



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

**OCT 25 2016**

## CERTIFIED RECEIPT

Ms. Ann D. Tucker  
278 Church Road  
Bruce, Florida 32455

Dear Ms. Tucker:

The Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary - Indian Affairs (AS-IA) has completed a Phase I Technical Assistance (TA) review of the documented petition of a group known as the "Muscogee Nation of Florida" (MNF) Petitioner #32. The OFA received MNF's response to the comments on June 17, 2016, within the 90 (ninety) days allotted under the 2015 regulations. The OFA now issues this TA review letter under section 83.26(a)(1)(i) of Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83), "*Procedures for Establishing that an American Indian Group Exists as an Indian Tribe*," dated July 31, 2015.

This TA review letter describes deficiencies in materials the OFA received from MNF in 1978 and 1995, as well as materials MNF submitted in 2002 and 2012 in response to its first TA review letter dated April 11, 1996, that OFA (then the Branch of Acknowledgment and Research) issued under the 1994 regulations. The MNF chose not to submit additional materials when it elected on September 15, 2015, to proceed in the acknowledgment process under the 2015 revised regulations. The governing body of the MNF (then the Florida Tribe of Eastern Creek Indians) certified its submission on September 27, 1995, as constituting its documented petition for Federal acknowledgment, and the OFA acknowledged receipt of the documented petition in 1995.

The Federal acknowledgment regulations provide for a TA review letter to bring to a petitioner's attention deficiencies in the group's documented petition that would prevent it from meeting the Governing Document (83.11(d)), Descent (83.11(e)), Unique Membership (83.11(f)), or Termination (83.11(g)) criteria. If the documented petition also claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the Phase I TA review (§ 83.26(a)(1)(ii)) will determine whether that evidence meets the requirements of previous Federal acknowledgment (§ 83.12). After reading this TA review letter, the MNF must submit a written response that (1) withdraws the documented petition for further preparation; (2) submits additional information and/or clarification; or (3) asks OFA to proceed with the review (§ 83.26(a)(1)(i)(A)-(C)).

The Department of the Interior (Department) had nearly completed its evaluation of the MNF petition for a proposed finding when the revised regulations became effective on July 31, 2015. The Department gave all then-active petitioners, including the MNF, the option of continuing evaluation under the 1994 regulations or, instead, being evaluated under the 2015 regulations. This TA review letter under the 2015 regulations includes three types of enclosures. One enclosure is the extensive descent evaluation conducted under § 83.7(e) of the 1994 regulations, and another enclosure consists of images of the documents OFA obtained during its verification research. Both are included to make the best use of Departmental resources expended on this petition up through 2015 and to provide the petitioner with the best guidance. This expanded type of TA review letter is possible only for those petitioners under the 1994 regulations who were nearing the end of their evaluations when they chose to proceed under the 2015 regulations. Although OFA conducted the enclosed MNF evaluation under criterion 83.7(e) of the 1994 regulations, a basic TA review of these same documents under the 2015 regulations would reveal the same deficiencies but would not be nearly so thorough. Citations to the pertinent aspects of the 2015 regulations appear in the enclosed MNF descent evaluation. The third enclosure consists of OFA's evaluation of the historical Creek Indian Confederacy, from which the petitioner claims descent.

The MNF's documented petition consists of approximately 10,500 pages of material, submitted in 1978, 1995, 2002, and 2012. Included are narratives, governing documents, membership lists, membership affidavits, membership files plus other exhibits and analyses.

This TA review letter finds there are deficiencies in the documented petition that will prevent the MNF from meeting criterion 83.11(e), Descent. For this reason, the OFA recommends the MNF closely review the information provided under section 83.11(e) below, and in the separate descent enclosure, in formulating its response.

### **Historical Indian Tribe from which MNF Claims Descent**

The regulations define historical as before 1900 (§ 83.1). Thus, the petitioner must document descent from a historical Indian tribe, or tribes that combined, existing before 1900.

The MNF claims to have evolved from the historical Creek Indian Confederacy that existed from the late 18th to the early 19th centuries mainly in Alabama and Georgia. The petitioner contends its ancestors migrated as a group from Georgia and Alabama to northwest Florida to escape the Indian removal policies of the Federal Government of the 1830s. After migrating to Florida, these ancestors, the petitioner asserts, went "underground" to "protect and retain" their "culture and heritage" (MNF 2002, Narrative, 1-2).

The enclosed evaluation describes the history of the Creek Indian Confederacy before Removal and the Creek Indians in the East after Removal. By 1850, most Creek Indian descendants in the area of northwest Florida had either removed to Indian Territory or integrated into the non-Indian population. Official records and local observers noted the existence of a Poarch Band of Creeks in Escambia County, Alabama, at present-day Atmore near the Florida border, but never identified the existence of any other Creek group in the period from 1850-1900.

## **I. Unambiguous Previous Federal Acknowledgment**

Under the acknowledgment regulations, the OFA reviews the documented petition during the Phase I TA review, and can determine if the petitioner needs to submit more evidence in support of a claim of unambiguous previous Federal acknowledgment. If a petitioner meets the requirements for unambiguous previous Federal acknowledgment under the 2015 regulations, the petitioner is eligible for evaluation under the reduced evidentiary burden of section 83.12. Three of the seven acknowledgment criteria—83.11(a), 83.11(b), and 83.11(c)—have modified requirements for petitioners with unambiguous previous Federal acknowledgment. Once the petitioner establishes it was previously acknowledged, it must demonstrate it meets the Community criterion (83.11(b)) at present and the Indian Entity Identification (83.11(a) and Political Authority (83.11(c)) criteria since the time of previous Federal acknowledgment or 1900, whichever occurs later.

In its review, the Department decides three things: First, if the Federal Government unambiguously acknowledged, through its actions, a relationship with the Indian tribe claimed by the petitioner. Second, if the petitioner is the same group, or evolved from the federally acknowledged group. Third, when that previous Federal acknowledgment ended.

The petitioner did not make a claim of unambiguous previous Federal acknowledgment and did not submit evidence addressing this issue. If the petitioner wishes to make a claim of unambiguous previous Federal acknowledgment, it still can submit evidence before the Phase II review process begins. The OFA found no available evidence of unambiguous previous Federal acknowledgment.

## **II. Specific Comments about Criteria 83.11(d) through 83.11(g)**

### **Criterion 83.11(d): Governing document**

Criterion 83.11(d) requires a petitioner to submit a copy of its present governing document including its membership criteria. In the absence of a written document, a petitioner must provide a statement fully describing its membership criteria and current governing procedures.

The MNF submitted a constitution adopted on January 21, 2001, and a list of amendments to three articles adopted on August 26, 2001, both of which the Department received on March 19, 2002. The MNF also submitted two different “tribal enrollment ordinances,” “04-01-100[a]” and “04-01-100[b],” which the petitioner’s governing body adopted by resolution on February 7, 2004. The Department received both of these ordinances on February 3, 2012.

Article III of the petitioner’s current constitution, entitled “Citizenship,” states that members must demonstrate “direct blood tie to a Muscogee (Creek) Indian” ancestor who (a) “resided in the Creek Nation” before removal of Creeks to Oklahoma (Indian Territory at that time), (b) established residency in Florida before 1895, and (c) demonstrated eligibility to share in the U.S. Creek land claim settlements or “demonstrated direct lineal descent from a member of a Creek community listed on the Parsons and Abbott Census of 1832-1833 or the Apalachicola Treaty.” Section 5 of this article provides for “ceremonial adoption” of “honorary members, without rights of entitlement, voting, or officiating.”

According to Section 2 of the “Tribal Enrollment Ordinance #04-01-100[a],” “[a]n individual is eligible for membership in the Tribe, if he/she is a lineal descendant or collateral blood relationship [*sic*] of a member of the Muscogee Creek Nation, as established by the Indians listed on the Methodist Church rolls in Bruce, Florida[,] between 1912-1922.” The same section of the “Tribal Enrollment Ordinance #04-01-100[b]” is identical except that it does not include “collateral blood relationship.”

The petitioner should clarify this membership criteria discrepancy by submitting all current governing documents, with correct identification numbers and correct wording, correctly identified on the group’s adoption resolutions, and certified by all current individuals on the group’s governing body.

### **Criterion 83.11(e): Descent**

Criterion 83.11(e) requires a demonstration that the members of a petitioner descend from a historical Indian tribe, or from historical Indian tribes that combined and functioned as a single autonomous entity, that existed before 1900. The MNF submitted a certified, current membership list, dated February 18, 2012. The list gives the names, dates of birth, and residential addresses of 594 living, current members. The petitioner chose not to supplement its petition before the Department proceeded with review of it under the 2015 regulations. Thus, the current analysis is based upon a membership list that has not been updated for more than four years. The 2015 regulations specify “an official current membership list” as a required element of a documented petition (§ 83.21(a)(4)(i)). [Emphasis added.]

The petitioner should submit an updated membership list in its response to this TA review letter.

The petitioner submitted membership files for its members, including documentation verifying some generation-to-generation connections. No applications or similar forms were found, through which each member demonstrated his or her consent to being a member of the group. The regulations require that members consent to being listed as a member of that group (§ 83.1 in 1994 and in 2015).

Please provide such consent statements, bearing dated original signatures of the members, as well as membership files for any new members since February 18, 2012.

The petitioner identified 16 historical individuals it claims as its Creek Indian ancestors. However, the evidence in the petition does not support that these are Creek Indians or, in some cases, that these individuals are even ancestors of the petitioner. This constitutes a critical deficiency under criterion 83.11(e). Please refer to the enclosed evaluation of the evidence for this criterion which OFA prepared before the petitioner elected to proceed under the 2015 revisions of the regulations.

For the evaluation under the 1994 regulations, OFA utilized the petitioner’s documentation as well as other records OFA obtained in its verification research. The current regulation requires the Department to provide “[a]ny comments and evidence OFA may consider that the petitioner does not already have, to the extent allowable by Federal law,” after a petitioner responds to its TA review letter (§ 83.26(a)(2)). OFA had nearly completed its evaluation of the petitioner under the 1994 regulations when the petitioner chose to proceed under the new regulations.

Therefore, electronic copies of the records OFA obtained during its verification research under the 1994 regulations are enclosed with this TA review letter, to make the best use of Departmental resources expended on this petition up through 2015 and to provide the petitioner with the best guidance.

The evidence, both in the petition and obtained by OFA, does not at this point demonstrate that the MNF petitioner descends from the Creek Indian tribe, a historical Indian tribe, or any Indians. The enclosed evaluation of descent under the 1994 regulations describes the evidence OFA reviewed and offers suggestions to possibly overcome deficiencies.

#### **Criterion 83.11(f): Unique Membership**

Criterion 83.11(f) prohibits the Department from acknowledging groups composed principally of members of federally recognized Indian tribes. The membership files do not include signed applications or statements disavowing membership in federally recognized Indian tribes, but the petitioner provided statements in both its 1978 and 1995 narratives that its members are not enrolled in federally recognized Indian tribes. The OFA compared the MNF's 2012 membership list with the October 1982 membership list that the nearby Poarch Band of Creeks of Alabama submitted in its petition for Federal acknowledgment. That analysis showed that none of the MNF's current members who were alive in October 1982 was then a member of that federally recognized Indian tribe. Thus, the petition includes some evidence that the petitioner is composed principally of persons who are not members of any acknowledged North American Indian tribe.

#### **Criterion 83.11(g): Congressional Termination**

The 2015 regulations do not require a petitioner to submit any evidence to demonstrate whether it meets criterion (g), and the MNF petitioner did not submit evidence addressing this criterion under the 1994 regulations. The MNF does not appear to be part of a group that is the subject of congressional legislation expressly terminating or forbidding a Federal relationship.

### **III. Recommendations**

In the response period following the issuance of this TA review letter, the petitioner will need to document historical individuals as Creek Indians or Creek Indian descendants and document its members' descent from them. This constitutes the deficiency that would prevent the petitioner from meeting the 83.11(e) criterion of Phase I.

For 515 of its members, the petitioner may choose to try to locate legislative evidence contemporary to Elizabeth (English) Ward's lifetime that she was a Creek Indian adopted by James English or, alternatively, seek evidence contemporary to the lifetimes of James English or his wife demonstrating that they were Creek Indians or Creek Indian descendants. For 20 of its members, the petitioner may be able to demonstrate that Elijah Ward or his sister-in-law Nancy Cochran were Creek Indian descendants. For the remaining 59 of its members, the petitioner may be able to identify their historical Creek Indians ancestors and also demonstrate that the members descend from them.

