786-bef 1825)
|-Siney Lynch
|-Martha Lynch = J. A. Thompson
|-Sally Lynch = Johnathan England
|-Mary Lynch = John Williams
|-Berrilla Lynch = __ Marshall
|-Sabra Lynch =Joshua Buffington
(grandson of Mary Emory)
|-Joseph M. Lynch =Charlotte Martin
|-Maria Lynch = 1)Adam; 2)Thompson; 3)Cunningham
|-Rachel Lynch=Thomas Adair
(son of John, brother of George Washington Adair)

Rachel Martin = Daniel Davis
(1788- 1843)
|-Martin Davis = Julia Ann Tate
|-William Davis
|-John Davis = 1) Jane Saphronia Tate
= 2) Nancy Bird
= 3) _ ? (claimed+)
|-Delilah Davis
|-Lorenzo Dow Davis = Susan Miller
|-Coleman J. Davis = 1) Mary Elizabeth Huff
= 2) Elvira Adelaide Beck
|-Jeter Lynch Davis
|-Joseph C. Davis = 1) Manesa Wyly (claimed+)
= 2) Lizzie Stallings
|-Earl Elias Davis = Amanda Brown ("Old Settler")
|-Amanda Jane Davis

*This Samuel Martin married Charlotte Wickett and Catherine Hildebrand. See text for additional claims.
+ See text for conflicting claims that John or Joseph C. Davis was the father of Amanda Caroline Young/Davis.
= means married by formal or informal union