



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20245



IN REPLY REFER TO

Tribal Government Services - AR SEP 14 1992

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

Dear Mr. Rolland:

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

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

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

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Adkins 9-10-92

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

#### **GENERAL COMMENTS**

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

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

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

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

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

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

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

#### **COMMENTS AND QUESTIONS ON SPECIFIC CRITERIA**

##### **CRITERION (a):**

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

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

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

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

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

**CRITERION (b):**

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

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

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

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

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

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

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

families), patterns of economic cooperation, social distinctions based on geography, religion or other factors, and other divisions within the community such as factions. These social institutions and features of social organization form the basis for many of the important relationships that make up a society and their existence is thus one way of showing the maintenance of

a community. To be most significant, these institutions, organizations or relationships should not be shared with outsiders (that is, non-members do not participate in them).

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

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

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

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

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

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

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

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

**CRITERION (c):**

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

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

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

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

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

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

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



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

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

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

**CRITERION (d):**

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

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

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

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

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

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

**CRITERION (e):**

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

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

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

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

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

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

**CRITERION (f):**

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

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

Sincerely,

/S/ CAROL A. BACON

Director, Office of Tribal Services

cc: Muskogee Area Director  
Governor Henry Bellmon  
Attorney General Robert H. Henry  
Creek Nation of Oklahoma  
Corky Allen  
Andrew Skeeter  
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