If the petitioner is successful in demonstrating historical individuals as Creek Indians or Creek Indian descendants and that its members descend from them, then

the petitioner should also submit a GEDCOM export of its genealogical database from its Family Tree Maker™ program, which should cite the evidence relied upon for each generation-to-generation connection and illustrate how its members descend from those Indians.

The evidence relied upon for each demonstration of Creek Indian ancestry and for each member's generation-to-generation connections back to those historical individuals should also be provided, if it is not already part of the membership files in the petition.

#### **IV. Summary**

This letter describes deficiencies in the MNF documented petition the group needs to address for it to be evaluated under the Phase I criteria for Federal acknowledgment. The deficiencies are in criterion 83.11(e).

The OFA has not made a Phase I decision concerning the MNF documented petition. This TA review letter is neither a Phase I preliminary finding under criteria 83.11(d), (e), (f), and (g), nor a conclusion that the documented petition will result in a negative or positive preliminary finding under Phase I. In addition, the MNF should not assume OFA has made positive conclusions about parts of the documented petition not discussed in this letter. Finally, the MNF should not presume it would meet criterion 83.11(e) by simply submitting additional data and analyses.

To make this letter most useful to the MNF, the OFA described deficiencies it detected while reviewing the documented petition during its evaluation under the 1994 regulations and the Phase I TA review. There may be other deficiencies revealed during the complete review under Phase I.

The records and analyses relied upon for this TA review letter under the 2015 regulations are on the enclosed IronKey™ flash drive. Bureau of Indian Affairs security policy requires that electronic files containing privacy information be encrypted. The enclosed thumb drive, therefore, contains an encrypted file. This encrypted file contains a folder called MNF\_TA\_Docs, comprising 343 files totaling approximately 970MB of information. Indian Affairs security policy requires that files containing privacy information be encrypted. To open this encrypted file you need the 7-Zip file archiver utility. You can obtain this utility, free of cost, at <http://www.7-zip.org/>. It works with Microsoft Windows systems only. Please telephone this office at (202) 513-7650 and ask for Ms. Cheryl Branum, OFA's Administrative Support Assistant, to obtain the password before trying to open the files.

Once you have installed 7-Zip (or a utility that can read an archive file encrypted with 7-Zip), insert the enclosed thumb drive in a USB port in your computer. Using Windows Explorer, open the thumb drive. On the thumb drive you will find a file named MNF\_TA\_Docs.7z. By either launching the 7-Zip program or by right-clicking on the MNF\_TA\_Docs.7z file, you can either open the archive for browsing or extract all the files and put them in a different location on one of your local drives.

After reading this TA review letter, the MNF must submit a written response that (1) withdraws the documented petition for further preparation; (2) submits additional information and/or clarification; or (3) asks OFA to proceed with the review (§ 83.26(a)(1)(i)(A)-(C)). The current regulations do not set a time limit for a petitioner's submission of additional information and/or

clarification, but OFA requests that the group's initial response include its estimation of the amount of time it will need to prepare a full response to the TA review letter. The sooner the group provides a responsive submission, the sooner OFA can reassemble the team to continue its Phase I evaluation, and the likelier the petitioner will maintain its priority position.

If the MNF has any questions, please feel free to contact the Office of Federal Acknowledgment, Office of the Assistant Secretary-Indian Affairs, Department of the Interior, 1951 Constitution Street, N.W., MS-34B-SIB, Washington, D.C. 20240, or call (202) 513-7650.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lee Fleming". The signature is written in a cursive style with a large, stylized initial "R".

Director, Office of Federal Acknowledgment

Enclosures

cc: Notified and Other Individuals or Entities that requested to be kept informed receive letter only; no enclosures

## **OFA Evaluation of Historical Indian Tribe in MNF Petition prior to August 2015**

The regulations define historical as before 1900 (§ 83.1). Thus, the petitioner must document the existence of a historical Indian tribe before 1900 or one that evolved or combined out of historical tribes in existence before 1900. The documentation indicates that the current petitioner is not recorded as part of a Creek historical Indian tribe, a Creek Confederacy, or any historical combination of historical Creek towns, families, or tribes.

The MNF claims to have evolved from the historical Creek Indian Confederacy that existed from the late 18th to the early 19th centuries mainly in Alabama and Georgia. The petitioner contends its ancestors migrated as a group from Georgia and Alabama to northwest Florida to escape the Indian removal policies of the Federal Government of the 1830s. After migrating to Florida, these ancestors, the petitioner asserts, went “underground” to “protect and retain” their “culture and heritage” (MNF 2002, Narrative, 1-2).

### *The Historical Creek Indian Confederacy before Removal*

The historical Indian tribe, for the purposes of this finding, is the historical Creek Indian Confederacy. Scholars noted the historical Creek Indian Confederacy existed in a group of Indian towns in Alabama and Georgia that formed a political alliance in the late 17th century (Walker 2004, 374; Debo 1941, 3-5).<sup>1</sup> By 1789, the primary social unit within a larger Creek Confederacy was the town, divided into two primary geographical regions: the Upper Creek towns and the Lower Creek towns (Walker 2004, 374; Green 1982, 11-12). The Upper Creek towns were in northeastern and central Alabama, while the Lower Creek towns were in eastern Alabama and western Georgia (Walker 2004, 373; Debo 1941, 3-5; Green 1982, 11-12). Some Lower Creek towns were also located in the Florida panhandle along the northern parts of the Apalachicola River (Walker 2004, 373-374; Green 1982, 1, McKinnon 1911, 67).

By the early 19th century, American settlers moved into Creek territory, and forced the Creeks to cede much of their land. Creeks lost some of their land after the Creek Civil War 1812-1814, also known as the Redstick Rebellion, which pitted the Creek Redsticks who followed Tecumseh against Creeks who supported Anglo-American society and Andrew Jackson (Walker 2004, 389-390; Green 1982, 42-43). After the Redstick rebellion, the Federal Government, working in concert with the states of Georgia and Alabama, removed most of the Creek Confederacy to the Indian Territory, now Oklahoma. The Creeks surrendered their land in Georgia in an 1827 treaty, with a majority of mixed-bloods moving to Indian Territory and a number of the full-bloods joining kin in Alabama (Walker 2004, 390; Green 1982, 132-139, 141-142). The Creeks in Alabama held onto their land for a little longer, until they ceded the land by treaty in 1832 (Green 1982, 155-173). The Treaty offered the Creek Indians the choice to either remove to the Indian Territory (now Oklahoma) or select allotments of varying sizes on the ceded land in Alabama that the government would set aside primarily for chiefs and heads of households. But non-Indians soon flooded into the ceded land and very few Creeks received their allotments.

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<sup>1</sup> This overview of the Creek Indians before removal relies on Walker 2004, 373-375, 388-390; Debo 1941, 1-107; and Green 1982. See also Poarch Band PF 1983, Historical Report.



Those that did were often defrauded of their holdings. Within a few years, the American government forcibly removed most Alabama Creeks to the Indian Territory (Walker 2004, 390; Green 1982, 170-186). The Creeks still live in Oklahoma as four federally recognized Creek Indian tribes: the Muscogee (Creek) Nation, the Alabama-Quassarte Tribal Town, the Kialegee Tribal Town, and the Thlopthlocco Tribal town.

The best historical list or description of the members of the Creek Indian Confederacy at the time of removal is the 1832 Census, often called the Parsons and Abbot Census. The Government conducted this census to obtain the names of the heads of households who might want land in the east under the 1832 Treaty. The census gives the names of heads of families, and the number of males, females, and slaves in each family. The census has two parts—the Upper Towns and the Lower Towns—with each part arranged by the name of the town and the heads of families within each town.<sup>2</sup>

### *Florida Creeks*

In Florida, the relationship between the Federal Government and the Muskogee speakers was dictated by the environment and by violence. The geography of Florida, with its swamps and isolated portions of flat terrain, had made it a haven for runaway slaves and dissident Creeks who helped keep Florida on the margins of the Deep South. In fact, the region had become home to many Creeks and Seminoles who had fled from Georgia and Alabama in the 1790s, and who continued to flee through the Creek War of 1812-1814.<sup>3</sup> There were Creek refugees who moved deeper into South Florida, where some joined the historical Seminole Indian tribe (Poarch Band PF 1983, 13; Cline 1974a, 218; 1974b, 117). General Andrew Jackson angered many dissident Creeks and Seminoles during his incursions into the Gulf South. At first, these rebellious Creeks and Seminoles used the swampy and isolated environment of Florida to their advantage, committing raids across the borders of Georgia and Alabama as resistance against any form of expansion into Florida. Raids soon turned into outright war against the United States--a war known as the First Seminole War. The Treaty of Moultrie Creek concluded the war in 1823, establishing a reservation concentrated in southcentral Florida for the Seminoles and a smaller one along the Apalachicola River for the Apalachicola Band of Creeks (Kappler 1972, 203-207). Yet the Apalachicola Band ceded their reserve in treaties signed in 1832 and 1833 (Kappler 1972, 352, 398-399).<sup>4</sup>

### *The Creek Indians in the East after Removal<sup>5</sup>*

After removal in the 1830s, some Creek Indians remained in the east. The Government exempted from removal a few “Friendly Creeks” who had sided with the United States during

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<sup>2</sup> The reader should see Hill 1965, 283, for a full description of 1832 census. Criterion 83.7(e) contains a description of this and earlier lists that documented Eastern Creeks.

<sup>3</sup> See also Doster 1974a, 9.

<sup>4</sup> See also Doster 1974b, 66-116, 272-273.

<sup>5</sup> This overview of the Creek Indians east of the Mississippi and in Florida relies mainly on Parades 2004, 404-406, and Poarch Band PF 1983, Historical Report 10-27; See also Cline 1974a, 1974b; Fairbanks 1974; and Doster 1974a, 1974b, for further information.

the Creek War of 1812-1814. By the 1840s, these people lived mainly in southern Alabama in Escambia and Baldwin Counties. A few of the descendants of these Alabama Creek Indians migrated to northwest Florida (Paredes 2004, 404; Poarch Band PF 1982, 10-27).

It is possible some Creek Indians unrelated to those of Escambia County, Alabama, remained in northwest Florida, or migrated there from Alabama or Georgia. There is no available evidence that indicates there was a migration of a Creek group, rather than some individuals, over time. By 1840, the American government had removed most of the Creeks from Georgia, Alabama, and northwest Florida and relocated them to Indian Territory, which was west of the Mississippi (Debo 1941, 101-103).

### *Historical Indian Tribe Summary*

There is no evidence in the current record of a historical Creek tribe or remnants of a Creek town or any other Creek entity, existing in the panhandle of Florida after the 1830s (1840-1900). Furthermore, there are no scholarly works or expert studies indicating that a Creek historical Indian tribe in or near the panhandle of Florida (Gulf South) had to go “underground” or hide in the second half of the nineteenth century (1840-1900) to “protect and retain” any type of Creek heritage or identity. The available historical record used by the Department in the 1982 Poarch Band proposed finding (PF) differs from what the petitioner claims is extant for areas of the Gulf South. There is no historical evidence to suggest that racial animosity against Indians by the White population—including by civic officials responsible for censuses, school records, and other government reports—prevented the creation of written documentation of a historical Indian tribe in the panhandle of Florida from 1840-1900. <sup>6</sup> For the Poarch Band of Creek Indians, there was an abundant documentary record of a historical Indian tribe, generated by a surrounding White population very similar to the White population in the Florida panhandle. With the precedent from the Poarch Band PF (1982), prejudicial influences on the written record is not an explanation for why there is no currently available documentation of a historical Indian tribe or tribes that combined into a distinct and autonomous entity in the Florida panhandle for the sixty-year period from 1840-1900.

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## **OFA Evaluation of Descent in MNF Petition prior to August 2015**

To meet the descent criterion—§ 83.7(e) under the 1994 regulations, now § 83.11(e) under the 2015 regulations—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 the members' descent. The petitioner identified its 594 members through a membership list its governing body certified as being complete as of January 21, 2012; identified 16 historical individuals it claims as its Creek Indian ancestors; and submitted membership files with documentation intended to demonstrate the descent of its members from those 16 claimed Creek Indian individuals.

The Office of Federal Acknowledgment (OFA) determined that the historical Creek Indian tribe for this petitioner would be the historical Creek Indian Confederacy that existed in Georgia and Alabama in 1789, the beginning point of the Department's evaluation. The Creek tribes surrendered their Georgia land in 1827 and ceded their land in Alabama in 1832. To begin tracing the petitioner's descent from the historical Creek Indian Confederacy, the petitioner needs to provide a list of individuals who belonged to a Creek Indian village, town, or tribe that was a member of the historical Creek Indian Confederacy in the late 18th century or the early 19th century. This list needs to include their demonstrated ancestors.

The petitioner has not provided such a list, nor has it demonstrated that the individuals they claim as ancestors belonged to a Creek Indian tribe that remained in the American Southeast after the removal period in the 1830s. The Poarch Band of Creeks petitioner was able to provide such evidence in its successful petition for Federal acknowledgment (Poarch Creek PF 1983, 2). OFA evaluated whether the petitioner's 16 claimed Creek Indian ancestors were part of, or descended from, the historical Creek Indian tribe or confederation and whether the petitioner's current members descend from those claimed historical individuals.

Analysis of the petitioner under the 1994 regulations found that no current members have yet demonstrated descent from the historical Creek Indian Confederacy, from a Creek Indian, or from any other Indian. Eighty-seven percent of the group claims descent from Elizabeth (English) Ward (b.ca.1798) whom the petitioner alleges was an abandoned Creek Indian child, reared by a non-Indian family. Historical documents created and recorded during the lifetime of Elizabeth English indicate, however, that she was neither adopted nor an Indian child but was the biological child of non-Indian James English and his non-Indian wife.

Those historical records include land records in which Elizabeth English participated as one of several "orphans" of James English in acquiring and selling his tract of land, as well as early Georgia private claim laws that do not include James English's adoption of Elizabeth as his legal heir. This evidence that she is non-Indian, contemporary to her lifetime, is more credible than affidavits concerning her ancestry prepared decades after her death, which the BIA apparently relied upon when it accepted 1,547 of her descendants' claims that she was Creek for purposes of Indian Claims Commission (ICC) distributions in the latter half of the 1900s. Five percent of the MNF members claim direct descent from three other individuals the BIA evaluated as "Eastern

Creek” for the ICC distributions, but these members’ claimed lines of descent include errors and these three historical individuals are not in fact their ancestors. An additional seven percent of the MNF members assert direct or collateral descent from claimed Creek Indians without documenting that the historical individuals were Creek Indians or how the members’ direct ancestors were related to the claimed collateral ancestors. Finally, the parentage, and therefore ancestry, for five other members constituting about one percent of the group was not in the record.

Sources for documenting Creek Indian ancestry include government-generated Creek censuses, such as the 1832 Parsons and Abbott census of the upper and lower Creek towns, and Creek land allotments, authorized in 1832. Also, individuals of Creek or mixed Creek—as well as White—ancestry petitioned for compensation from the State and Federal Governments in the early 1800s for losses suffered while assisting the U.S. in fighting hostile Creek Indians. One set of successful petitions of this type is known as the 1817 “Friendly Creek” claims, although there are others. Successful private petitions of this type may be used to document Creek ancestry for individual claimants self-identifying as Creek; however, caution must be exercised when evaluating these records. Some males recorded in the private claims and in the 1832 Creek census are not Creek but are “Indian countrymen” (non-Indian men who associated with or married Creek or other Indians).

#### ICC Dockets 21, 272, and 275

MNF members’ participation in the ICC judgment distributions constitutes the petitioner’s chief evidence to support their claimed descent from the historical Creek Indian tribe. This section briefly describes the three judgment distributions and the types of documentation that the BIA accepted as evidence that an applicant’s claimed lineal ancestor was a Creek Indian or Creek Indian descendant for ICC judgment fund distribution purposes. A following section includes an evaluation of the available documentation for each of the 16 claimed historical ancestors.

The BIA apparently assigned numerals to the historical individuals whom applicants claimed as their Creek ancestors, regardless of whether the BIA ultimately accepted any applications claiming them. Thus, the BIA assignment of an Eastern Creek numeral (“E.C.” number) to a historical individual does not in itself mean that the BIA accepted him or her as a Creek Indian or Creek Indian descendant.

#### *Docket 21*

On September 10, 1962, the ICC decided a case known as Docket 21 brought by the Creek Nation, with the “Creek Nation East of the Mississippi” participating as an intervenor (ICC 1962). The decision was to compensate “all the descendants of The Creek Nation as it was constituted on August 9, 1814,” for the value of 9 million acres of its land in Georgia and Alabama (ICC 1962).

On September 21, 1968, the U.S. Congress passed Public Law 90-504 “[t]o provide for the disposition of funds appropriated to pay a judgment in favor of the Creek Nation of Indians in Indian Claims Commission docket numbered 21, and for other purposes” (U.S. Statutes 1968).

Descendants of both Oklahoma Creeks and Eastern Creeks could participate in this judgment. This act directed that

the Secretary of the Interior shall prepare a roll of all persons who meet the following requirements: (a) they were born on or prior to and were living on the date of this Act; (b) their names or the names of lineal ancestors appear on any of the documents identified herein or on any available census rolls or other records acceptable to the Secretary, which identify the person as a Creek Indian, including ancient documents or records of the United States located in the National Archives, State, or county records in the archives of the several States or counties therein or in the courthouses thereof, and other records that would be admissible as evidence in an action to determine Indian lineage:

- (1) The Final Rolls of Creeks by Blood which were closed as of March 4, 1907;
- (2) Claims of Friendly Creeks paid under the Act of March 3, 1817 (H.R. Doc. 200, 20:1, 1828);
- (3) Census of the Creek Nation, 1833, made pursuant to article 2 of the treaty concluded March 24, 1832 (Senate Doc. 512, 1835, Emigration Correspondence, 1831-1833, pages 239-395);
- (4) Land Location Registers of Creek Indian Lands, made pursuant to the Treaty of March 24, 1832;
- (5) Any emigration or muster rolls of Creek Indians;
- (6) Any lists of self-emigrant Creek claimants (including those contained in Senate Ex. Doc. 198, 50:1, 1888, and H.R. Ex. Doc. 238, 51:2, 1891). (U.S. Statutes 1968)

To determine individuals eligible to participate in the ICC awards, the BIA designed applications that specified six Creek Indian records, or record types, in which applicants' lineal (not collateral) ancestors should appear. The application form also allowed a "catch-all" option for applicants' lineal ancestors who instead were identified as Creek Indians on census or other records acceptable to the Secretary. Descendants of "Eastern Creeks" cited their ancestors' appearances in three of the six delineated historical records as well as in records described by the "catch-all" option. Those three delineated historical records are the list of 1817 Friendly Creek claimants, the census of the Creek Nation authorized in 1832 (also known as the Parsons and Abbott census), and the post-1832 Land Location Registers of Creek Indian Lands.<sup>1</sup>

The Creek Judgment Fund Roll of August 15, 1973, available to the Department, listed the successful applicants under Docket 21 (Eastern Creek descendants) as well as under Docket 276 (Oklahoma Creek descendants). Each entry on the roll identified the applicant's name, address, and birth date, the application number, fund roll number, docket number (21 or 276), the name of the qualifying historical ancestor, relationship of the applicant to the historical individual, and a code and an abbreviation denoting the category of historical evidence cited as evidence that the historical individual was a Creek Indian or Creek Indian descendant.

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<sup>1</sup> The BIA application cites the Creek census as "1833," the year in which it was taken. This evaluation refers to it as the 1832 Creek census and the petitioner cites it as "A&P 1832" (for Abbott and Parsons who enumerated the lower and upper Creek towns, respectively).

To participate in the Docket 21 distribution, applicants had to be born on or before September 21, 1968. OFA identified the 247 current MNF members meeting that eligibility requirement and searched for their names in the Docket 21 and 276 Creek Judgment Fund Roll. OFA found that a total of 171 of 247 current members participated in the Docket 21 distribution. Additional female MNF members may appear on the roll undetected by OFA if they were listed under married surnames not in the petition. The BIA approved all 171 of these distributees under Docket 21 as descendants of Elizabeth (English) Ward. Overall, the BIA distributed Docket 21 funds to a total of 1,547 descendants of Elizabeth (English) Ward.<sup>2</sup> The BIA determined a total of 7,656 eligible under Docket 21.<sup>3</sup>

#### *Dockets 272 and 275*

The actual distribution of Docket 272 funds occurred later than the Docket 275 distribution. Docket 272 settled a claim that sought compensation for over 1.5 million acres of Creek land in Alabama and Georgia that the Federal Government took in 1832 (ICC 1971). Those eligible to participate included those on the “descendant payment roll” for Docket 21, plus “those living on the effective date of this plan [January 25, 1984] who would have been eligible for enrollment under the 1968 Act, but who were not enrolled,” and children since born to both (49 FR 7301, 1984). The application form for enrollment to share in the Docket 272 judgment funds specified the same qualifying Eastern Creek historical documents that appeared on enrollment forms for participation in the Docket 21 distribution (BIA 1984). The BIA determined a total of 13,517 eligible under Docket 272.<sup>4</sup> A BIA breakdown showing the total number of Elizabeth (English) Ward descendants who participated in this distribution was not available.

Docket 275 settled a claim that sought compensation for more than 5.2 million acres of Alabama land (ICC 1970). The Docket 275 application form requested the applicant’s name as it appeared “on docket 21,” without soliciting ancestry information (BIA 1978). Applicants had to be born before June 15, 1978. Of the 327 current MNF members born by that date, OFA found 239 of them listed as distributees on the Docket 275 fund final roll dated August 21, 1984. Additional female MNF members may appear on the roll undetected by OFA if they were listed under married surnames missing from the petition. The BIA approved all 239 distributees under Docket 275 as descendants of Elizabeth (English) Ward.<sup>5</sup> The BIA determined a total of 12,461 eligible under Docket 275.<sup>6</sup>

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<sup>2</sup> The National Archives Regional Archives at Fort Worth, Texas (NARA TX), provided its in-house finding aid to the Creek Judgment applications in its collection that listed a total of 1,547 accepted and 45 rejected applications filed on Elizabeth (English) Ward (E.C.11147) under Docket 21 (NARA 2013).

<sup>3</sup> Eastern Creek Docket 272 information sheet, February 28, 1986; Probate Office, BIA Eastern Region Office, Nashville, TN.

<sup>4</sup> Eastern Creek Docket 272 information sheet.

<sup>5</sup> This total includes one current MNF member (no. 61532) listed on the final roll as a descendant of “Mary Ryder Campbell” (E.C.11023) and another member (no. 89103) listed as a descendant of James B. Ward (E.C. number “11147,” which denotes Elizabeth (English) Ward). The membership file for member no. 61532 shows that he does not claim descent from Mary Ryder Campbell but from Elizabeth (English) Ward, as does member no. 89103.

<sup>6</sup> Eastern Creek Docket 272 information sheet.

The regulations at § 83.7(e)(1)(i) state, “Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes” constitute evidence acceptable to the Secretary to demonstrate descent from the historical tribe, or tribes that combined and functioned as a single autonomous political entity. The Department has relied upon such descendancy rolls in other acknowledgment decisions, unless other evidence demonstrated the unreliability of such rolls.<sup>7</sup>

In many cases, public records (such as vital, probate, and Federal census records) that were not readily available when the Secretary prepared descendancy rolls decades ago are now readily accessible through Internet sources. Often the evidence in these increasingly accessible sources does not support the undocumented or non-contemporary claims that the BIA previously accepted on the basis of personal testimony and affidavits. Standard research methodology requires a review of the best evidence available. Records resulting from Elizabeth (English) Ward’s participation in the 1820 land lottery in Georgia as one of several “orphans” of James English, a non-Indian, her sale of the property with these siblings, as well as early Georgia private claim laws that do not include James English’s adoption of Elizabeth as his legal heir, undermine the claims of her descendants that she had Indian parentage. Further, the entries for most MNF members on the Docket 21 distribution roll include errors as the entries credit Elizabeth (English) Ward as appearing on the 1817 Friendly Creeks roll, which is not correct.<sup>8</sup> Therefore, the BIA’s identifications of historical Creek Indians in its distribution rolls require a new analysis.

### Membership Lists

The petitioner has undergone extreme membership reductions in the last 17 years. Membership dropped from a high of 2,139 members in 1995, to 1,083 members in 2002, to the 2012 total of 594 members. The membership list also changed in composition. More than three-quarters of the current members (458 of 594, or 77 percent) were born before 1995, but just less than half of

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<sup>7</sup> For example, see discussion of the unreliability of the BIA’s 1933 California Indian enrollment in the Juaneño Band of Mission Indians (Petitioner #84B) PF 2007, 187-188, and FD, 30. See also Lorraine Escobar, CG, “Worthless Paper and Shattered Identities,” January 11, 2010 ([http://nostoneunturned.us/docs/Worthless\\_Paper.pdf](http://nostoneunturned.us/docs/Worthless_Paper.pdf) : accessed 19 March 2014).

<sup>8</sup> The Docket 21 Creek Judgment Fund Roll identified the “Creek Roll 1817” (Claims of Friendly Creeks) as the document used to demonstrate Elizabeth (English) Ward as a Creek Indian for 166 of the 171 MNF members found on the roll. Roll entries for the five other MNF members who applied through Elizabeth (English) Ward cited the abbreviation “CNS/OTHRCD”—census or other records acceptable to the Secretary—to describe the document(s) relied upon. The specific documents within this category that were used are not named. The 1817 Friendly Creeks claims document does not include an Elizabeth English or Elizabeth (English) Ward as a claimant. The one Friendly Creek claimant listed as simply “Elizabeth” in Hillabee town (in east central Alabama) was Elizabeth Grierson or Grayson (East 2008; 72, 100). A review of the bottom margins of applications on Elizabeth (English) Ward suggests the explanation that a copying error or misreading of a code (from A7 for “census and other records” to A2 for “Creek Roll 1817”) occurred while processing applications from one non-MNF family represented by applications 11919-11922; one application is marked A7 and the other three A2. It appears that the coding switch was repeated for later application numbers, with a few exceptions. The Petitioner does not claim that Elizabeth (English) Ward appeared among the Friendly Creek claimants, only that the BIA accepted her as a Creek Indian for ICC distribution purposes.

the current members (284 of 594, or 48 percent) were on the petitioner's 1995 membership list. These 284 current members constitute just 13 percent of the 1995 membership.

#### *Current Membership List*

The MNF current membership list, which the governing body certified on February 18, 2012, identifies 594 living current members (MNF 2/18/2012).<sup>9</sup> OFA evaluated this list and relied upon it for all calculations appearing in this evaluation for the technical assistance (TA) review letter. The 2012 list includes the categories of information required under the regulations at § 83.7(e)(2): full name (including maiden name), date of birth, and residential address. The petitioner provided a report that described the circumstances surrounding the reduction in members between 2002 and 2012, as reflected in the 2012 membership list (MNF 2/1/2006).

The 2012 membership list shows a loss of 735 members since 2002 and the continuation of 348 members. A total of 246 new members were added by 2012, 173 of whom were born before 2002. The 68 percent decrease in membership from 2002 to 2012 appears to be the result of a 2004 amendment made to the group's membership ordinance. As of 2004, the petitioner requires a member to be "a lineal descendant or collateral blood relat[ive] of a member of the Muscogee Creek Nation, as established by the Indians listed on the Methodist Church rolls in Bruce, Florida[,] between 1912-1922..." (MNF 2004). The church list images in the petition, however, do not denote the church or its 102 listed members as "Indian" or as "Creek Indians."<sup>10</sup> The stated objective of the 2004 amendment was to ensure "that the current membership reflects the longstanding, historic Creek community centered at Bruce, Florida" (MNF 2/1/2006, 2). No evidence contemporary to its creation shows the Methodist Church in Bruce as established by or for Indians or as attended by persons that outsiders identified as even part Indian.

#### *Previous Membership Lists*

The petitioner submitted its 2002 membership list in two installments, identifying a total of 1,083 members (MNF 3/12/2002).<sup>11</sup> The lists arranged the members by "townships" (Apalachicola, Choctawhatchee, Escambia, Redground, Withlacoochee, and "At Large"). The form used in the first installment provided for the recording of "1st ancestor #" and "2nd ancestor #." The data entered in those columns consisted, with few exceptions, of "Eastern Creek" ("E.C.") numerals the BIA assigned to the historical individuals claimed under the ICC Dockets 21, 272, and 275, previously described.<sup>12</sup> Forty-one entries instead cited "A&P 1832" (the Parsons and Abbott

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<sup>9</sup> The 2012 membership list included 624 individuals total, but 30 were annotated as "deceased."

<sup>10</sup> The petitioner further stated that "[t]he ordinance was [also] amended to include the roster of the Bruce School, originally known as Pine Level, as an additional document to verify the Creek families that settled in the Bruce Community" (MNF 2/1/2006, 2). As with the church roll, images of the Bruce School rosters, 1915-1954, similarly do not denote the school as Indian or record the race of its students (MNF 2012, Appendix A).

<sup>11</sup> The 2002 membership lists show a loss of 1,056 members since 1995, the continuation of 625 members from 1995, and the addition of 458 new members. Two 2002 members (nos. 20016 and 94010) appeared on both the March 2002 and supplemental June 2002 membership lists.

<sup>12</sup> Apparently, the BIA assigned "E.C." numbers to all historical individuals whom applicants claimed as their Creek ancestors, regardless of whether the BIA ultimately accepted or rejected such applications. For example, a NARA TX in-house finding aid to its collection of applications filed under Dockets 21, 272, and 275 indicates that the BIA rejected all applications that were filed on some of the specific Eastern Creeks the 2002 MNF members (and 11



1832 Creek Census) and three entries cited “BIA Records.” The forms used for the supplemental membership list installment did not record this ancestry information.

The petitioner in 1995 submitted its undated membership list as two documents: one for adult members and the other for minor members (FTE [1995]). The total number of 1995 members was 2,139.<sup>13</sup> These earliest lists identified only names, “E.C.” numbers, membership numbers, and mailing addresses such as post office box numbers, and, therefore, did not comply with the 1994 § 83.7(e)(2) (or 2015 § 83.21(a)(4)(i)) requirement for birth dates and residential addresses.

### *Membership Database*

The petitioner stated that it uses a genealogical program (MNF 2012, Appendix C, cover page). However, the petitioner did not submit a copy of the database and should do so if it is first able to document descent from its claimed historical Indian tribe. Submitted printouts from the database indicate it contains information on MNF members, their claimed ancestors, and the sources used to determine each generation-to-generation connection. Before active consideration under the 1994 regulations, OFA had created a Family Tree Maker™ genealogical database of this petitioner, using genealogical charts and membership lists submitted up to 2002. OFA updated its database with information from the membership list and some membership file documentation the petitioner submitted in 2012 plus evidence OFA obtained during its evaluation of the petition (OFA 2013 FTM). OFA used this database for its calculations and analyses of selected members’ claimed lines of descent, discussed later in this section.

### Membership Applications?

The MNF’s submitted membership files in its 2012 response to the Department’s 1996 TA review letter. Those membership files include cover sheets, identifying each member’s claimed ancestor(s), and copies of vital and other documentary records to help demonstrate each member’s generation-by-generation descent from the claimed ancestor(s). However, no applications or similar forms were found, through which each member demonstrated his or her consent to being a member of the group. A petitioning group typically will create an application form for each member’s signature that captures all the personal, contact, and descent information the group needs from its members, often also including the kinds of statements that the 25 CFR part 83 process requires, such as a statement consenting to being listed as a member of that group (§ 83.1 in 1994 and in 2015) and disavowing membership in a federally recognized tribe or else identifying the federally recognized tribe to which a member belongs. How a petitioner approves and obtains required information and documentation from a member is its own business; however, the acknowledgment process requires that individuals represented on a membership roll must have “affirmatively demonstrated consent” to being listed as members (§ 83.1 “Tribal Roll” in 1994 and “Roll” in 2015). If the petitioner continues in this process, it should provide such consent statements, bearing original signatures of the members.

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current MNF members) cited as its ancestors (e.g., E.C.11068, 11094, 11312, and 11343) (NARA 2013). None of the rejection codes cited (REJ, R1, and Misc. REJ) denotes that the sole reason for the application’s rejection was its failure to prove the historical individual was a Creek Indian.

<sup>13</sup> Three members (nos. 94060, 95002, and 95091) appeared on both the adult and minor membership lists.

## Historical Indian Tribe

The petitioner did not provide a list of individuals who belonged to a Creek Indian village, town, or tribe that was part of the historical Creek Indian Confederacy in the late 18th century or the early 19th century that included its demonstrated ancestors. Instead, the petitioner provided a list of 16 historical individuals its members claim as their Creek Indian ancestors. Therefore, the criterion 83.7(e) evaluation under the 1994 regulations was confined to the determination of whether the petitioner's 16 claimed Creek Indian ancestors were part of, or descended from, the historical Creek Indian tribe or confederation and, only if so, whether the petitioner's current members demonstrated descent from those claimed historical individuals.

The petitioner describes the 16 historical individuals it claims as its Creek Indian ancestors in its "Appendix C – Muskogee Nation Creek Indian Ancestry" (MNF 2012, Appendix C).<sup>14</sup> The introduction to this material states:

These Creek ancestors were either identified on the 1832 Parsons and Abbott Creek Census, identified as "Indian" on a census or other nineteenth century record, were collateral or lineal relatives of these individuals, and/or were persons accepted as Creek ancestors for the purpose of Indian Claims Commission Dockets 21, 272, or 275. (MNF 2012, Appendix C, cover page)

Some of these sources identified historical individuals as Creek Indians and others did not. The BIA specified three documents that applicants who claimed Eastern Creek descent could use to identify their ancestors as Creek Indians for purposes of Docket 21 and 275: 1817 Friendly Creek claims, the 1832 Parsons and Abbott Creek census, and the 1832 Land Location Registers of Creek Indian Lands. The 1832 Creek census enumerated 21,762 Creek Indians in their upper and lower towns of residence prior to removal (U.S. Senate 1835). The petitioner did not claim to have found its 16 claimed historical ancestors in the other two qualifying documents: the Friendly Creek claims authorized in 1817 (U.S. House 1828) or the Creek land registers authorized in 1832.<sup>15</sup> Nevertheless, OFA sought the names of the petitioner's claimed ancestors in the 1832 Creek census and the 1817 Friendly Creek claims list. The results appear at the end of the analysis of each claimed historical individual in the "Descent from the Historical Indian Tribe" section below. The index to the Land Location Registers was not available at the National Archives in 2013 and could not be checked for the names of the claimed 16 historical ancestors.<sup>16</sup>

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<sup>14</sup> The petitioner submitted Appendix C within the first 60 days of active consideration in 2012 in response to OFA's request for an updated membership list and any new evidence to be considered for the PF under the 1994 regulations.

<sup>15</sup> The petitioner cited only E.C. numbers as evidence of Creek ancestry for two of its 16 claimed ancestors, James Earle and Arthur Sizemore, and their appearances in the 1817 Friendly Creek claims may be the basis on which the BIA approved applications filed on them for Docket 21 purposes. However, none of the petitioner's current members filed applications on them and OFA's evaluation of the members' evidence of descent (discussed later) shows that no members descend from these men as claimed.

<sup>16</sup> This single volume is entitled "Index to Creek Reserves" (NARA, RG75, Entry 286) and has been missing from the NARA stacks in the Washington, DC, National Archives since it was last pulled in May 2005.

The petitioner identified its claimed 16 historical Creek ancestors as follows:

- (1) James Earle (b.ca.?-d.1836)
- (2) William Tarvin (b.ca.1764 ?), father-in-law of (1)
- (3) Arthur Sizemore (b.ca.1770 AL)
- (4) Mary Polly Bailey (b.ca.1759 AL), wife of (3)
- (5) James B. Ward (b.ca.1796 SC)
- (6) Elizabeth English (b.ca.1798 GA), wife of (5)
- (7) Elijah Ward (b.ca.1780 NC)
- (8) Sarah Anne Cochran (b.ca.1799 FL), wife of (7)
- (9) Eliza Dannelly (b.ca.1800 SC)
- (10) Nimrod Doyle (b.ca.1790 ?)
- (11) Mariah Padgett (b.ca.1818 SC)
- (12) Isaac Simmons (b.ca.1793 NC)
- (13) Richard Taylor (b.1781 ?)
- (14) Daniel David Ward (b.1811 AL)
- (15) Joshua Wiggins (b.1818 AL)
- (16) Lydia Wright (b.ca.1800 SC)

MNF's Appendix C consists of a notebook with 16 sections, one for each of MNF's claimed Creek ancestors. Each of the 16 sections begins with a footnoted family group sheet identifying the name and vital data of the historical ancestor and his or her children.<sup>17</sup> The next item is a descendants chart, listing only four generations of descendants of each claimed Creek ancestor. The last item in each section consists of a photocopy of the historical or modern document(s) cited as evidence intended to demonstrate that each individual was a "Creek Indian" or "Indian."

The petitioner's Appendix C also forewarned of deficiencies in its genealogical evidence, stating

Vital records have not been gathered to complete family trees linking all Muscogee Nation members to specific Creek ancestors. Circumstantial evidence, however, points to lineal and collateral links between Muscogee Nation members and Creeks who lived in Alabama where ancestors of the Poarch Creeks also once lived. Researchers may not be able to complete these charts because vital records that would establish positive links and complete the evidence may not exist. Very few vital records were kept until the late nineteenth century. (MNF 2012 Appendix C, cover page).

The petitioner then asked the Department to take into consideration the lack of recorded vital records when evaluating the petition, claiming this fell under § 83.6(e) in the 1994 regulations: "time periods for which evidence is demonstrably limited or not available" (under § 83.10(b)(2) in the 2015 regulations). The Department understands that vital records were not kept by all

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<sup>17</sup> In their source citations, most family group sheets in each section of the appendix cited the "member files" of individuals who are no longer MNF members as the location for evidence such as family histories and "pedigree charts." This suggests that the petitioner developed its genealogical database before it removed 700+ members who had been on the 2002 membership list.

states until the 20th century and the acknowledgment process does not require vital records to demonstrate parentage.

Acknowledgment decisions describe the variety of records used to demonstrate parentage, such as Federal and State census, probate, land, court, church, military pension, and published obituary records to name a few. Since the petitioner did not demonstrate any specific record limitations or losses other than for vital records, and since other records are available, § 83.6(e) (now § 83.10(b)(2)) does not apply. The petitioner may wish to investigate other potential sources for parentage evidence, such as those identified above and in this evaluation, wherever it is missing from its members' lineage documentation in the current record.

The petitioner described the 16 historical individuals as being born as early as 1759 and as late as 1818 in locations including North Carolina, South Carolina, Georgia, Alabama, and Florida. Nine of the 16 were found to be living in 1850, at which time they resided in six non-contiguous counties in three different states.<sup>18</sup> The claimed ancestors were not together and do not represent members of an Indian tribe or band. They do not appear together on a historical listing of members of a historical Creek tribe.

A summary of the petitioner's 16 claimed historical Creek Indian ancestors, the nature of the evidence used to demonstrate their Creek Indian ancestry, and the number of current MNF members claiming descent from each historical individual appears in the table below.

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<sup>18</sup> Butler, Coffee, and Dale Counties, AL; Decatur Co., GA; and Walton and Washington Counties, FL. Thus, the petitioner's Appendix C list does not constitute a historical listing of members of a historical Creek tribe at one time or in one place at any time. Instead the petitioner's list is a modern compilation of historical individuals whom current or past members claim as ancestors and who are alleged to have been Indians or Creek Indians.

**Table 1**  
**16 Historical Individuals MNF claimed as Direct or Collateral Ancestors**  
**and the Evidence MNF cited to demonstrate each was a Creek Indian**

| <b>Names of the claimed 16 historical ancestors</b> | <b>1832 census; direct ancestor</b> | <b>1832 census; collateral ancestor</b> | <b>1973 ICC; direct ancestor E.C. #</b> | <b>1973 ICC; collateral ancestor E.C. #</b> | <b>Other data; direct ancestor</b> | <b>Other data; collateral ancestor</b> | <b>Members claiming descent</b> |
|---|-------------------------------------|---|---|---|------------------------------------|--|---------------------------------|
| Mary Bailey   |                                     |   |   |   | 1860 census                        |  | [2]                             |
| Sarah Cochran                                       |                                     |   |   | 11200                                       |                                    |  | 20                              |
| Elizabeth Dannelly                                  |                                     | John Danely                             |   |   |                                    |  | 27                              |
| Nimrod Doyle  | Nimrod Doyle                        |   |   |   |                                    |  | 0                               |
| James Earle   |                                     |   | 11035                                   |   |                                    |  | [38]                            |
| Elizabeth English                                   |                                     |   | 11147                                   |   |                                    |  | 515                             |
| Mariah Padgett                                      |                                     |   | 11118?                                  |   |                                    |  | 45                              |
| Isaac Simmons                                       |                                     |   |   |   |                                    | military service; 1803 debtor          | 58                              |
| Arthur Sizemore                                     |                                     |   | 11118                                   |   |                                    |  | [2]                             |
| William Tarvin                                      |                                     |   | 11167                                   |   |                                    |  | [43]                            |
| Richard Taylor                                      |                                     |   | 11141                                   |   | 1860 census                        |  | 0                               |
| Daniel David Ward                                   |                                     |   |   |   | 1993 genealogy                     |  | 0                               |
| Elijah Ward   |                                     |   |   |   | 1993 genealogy; military service   |  | 20                              |
| James B. Ward                                       |                                     |   |   |   | 1861 letter                        |  | 515                             |
| Joshua Wiggins                                      |                                     |   | (11159)                                 |   |                                    |  | 0                               |
| Lydia Wright  |                                     |   |   | 11247                                       |                                    |  | 253                             |

Note: Brackets denote total numbers of the 594 members who do not appear to descend from the historical individuals they claim as ancestors. Parentheses denote that the NARA TX finding aid to its collection of Eastern Creek applications shows no applications (accepted or rejected) associated with an E.C.11159.  
Sources: MNF 2012 Appendix C; OFA 2013 FTM.

## Descent from the Historical Indian Tribe

The petitioner's evidence has not demonstrated that its 16 claimed ancestors, or other ancestors, were members of the historical Creek Indian tribe that existed in 1789 or later. The Department conducted a limited analysis to determine whether the 16 claimed historical ancestors were demonstrably Creek Indians or descendants, and, only if so, whether the petitioner demonstrated that its members descend from them. The analysis included evaluations of the claimed ancestors and of selected lines of descent. The evaluation found no documented ancestors of the petitioner's current members who could be verified as Creek Indians or Indians.

OFA's analysis used the petitioner's pre-2012 petition documentation; its 2012 Appendix C and membership files; the genealogical database OFA created prior to active consideration, based on the petition documentation received before 2012; and OFA verification research in images of original documents available via microfilm and online Web sites such as FamilySearch.org, Ancestry.com, Fold3.com, and HeinOnline.org.<sup>19</sup>

The petitioner cited its own genealogical database but did not include an electronic copy of the database in its petition (MNF 2012, Appendix C, cover page). The petitioner used its genealogical database to print a descendants chart for each claimed Creek ancestor found in Appendix C. Each chart begins with the claimed Creek ancestor and ends with only the fourth (rather than every) generation of his or her descendants, so the chart often does not include descendants recent enough to include the current members' generations. Thus, these charts do not illustrate which current members claim to descend from each of the 16 historical individuals.

OFA's analysis finds that no current members appear to claim descent from four of the 16 historical individuals asserted as the group's Creek ancestors. Due to errors in documenting their ancestry, no current members demonstrated descent from another four of these 16 historical individuals that they did claim as their Creek ancestors. Finally, no current members provided sufficient evidence demonstrating that the remaining eight historical individuals were Creek or other Indians.

Many of the petitioner's former members claimed descent from the four historical individuals who do not appear to be claimed by any current MNF members: **(10)** Nimrod Doyle (21 members in 2002);<sup>20</sup> **(13)** Richard Taylor (51 members in 2002); **(14)** Daniel David Ward (63 members in 2002); and **(15)** Joshua Wiggins (2 members in 2002).<sup>21</sup>

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<sup>19</sup> The original record images displayed on those and other Web sites included Federal and State census, wills, estate files, marriage, military pension, newspaper, and Congressional records.

<sup>20</sup> Nimrod Doyle is an example of a non-Indian recorded in the 1832 Creek census. A contemporary of Nimrod Doyle's recounted him as a White man (Woodward 1859, 42). The NARA TX database does not show any applications (accepted or rejected) filed on Nimrod Doyle under Dockets 21, 272, or 275.

<sup>21</sup> The NARA TX data, provided to OFA, shows 49 accepted applications in its collection that were filed on Richard Taylor (E.C.11141) under Docket 21, and no accepted or rejected applications in its collection that were filed on Joshua Wiggins (E.C.11167) under Dockets 21, 272, or 275 (NARA 2013).

The common thread to most of the 12 historical individuals claimed as ancestors of current members is that they also appear in the claimed ancestry of descendants of (6) Elizabeth (English) Ward, of her husband (5) James B. Ward, or of her brother-in-law (7) Elijah Ward and his wife (8) Sarah Anne Cochran, all four of whom lack evidence created in their lifetimes of Creek Indian ancestry. Errors in some claimed lines of descent (discussed in the next section) eliminate (1) James Earle, (2) William Tarvin, (3) Arthur Sizemore, and Sizemore’s wife (4) Mary Bailey as potential Creek ancestors for those members who claim descent from them.

Some current members who claim Elizabeth (English) Ward as an ancestor also claim that other ancestors of theirs were Creek Indians: (9) Eliza Dannelly (5 of her 27 descendants in the petitioner also claim Elizabeth English), (11) Mariah Padgett (35 of her 45 descendants also claim English), (12) Isaac Simmons (all 58 of his descendants claim English), and (16) Lydia Wright (all 253 of her descendants claim English). The Creek ancestry asserted for all four of those historical individuals is that they were “possible collateral relatives” of others with the same or similar surnames for whom the petitioner provided some evidence of Creek ancestry. Reasoning based on the similarity of surnames, rather than on documentation required by the standards of genealogical methodology, does not provide evidence acceptable to the Secretary to demonstrate descent from the historical Creek Indian tribe or to establish Creek Indian ancestry.

The numbers of current members who claimed descent from Elizabeth (English) Ward and those who did not are as follows:

|     |  |
|-----|--|
| 515 | Elizabeth (English) Ward   |
|     | Those without Elizabeth (English) Ward ancestry claims include:    |
| 20  | Elijah Ward and Sarah Anne Cochran                                 |
| 21  | James Earle and William Tarvin                                     |
| 9   | James Earle and William Tarvin and Mariah Padgett                  |
| 2   | James Earle and William Tarvin and Arthur Sizemore and Mary Bailey |
| 22  | Elizabeth “Eliza” Dannelly   |
| 5   | <u>Ancestry unknown</u>  |
| 594 | Total  |

Most current MNF members claim direct or collateral descent from historical individuals the BIA evaluated as “Eastern Creek” for purposes of the ICC distributions. OFA evaluated evidence anew to determine if these historical individuals could be demonstrated as Creek Indians or Creek Indian descendants, especially as the BIA rejected all applicants claiming descent from some of these historical individuals. While evidence supports “Eastern Creek” ancestry for some claimed historical individuals that the BIA evaluated for purposes of the ICC distribution, OFA found that current members do not descend from them.

Current members also asserted Creek ancestry for claimed direct or collateral ancestors that were not evaluated by the BIA for purposes of the ICC distribution. Wherever current members did not demonstrate, and OFA could not document, that a claimed direct ancestor was a Creek Indian, OFA did not further evaluate those members’ evidence of descent. Wherever current members did not demonstrate, and OFA could not document, the claimed collateral relationship between their ancestor and an asserted Creek Indian, OFA did not further evaluate those

members' evidence of descent. When many current members claimed descent from the same more recent forebear, OFA evaluated evidence to determine whether that forebear descended from a Creek Indian. Wherever the forebear did not descend from a Creek Indian, OFA did not further evaluate those members' evidence of descent.

Genealogical methodology requires an evaluation of evidence to determine its value in answering the research question being asked of it. The first evaluation is whether the document is an original or derivative record, or an authored work. The second is whether the facts in the document came from an informant with firsthand (primary) knowledge, an informant with secondhand (secondary) knowledge, or an undetermined informant. The third is whether the document answers the research question directly or indirectly, or even negatively through the absence of expected data.<sup>22</sup> These three evaluations help determine the reliability of each piece of evidence.

A typical criterion (e) research question asks whether evidence demonstrates the identities of a person's parents or identifies an individual as an Indian or Indian descendant. For example, a father's consent for his underage son to enlist or marry answers a parentage question directly and the father would have primary knowledge of the facts reported. This constitutes acceptable evidence of the parent-child relationship. Indirect parentage evidence may be found in an 1850 Federal census entry for a child, listed in descending age sequence with other minors in a household headed by a man and a woman. This census did not list the relationship of each named person to the head of the household, but enumerators were instructed to list children after their parents, from eldest to youngest.<sup>23</sup> A census-taker's informants were not identified in any pre-1940 Federal census, so here an undetermined informant provided the names and ages of individuals who appear in a sequence that may reflect relationships. Thus, other indirect evidence besides the census entry is needed before reaching a parentage conclusion that is more than circumstantial. In the absence of other conflicting evidence, OFA accepts such indirect census data as circumstantial evidence of the parent-child relationship.

Often a combination of indirect evidence provides the most reliable evidence because it was not created to advance a claim that benefits the informant or the identified subjects. This "self-serving" aspect of the evidence must also be considered. Returning to the previous example of indirect parentage evidence, the 1850 census enumerator did not derive any benefit from listing parents and children in the order prescribed in his instructions, and neither did the recorded individuals benefit. Conversely, an individual claiming to be the offspring of a deceased Civil War soldier for purposes of obtaining a pension does stand to benefit from making such an assertion. His claim answers a parentage question directly, but his motivation must be considered. Further, in this example the claimant has only secondhand knowledge of the circumstances of his own birth. For both of these reasons, his claim would need other indirect evidence to establish his parentage.

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<sup>22</sup> Elizabeth Shown Mills, "QuickLesson 17: The Evidence Analysis Process Model," *Evidence Explained: Historical Analysis, Citation & Source Usage* (<http://www.evidenceexplained.com/content/quicklesson-17-the-evidence-analysis-process-model>: accessed 10/21/2014).

<sup>23</sup> Wright 1900, 151.



*Four ICC “Eastern Creek” Historical Individuals claimed as Direct Ancestors*

Of the petitioner’s 16 claimed historical Creek Indians, 12 are claimed as ancestors by current members (4 do not appear to have current members as descendants). These dozen historical individuals include four whom the petitioner lists as Eastern Creeks the BIA evaluated for ICC fund distribution purposes and claims as direct ancestors of current members. A total of 547 current members (of 594, or 92 percent) claim direct descent from four individuals the BIA evaluated as “Eastern Creek” for Docket 21, 272, and 275 distributions: Elizabeth (English) Ward (515 members), James Earle (33 members), William Tarvin (38 members), and Arthur Sizemore (2 members).<sup>24</sup>

Evidence contemporary to the lifetime of Elizabeth English indicates she was not Indian. Federal census and county marriage records reveal errors in the petitioner’s claimed lines of descent from James Earle, William Tarvin, and Arthur Sizemore, indicating that no current members descend from them as claimed. The following section presents evaluations of each of the four ICC Eastern Creek historical individuals MNF members claim as direct ancestors: Elizabeth (English) Ward, James Earle, William Tarvin, and Arthur Sizemore.

**Elizabeth (English) Ward (born ca.1798) – E.C. 11147**

Eighty-seven percent of the petitioner’s members (515 of 594) claim descent from Elizabeth English (b.ca.1798-d.bef.1880?), alleged to have been a Creek Indian abandoned at age four or five and reared by the non-Indian family of James English in Georgia (Hundley 1/11/1957, 3). As pointed out in OFA’s 1996 technical assistance review letter to the petitioner, a prior Federal acknowledgment decision accepted the Creek ancestry of the descendants of Elizabeth (English) Ward (Rainbolt 4/11/1996).<sup>25</sup> However, as of 2013, additional documentation has come to light, contemporary to Elizabeth (English) Ward’s lifetime, that supports her identity as a non-Indian biological child of James English. That is, documentary evidence created in her lifetime contradicts the family traditions that Elizabeth English was a Creek Indian and that she was adopted or reared by James English’s non-Indian family (Decatur Co., GA; Merritt 2008). Thus, the BIA acceptance of Elizabeth (English) Ward as an Eastern Creek for ICC fund distribution purposes and the prior acknowledgment decision were re-evaluated based on this more complete record. Analysis of the submitted evidence and additional evidence follows.

*Submitted Evidence about Elizabeth (English) Ward*

The MNF submitted ten documents in its Appendix C to support its claim that Elizabeth (English) Ward was a Creek Indian: nine sworn statements made in the 1950s (affidavits and depositions) and the 1957 court recordation of one letter dated 1861. All of the evidence is direct evidence of her Creek ancestry, created or recorded in the mid-20th century at the time of the ICC’s consideration of Docket 21. Unaltered photocopies are evaluated as facsimiles of originals. Court-recorded transcriptions are technically derivative records, although the clerks

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<sup>24</sup> Because of marriages among descendants of these four historical individuals, the sum of the individual totals exceeds the actual total.

<sup>25</sup> Thirty-five Elizabeth (English) Ward descendants were members of the Principal Creek Indian Nation petitioner of Alabama (Petitioner #7) that the AS-IA declined to acknowledge in 1985. None of those individuals are current members of the Petitioner.

intended to create exact transcriptions, or facsimiles, of the originals. The informants in the eight affidavits constitute elderly relatives claiming firsthand knowledge of facts they allegedly learned when they were children and who stand to benefit from their assertions. These individuals did not have primary knowledge of Elizabeth (English) Ward's birth or her biological parents. The ninth document is a copy of a deposition but perhaps not of the original deposition. The testimony it records is internally inconsistent and conflicts with documented facts learned about the person being deposed, which discredits its value. These first nine documents are discussed first.

The sworn statements were signed between 1955 and 1957.<sup>26</sup> All of the statements, except for one, were signed by grandchildren of Elizabeth (English) Ward. The births of these grandchildren occurred between 1868 and 1873 so all were children at the time of Elizabeth (English) Ward's death, the specific date of which remains undocumented. A modern tombstone at her burial site gives "1879" as her death date,<sup>27</sup> and that date tends to be supported by the negative results of a search for her in the 1880 Federal census. However, the sworn statements claim that she died either in 1883 or 1890.

The ninth document, a 1957 four-page deposition of Ed A. Hundley (b.1864), constituted the sole statement made by a non-relative. However, as explained below, statements in Hundley's deposition are inconsistent with the facts and call into question the document's authenticity. Hundley does not appear to have ever been a near neighbor of Elizabeth (English) Ward in Geneva County, yet Hundley claimed he went fishing with Elizabeth (English) Ward "numberless times," as she was "excessively devoted to fishing and archery." She allegedly told Hundley that she was born between the Flint and Ocmulgee Rivers in Houston County, GA, the name of the river by which her parents left her, why she was left there, how old she was at the time, and how James English found her and looked for her parents. In seeking details that Hundley allegedly learned from Elizabeth (English) Ward about her Creek Indian origins, the person conducting the deposition asked, according to the transcription, "You state that you were left near a road. By whom were you left?" to which Hundley the deponent replied, "My parents." This question and others were asked and answered as if Elizabeth (English) Ward were being deposed, not Ed A. Hundley, which raises further doubts about the authenticity of the supposed deposition.

The deponent's father Alonzo Hundley had patented 119 acres of land in 1858 in Coffee County, AL,<sup>28</sup> which adjoined Dale County, AL, where the James B. Ward family then resided. The

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<sup>26</sup> Two of the signatures were certified by R. S. Ward as Judge of Probate in Geneva County, AL, and three documents were notarized by Mano O. Ward in FL.

<sup>27</sup> Findagrave.com, digital images (<http://www.findagrave.com> : accessed 27 June 2013), photograph, gravestone for Elizabeth English Ward (1798-1879), Old Purvis Farm, Malvern, Geneva Co., AL.

<sup>28</sup> Bureau of Land Management, "Land Patent Search," digital images, General Land Office Records (<http://www.glorerecords.blm.gov/PatentSearch> : accessed June 26, 2013), Alonzo Hundley (Coffee Co., AL), cash entry patent no. 17076 for 119 acres in Section 14, Township 5 North, Range 21 East of St. Stephens Meridian. 1860 U.S. census, Coffee Co., AL, Election Pct. 5, p.822 (74 penned), dwelling/family 490, Alonzo Hundley. 1870 U.S. census, Coffee Co., AL, Township 5, Range 21, p.455 (89 penned), dwelling/family 91, Martha Hunley.

southern ends of Coffee and Dale Counties became Geneva County in 1868, but the Hundleys' residence remained in Coffee County. Ed Hundley resided in Coffee County in 1866, 1870, and 1880, according to State and Federal census records.<sup>29</sup> His deposition states that he accompanied his "father who was prospecting for a farm location" in 1871 in Geneva County where he met the widowed Elizabeth (English) Ward in the home of her son Monroe Ward. This sentence conflicts with other evidence, however, as Hundley's father died before 1866, when the deponent was two years old, and his mother had not remarried as late as 1880, so Hundley did not accompany a father or step-father in 1871.<sup>30</sup> Moreover, the widowed Mrs. Hundley then farmed 30 of her 280 acres in Coffee County, so it seems highly unlikely she would be seeking to purchase another farm.<sup>31</sup><sup>32</sup>

Hundley did not claim to have lived in Geneva County until about 1907, and Federal census records indicate it was slightly later than that.<sup>33</sup> The 1866 State, 1870 Federal, and 1880 Federal censuses show Hundley resided in Coffee County in the Township 5 North, Range 22 East, Clintonville area where his father purchased land from the U.S. in 1858. Hundley's residence in 1870 and 1880 was more than 25 miles from Geneva County's Township 2 North, Range 25 East, where Elizabeth and her son adult Monroe Ward each headed separate households in 1866,<sup>34</sup> Elizabeth presumably on the 440-acre tract there that her husband James B. Ward had purchased from the U.S. between 1852 and 1860.<sup>35</sup> Therefore, Hundley does not appear to have ever been a near neighbor of Elizabeth (English) Ward in Geneva County. It is highly unlikely that a child would have traveled 50 miles roundtrip on foot or horseback "numberless times" to go fishing with the elderly Elizabeth (English) Ward.

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<sup>29</sup> 1866 AL State Census, "Alabama State Census, 1820-1866," digital images, Ancestry.com (<http://www.ancestry.com> : accessed June 26, 2013), Coffee County, Township 5 Range 22, p. 52, Martha Hundly. 1870 U.S. census, Coffee Co., AL, Eddie Hunley; 1880 U.S. census, Coffee Co., AL, Clintonville, ED 44, p.287A, dwelling/family 3, Eddie A. Hundly.

<sup>30</sup> Martha Hundley headed the family in the 1866 State census and in the 1870 Federal census, with the same older children in 1870 that were in Alonzo and Martha's household in the 1860 census.

<sup>31</sup> 1870 U.S. census, agricultural schedule, Coffee Co., AL, Martha Honly, Township 5 Range 21, P. O. Elba, p.17, entry 32.

<sup>32</sup> 1880 U.S. census, agricultural schedule, Coffee Co., AL, Martha Hundley, Beat 9, ED 44, p.1, line 3.

<sup>33</sup> 1910 U.S. census, population schedule, Coffee Co., AL, Enterprise, ED 65, p.1B, dwelling/family 13, E. A. Hundley.

<sup>34</sup> 1866 AL State Census, "Alabama State Census, 1820-1866," digital images, Ancestry.com (<http://www.ancestry.com> : accessed June 26, 2013), Dale County, Township 2, Range 25 E, p.10, second line: household of Elizabeth Ward; third line: household of Monroe Ward.

<sup>35</sup> Bureau of Land Management, "Land Patent Search," database, General Land Office Records (<http://www.glorecords.blm.gov/PatentSearch> : accessed June 26, 2013), James B. Ward (Dale County, AL), cash entry patents no. 11575, 14085, 14274, 15474, and 23658; James Ward cash entry patents no. 12415, 12416, and 19476. Six of these patents form a 440-acre tract in Section 4, T2N, R25E, and the other two patents form a 80-acre tract in Section 8, T1N, R25E, seven miles to the south of the first tract.

In 1955, less than two years before the date of this deposition, Hundley had signed a sworn statement that he was a “life long resident of this area in Geneva County, Alabama,” which his 1957 deposition and State and Federal censuses contradicted (Hundley 12/28/1955). In 1955, he claimed to have personally known John J. Ward, but not John’s mother Elizabeth (English) Ward, although he stated that he knew she was a “full-blooded Creek Indian.” The 1955 affidavit was signed by Hundley on the same page as his transcribed statements. In contrast, the four-page 1957 deposition was accompanied by a separate fifth page on which Hundley’s signature appeared. Without access to the original document, it is ambiguous whether the deponent knew what statements he was certifying as his own. Given the demonstrated pre-1866 death of Alonzo Hundley, his family’s continued residence more than 25 miles from Elizabeth (English) Ward’s residence, the inconsistencies in the deposition itself, and the residency conflict between Ed Hundley’s 1955 and 1957 statements, the 1957 deposition as submitted has no reliable evidentiary value.

All nine affidavits or deposition documents are photocopies of documents created in the mid-20th century, by individuals who were minors when Elizabeth (English) Ward was alive. The affiants and deponents claimed to have primary knowledge of the facts they reported and stood to benefit from their testimony. The documents were created to answer directly whether Elizabeth English was a Creek Indian. Because the documents were created for the purpose of participating in the Eastern Creek judgment, and because the affiants and deponents were extremely young when Elizabeth (English) Ward died, or, in the case of Mr. Hundley’s deposition, at odds with his demonstrated residence and other facts of the deponent’s life, the documents’ evidentiary value does not outweigh the evidence created in Elizabeth (English) Ward’s lifetime. The evidence contemporary to her lifetime resulted from an adult’s sworn oath in court that Elizabeth and her siblings were children, or “orphans,” of James English, described further below. Neither James English nor his wife is demonstrated by evidence in the record to have Creek Indian or Indian ancestry.

The tenth document submitted to show Elizabeth (English) Ward was a Creek Indian is a photocopy of a court’s transcription of a letter purportedly written by her husband James B. Ward to their son Monroe Ward on August 28, 1861. According to an accompanying certification, the original letter was transcribed into the Miscellaneous Record volume (page 468) of Taylor County, FL, on October 18, 1957. Thus, the document was produced and transcribed into a county record at the time the ICC was considering Docket 21. There are reasons to conclude the transcribed letter was not written in 1861.

In the letter, the author James B. Ward states, “your mother Elizabeth English Ward is a Creek Indian[.] I am half Indian and have Irish des[c]ent.” The author “believe[d] the Federal Government will pay for the land that once belonged to the Creek Indians in the near future or during your lifetime.” The letter ends with “Signed by Your father James B. Ward {seal}.” Next to Ward’s signature are signatures of two witnesses, one purporting to be a Dale County justice of the peace, as if they were witnessing a legal document being recorded in Dale County, but there is no indication that the letter was ever recorded in Dale County. Dale County courthouse fires in 1869 and 1884 destroyed pre-1884 records. Appendix C did not include an image of the original letter from which the court-recorded “transcription” was made.

James B. Ward would have had primary knowledge if his wife were a Creek Indian and the letter answers directly whether she was a Creek Indian, but she was yet living in 1861, so there was no apparent need for James Ward to reduce this information to writing. Their son Monroe Ward, age 16 in 1861, was presumably residing with his family at that time, as he did not enlist in the Civil War for another year,<sup>36</sup> so the need for a letter from the father to this youngest son, among five others, is not apparent for this reason either.

In addition, the letter does not comport with the historical facts. By 1860, James B. Ward was prosperous, with substantial land holdings in Dale County, from which Geneva County would be formed in 1868. His 1860 Federal census entry recorded that he then held \$2,000 worth of real estate and \$4,973 worth of personal property.<sup>37</sup> This information on Ward's prosperity does not comport with the disadvantaged tenor of the statement attributed to him in the transcription of the "1861 letter," in which he hopes his son will "have some of the things I missed."

The most obvious evidence that the letter was not written in August 1861 is the reference to the Federal Government. The State of Alabama had seceded from the United States in January 1861 and Ward could hardly expect any assistance to be forthcoming from the U.S. Federal Government.

Like the affidavits and depositions, the timing of the recording of the transcription of the "1861 letter" in 1957 coincides with the Docket 21 judgment and is intended to assist in establishing eligibility for Ward descendants to participate in that distribution. Because the "1861 letter" first found its way into a county record at the time of the Eastern Creek judgment, and because the internal information is inconsistent with the personal facts known about James B. Ward and the historical facts about the Federal Government's relationship with the Confederate States of America, the document may not be authentic and has no reliable evidentiary value.

#### *Additional Evidence about Elizabeth (English) Ward*

Georgia held a land lottery in 1820, to distribute land obtained from the Creek and Cherokee Indians, and published laws governing the process in 1818 and 1819 (Lamar 1821, 416-433). The description of the various categories of individuals entitled to participate in the 1820 Georgia land lottery included: "all families of orphans, consisting of more than two, who have neither father nor mother living, shall have two draws," if they had resided in Georgia for at least three years" (Lamar 1821, Sec. 13, 421). The 1820 Georgia land lottery laws further required that the orphans be under the age of 21 to qualify for participation, and that their guardian or "next of friend" swear to an oath in the Inferior Court, in the county where the eldest orphan resided, that the orphans were "entitled to a draw or draws under this act" (Lamar 1821, Sec. 14, 421-422). Such a court oath is accorded high credibility because it is public and may be rebutted or contested.

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<sup>36</sup> Compiled service record, Monroe Ward, Pvt. Co. D, 53 Ala. (Partisan Rangers), Civil War; Carded Records, Confederate Organizations; War Department Collection of Confederate Records, Record Group 109; NARA; digital image, Fold3 (<http://www.fold3.com> : accessed June 27, 2013). Ward enlisted in August 1862 at Barnes Crossroads, Dale County.

<sup>37</sup> 1860 U.S. census, Dale Co., AL, P.O. Newton, p.680 (182 penned), dwelling/family 1227, James B. Ward.

Apparently James English and his wife had died prior to 1820. Their children, the “orphans of James English” of Twiggs County, GA, including Elizabeth, qualified for two draws and successfully participated in the 1820 land lottery, obtaining Lot #155 in the 19th District of Early County (Lucas 1986, 103). The guardian’s oral oath in Twiggs County Inferior Court, identifying the individual “orphans of James English,” may have been recorded but a courthouse fire there on February 7, 1901, consumed early courthouse records.<sup>38</sup> The Georgia Surveyor General did not record their names either.<sup>39</sup> Seventeen years later in 1837, James English’s then adult children, or his “orphans” according to the language in the act, sold “all that tract or lot of land known by lot No. one hundred and fifty-five, lying in the nineteenth district of Early County now Decatur County” (Decatur Co., GA, Deeds D:374-375). Elizabeth (English) Ward (with her husband)<sup>40</sup> and her siblings are described as the “orphans” of James English in the language of the 1837 deed selling Lot #155.

The apparent participation of Elizabeth English (later Ward) in the 1820 land lottery as part of the sibling group that was orphaned by the deaths of James English and his wife indicates that she was their legitimate daughter and that her guardian or “next of friend” swore under oath to that fact in the Twiggs County Inferior Court. The word “orphan” in these documents does not demonstrate that Elizabeth English was an orphan whom James English adopted. Rather, the word “orphan” is used to indicate that she is a legitimate child of James English and his wife and a minor “orphaned” by their pre-1820 deaths

If passed by the Georgia state legislature, private legislative petitions or “relief” claims made it possible for non-relatives to enjoy the rights reserved to heirs through adoption, legitimization, or special inheritance provisions. The petitioner did not supply, nor did OFA researchers locate, evidence that Elizabeth was adopted by James English, although OFA located other early adoption, legitimization, and inheritance petitions passed by the Georgia state legislature. These laws can be accessed at the HeinOnline.org subscription Web site in both its “Session Laws” and “State Statutes” libraries, which can be searched by key words and date ranges. A sample search of all private legislative relief petitions that Georgia granted led to several passed between 1823 and 1833 for the specific purpose of treating non-relatives as adopted children or heirs.

The first such legislative petition bears similarities to the time period and “abandoned child” origins asserted for Elizabeth English: Thomas Grogan of DeKalb County successfully petitioned the Georgia state legislature in 1823 to “legitimatis[e]” a boy who “was left at his house about eleven years ago [circa 1812], the said child being then about three months old” (Georgia 1824, 142). In 1826, Benjamin and Talbot Rees of Columbia County successfully petitioned to inherit the Early County tract won by an unrelated widow named Mary Smith, convincing the Assembly that she expressed this as “her will and desire” before her intestate death (Georgia 1826, 135). In 1833, Georgia granted the petition of Abraham Rowan of Putnam County “to

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<sup>38</sup> “Twiggs Courthouse was Burned to the Ground,” *Macon Telegraph* (Macon, Georgia) 2/8/1901.

<sup>39</sup> Lucas 1986, preface.

<sup>40</sup> Elizabeth Ward married James Benjamin Ward around 1820, based on the ages of their children.

adopt Ascenith Dobbins, daughter of John M. Dobbins, as the child of the said Abraham Rowan, and to authorize the said Ascenith Dobbins to inherit by descent from the said Abraham Rowan” (Georgia 1834, 268). Many other such petitions exist and may be identified using additional word searches. However, OFA’s search for “James English” returned no results, and none of the petitions reviewed pertained to Indian children being adopted by non-Indian adults.

In all of these examples, an act of the legislature was necessary to permit non-relatives to enjoy the rights otherwise reserved to relatives or heirs.<sup>41</sup> The absence of a similar petition from James English, or his widow, to adopt or “legitimize” Elizabeth, plus the existence of land records showing Elizabeth (English) Ward was considered the deceased James English’s orphan and legal heir in 1820 and 1837, together support a deduction that Elizabeth English was a child born to James English and his wife. Legislative evidence created in Elizabeth English’s lifetime demonstrating otherwise, if it exists, should be submitted by the petitioner. The petitioner then would still need to demonstrate that her biological parents were Creek Indians.

Instructions to Federal census enumerators in 1850 did not include “Indian” as an option for recording “color or race” (Wright 1900, 227) as did the 1860 and 1870 instructions (DOI 1860, 14; Wright 1900, 229). Enumerators used “Indian” as a color or race description in Alabama’s 1860 and 1870 Federal census schedules, including in their 1860 enumeration of Dale County, where Elizabeth (English) Ward then resided.<sup>42</sup> Federal census records of 1850, 1860, and 1870 enumerated Elizabeth (English) Ward in Alabama and none of those entries recorded her “color or race” as “Ind.” for Indian or by any other term indicating she had at least some Indian ancestry.<sup>43</sup>

If, as the evidence indicates, Elizabeth (English) Ward’s biological parents were James English and his as-yet-unidentified wife, then she could still be a Creek Indian descendant if one or both of her parents had Creek ancestry. The petitioner did not supply, nor did OFA researchers locate, evidence that James English or his wife had Creek or Indian ancestry.

Although descendancy rolls such as the BIA final rolls for distribution of the ICC Eastern Creek judgment funds normally constitute evidence acceptable to the Secretary for establishing descent, this significant countervailing evidence, created in Elizabeth (English) Ward’s lifetime, indicates she was not Indian. As such, she did not qualify to be denominated a Creek Indian for purposes of claims distributions to her descendants, but that is what occurred. Evidence created during her lifetime, rather than after, is considered more reliable. In addition, the records created long after her death at the time of the ICC case now have been proved to be unreliable or of lesser

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<sup>41</sup> In 1856, Georgia passed a statute that prescribed the procedure for legitimizing and adopting children which directed adoption petitions instead to the superior or inferior county of the child’s residence (Cobb 1859, 533).

<sup>42</sup> 1860 census, AL, Dale Co., P.O. Newton, p. 593 (95 penned), dwelling/family 652: Frances and Dennis Kirkland, “Ind.”

<sup>43</sup> 1850 census, AL, Dale Co., Southern Division, p. 176 (351 penned), dwelling/family 143. 1860 census, AL, Dale Co., P. O. Newton, p. 680 (182 penned), dwelling/family 1226. 1870 census, AL, Geneva Co., Twp. 2, P. O. Geneva, p. 597B (14 penned), dwelling 385, family 390; 1870 instructions required these enumerators to record “any perceptible trace of African blood” (Wright 1900, 157).

evidentiary value than records created in her lifetime.<sup>44</sup> Therefore, the evidence in the record does not establish Creek or Indian ancestry for the 515 MNF members claiming descent from Elizabeth (English) Ward.

**James Earle** (born ca.? – d.1836) – E.C.11035

OFA found 33 members who claim descent from James Earle.<sup>45</sup> The petitioner, however, did not submit, and OFA did not find, evidence that any of the 33 members claiming descent from James Earle participated in any of the Creek judgment fund distributions as his descendants. Further, an error exists in their claimed line of descent from James Earle.<sup>46</sup> Evidence shows that they incorrectly attributed their ancestor Frances (Hall?) as a child to James Earle's granddaughter. This granddaughter, at the time of Frances' putative birth, would have been about 11 years old and single. Further, the granddaughter did not have a child named Frances in her household in subsequent census entries (see footnote for details). All 33 current members claim descent through this Frances, and, thus, none of the 33 members have documented descent from James Earle and his only known wife Elizabeth Tarvin. Since current members do not appear to descend from James Earle, it is not necessary to establish whether Earle had Creek Indian ancestry, although his name does appear among the 1817 Friendly Creek claimants accepted by the BIA as demonstrating Creek Indian ancestry.<sup>47</sup>

**William Tarvin** (born ca.1764?) – E.C.11167

OFA found 38 members who claim descent from William Tarvin. The petitioner did not submit and OFA did not find evidence that any of the 38 members claiming descent from William Tarvin participated in any of the Creek judgment fund distributions as his descendants. Of the 38 members linked to William Tarvin, 33 of them claim to trace through William Tarvin's daughter Elizabeth and her only known husband James Earle (above). Thus, those 33 members who lack descent from James Earle and his wife Elizabeth Tarvin similarly lack descent from Elizabeth's father William Tarvin.

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<sup>44</sup> Claims attorney C. LeNoir Thompson pointed out her descendants' forgeries as early as 1957. In a letter to J. J. Ward, Thompson confirmed that Elizabeth (English) Ward's "color or race"—as recorded on her entry on the official 1870 population schedule of Geneva County, AL—had been altered to "I" for Indian on copies submitted to him. "It is my opinion that this change is a fraude" [*sic*] (Thompson 1/10/1957).

<sup>45</sup> One of the members trying to link to both Earle and Tarvin also claims Elizabeth (English) Ward (member no. 40067).

<sup>46</sup> The petitioner asserts that James Earle's granddaughter Cornelia (Earle) Hall (b.ca.1834) had a daughter Frances Elizabeth Hall (b.ca.1845) who married George W. Bishop (in March 1870, according to their Federal census entry that year). If true, Cornelia would have been 11 years old at Frances' birth. Cornelia Earle married Young Charles Hall in 1852 in Baldwin Co., AL, seven years after Frances' birth. Frances does not appear in a household in the 1850 Federal census with Cornelia Earle or in the 1860 Federal census with Cornelia (Earle) Hall. Cornelia resided in Baldwin Co., AL, in all the census records found for her, whereas the first record found for George W. Bishop's wife Frances is in Walton Co., FL, in 1870. Evidence of her surname as Hall was not seen. Documentary evidence reviewed for this evaluation does not support any relationship between the Frances who married George W. Bishop in Walton Co., FL, and Cornelia Earle who married Young Charles Hall in Baldwin Co., AL.

<sup>47</sup> House Doc. No. 200, "Miscellaneous Claims," page 29, no. 10, James "Earls." NARA TX's finding aid to Eastern Creek applications in their collection lists 1,207 applications (1,089 accepted and 118 rejected) on James Earle (E.C.11035) under Dockets 21 and 275.



A separate descent problem exists for the five other members claiming descent from William Tarvin through his daughter Deramey and son-in-law John J. Boone.<sup>48</sup> Evidence shows that the members' ancestor Sarah Miller (b.1874) was not the offspring of William Tarvin's Boone great-granddaughter, whose similarly-named daughter Sarah Miller (b.ca.1893) was about 20 years younger than the petitioner's Sarah Miller (b.1874) (see footnote for details). All five current members claim descent through Sarah Miller, and, thus, the evidence does not show that those five members descend from William Tarvin.<sup>49</sup> Since none of the 38 current members appears to descend from William Tarvin, it is not necessary to establish whether Tarvin had Creek ancestry, although his name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census.<sup>50</sup>

**Arthur Sizemore (born ca.1770) – E.C.11118**

OFA found two current members who claim descent from Arthur Sizemore and his wife Mary Bailey (member nos. 98034 and 98088).<sup>51</sup> However, the petitioner did not submit and OFA did not find evidence that either of the two members claiming descent from Arthur Sizemore participated in any of the Creek judgment fund distributions as his descendants. Further, an error appears to exist in their asserted line of descent from Arthur Sizemore. Evidence shows the presence of two men named Bryant in the same county in the 1880s, only one of whom married an Arthur Sizemore descendant. The members' great-grandmother Harriet Bryant appears to be the child of the other Bryant, who did not marry an Arthur Sizemore descendant (see footnote for details). Further evidence would be required to demonstrate Arthur Sizemore as an ancestor of these two members.<sup>52</sup> Since these two members do not appear to descend from Arthur Sizemore

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<sup>48</sup> The petitioner asserts that the Sarah Elizabeth Miller (b.1874) who married John Robert Lassiter in Washington County, FL, on October 9, 1890, was the daughter of Tarvin descendant Adeline Boone (b. March 1860, although petitioner gives 1853). William Tarvin's great-granddaughter Adeline Boone married John Miller in 1879 (according to their 1900 census entry), and in 1880 the newlyweds resided with Adeline's father Elijah Boone in Escambia Co., AL. No 6-year-old daughter Sarah Elizabeth was in their 1880 household. John and Adeline (Boone) Miller did have a daughter named Sarah but she was born circa 1893 and resided with her parents in 1900 and 1910. Documentary evidence shows that the petitioner's Sarah Elizabeth Miller who married John Robert Lassiter in Washington Co., FL, in 1890 is not the daughter Sarah born circa 1893 to John Miller and Adeline Boone of Escambia Co., AL.

<sup>49</sup> Those five members (nos. 40079, 40080, 61449, 61454, and 61456) are also Elizabeth (English) Ward descendants, resulting from a circa 1913 marriage of a Tarvin descendant and an Elizabeth (English) Ward descendant.

<sup>50</sup> NARA TX provided data showing that the BIA rejected all of the 21 applications in its collection that were filed on E.C.11167 (William Tarvin) under Docket 21 (NARA 2013). The rejection code (R1) denotes the failure to prove Creek Indian blood for either the applicant or the lineal ancestor through whom eligibility was claimed. Thus, this designation does not clarify whether the lineal ancestor lacked evidence of Creek Indian blood or whether the applicant lacked evidence of descent from a documented Creek Indian.

<sup>51</sup> The father of these two members married in 1956 a woman that petitioner linked, erroneously, to James Earle.

<sup>52</sup> The petitioner asserts that Harriet Henrietta Bryant (b. "June 12, 1877") was the child of a David Bryant (b.ca.1841) who married Sizemore descendant Minerva Colbert (b.ca.1860-1862) on October 13, 1882, in Washington County, FL. The 1880 Federal census of Washington Co., FL, recorded two David Bryants. The older one born in the 1840s lived in the Vernon Precinct, had a wife named Ella, and had a 3-year-old daughter Hattie, the latter of whom is a close match in name and age to the "Harriet Henrietta Bryant" the petitioner described (ED 157,

as depicted in their ancestry charts, it is not necessary to establish whether Sizemore had Creek ancestry, although his name does appear among the 1817 Friendly Creek claimants accepted by the BIA as demonstrating Creek Indian ancestry.<sup>53</sup>

#### *Other Historical Individuals claimed as Creek Indian Ancestors*

The previous section described the petitioner's four claimed direct ancestors the BIA evaluated as "Eastern Creeks" for ICC distribution purposes. This section describes the eight other historical individuals current MNF members claimed as their Creek Indian ancestors, presented alphabetically. These eight historical individuals were not part of the BIA evaluation for ICC distribution purposes.

In three instances, the petitioner presented evidence intending to demonstrate Creek ancestry for the direct ancestors themselves. In all other instances, the petitioner presented a theory that the direct ancestor's "possible collateral relative" was Creek and presented evidence intended to show that the "possible collateral relative" had Creek ancestry. For some "possible collateral relatives," the Creek ancestry evidence the petitioner presented included BIA evaluations of them for ICC distribution purposes.

One "possible collateral relative" relationship is described as that of a sibling but the others are only speculative or not defined. The evidence for the collateral relationships and the individuals' Creek ancestry is insufficient. The petitioner appears to accept the similarities of surnames as circumstantial evidence the individuals are related. The acknowledgment process has never accepted surname similarity as acceptable evidence for descent purposes.

The petitioner requested that the Department consider "time periods for which evidence is demonstrably limited or not available" (§ 83.6(e)) [now § 83.10(b)(2)] when evaluating "possible collateral relatives." However, §§ 83.6(e) and 83.10(b)(2) do not apply here because the petitioner did not demonstrate any limitation or loss other than vital records, which are not required, and because other records that can establish relationships are available.

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p.524). The younger David Bryant (b.ca.1860) lived in the Orange Hill Precinct of the county (ED 157, p.504), several families away from Minerva Colbert (b.ca.1862) (ED 157, p.503). There is no 2- or 3-year-old Harriet Henrietta residing with either David Bryant or Minerva Colbert in 1880, when they were both still single. The evidence suggests Harriet Henrietta Bryant was the daughter of the older David Bryant and his wife Ella, and that the 1882 marriage record pertains to the younger David Bryant and his neighbor Minerva Colbert. The 1885 State census of Washington County shows "Manery" [Minerva] Bryant (age 28, married) then resided with the parents of the younger David Bryant (who was not in the household), and no daughter Harriet is with her (1885 FL census, ED 2, p.19). The census did not record "Manery's" relationship to the household heads as their daughter-in-law, but that is the relationship supported by the evidence described here. Thus, the census information does not support the claim that Harriet Bryant was the daughter of Minerva Colbert. This evidence indicates that the two current members do not descend from Arthur Sizemore's great-granddaughter Minerva Colbert and her husband David Bryant but from the other David Bryant and his wife Ella.

<sup>53</sup> House Doc. No. 200, "supplementary abstract of claims," page 17. NARA TX's finding aid to Eastern Creek applications in their collection lists 1,125 applications (1,070 accepted and 55 rejected) on Arthur Sizemore (E.C.11118) under Dockets 21 and 275.

**Mary Bailey (born ca.1759)**

Two current members who do not claim Elizabeth (English) Ward as an ancestor were linked, in error, to Mary Bailey and her husband Arthur Sizemore, as described in his entry in the above section. Since these members do not appear to descend from Mary (Bailey) Sizemore, it is not necessary to establish whether she had Creek Indian ancestry, although the petitioner did cite her 1860 Federal census entry which recorded her “color or race” as “Ind.” for Indian. Her name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census.

**Sarah Anne Cochran (born ca.1799)**

Twenty current members claim descent from Sarah Anne Cochran, wife of Elijah Ward (described later in this section). Although “Sarah Anne Cochran” is listed as one of the 16 claimed historical Creek ancestors, her claimed descendants identify “Nancy Cochran E.C. #11200” as the Creek ancestor they claim for “Indian ancestry,” according to their membership file cover sheets. Nancy Cochran’s name does not appear among the 16 listed historical individuals the petitioner claims as Creek ancestors. The petitioner is apparently claiming that these 20 members claim Creek ancestry through a collateral relative of Sarah Anne Cochran—her sister Nancy Cochran.

Sarah Anne (Cochran) Ward did have a sister Nancy, and both were daughters of 1818 Clarke County, AL, testator and Revolutionary War pensioner William Cochran.<sup>54</sup> William Cochran’s 1818 will, in the petition documentation, identified these daughters as “Salley Ward” and “Nancy” (no surname). Petition documentation does not demonstrate that Sarah Anne (Cochran) Ward’s demonstrated sister Nancy is the same person as “Nancy Cochran E.C.11200.”

Further, NARA TX provided data to OFA showing that the BIA rejected all four of the applications in its collection that were filed on E.C.11200 (Nancy Cochran) under Docket 21, none of which was filed by current MNF members (NARA 2013). The rejection code (R1) denotes the failure to prove Creek Indian blood for the applicant or for the lineal ancestor through whom eligibility was claimed. Thus, this designation does not clarify whether the lineal ancestor lacked evidence of Creek Indian blood or whether the applicant lacked evidence of descent from a documented Creek Indian. Neither Sarah Anne (Cochran) Ward’s name nor Nancy Cochran’s name was found among the 1817 Friendly Creek claimants or in the 1832 Creek census. Because the totality of the evidence does not establish that Nancy Cochran E.C.11200 was a Creek Indian or that she was the sister of Sarah Anne (Cochran) Ward, the evidence does not demonstrate Creek or Indian ancestry for the 20 members claiming descent from Sarah Anne (Cochran) Ward. Without a demonstration that Sarah Anne (Cochran) Ward was a Creek or other Indian, it was not necessary to analyze the members’ generation-to-generation descent from her.

**Eliza Dannelly (born ca.1800)**

Twenty-seven current members claim descent from Eliza Dannelly. The petitioner did not submit evidence for Eliza Dannelly that identified her as a Creek Indian, but submitted evidence to show Creek ancestry for her “possible collateral relative” John Dannelly. He was identified as “Tul-se-fix-i-co (alias John Danely)” on the 1832 Creek census of Horsepath town (U.S. Senate 1835, 391). No evidence of a relationship beyond the similarity of surnames was provided.

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<sup>54</sup> Neither his will nor his Revolutionary War pension application (S38624 VA) mentions Indian identity.

Eliza Dannelly's 1856 Covington County, AL, application for a Revolutionary War pension (R2657 GA or SC) based on her late father James Dannelly's military service asserts her parentage, confirms the family's South Carolina origins, mentions that she and her three brothers were then the only living heirs, and states that her father James Dannelly died on February 26, 1833, but does not mention Indian ancestry or a Creek Indian relative named John Dannelly. No other evidence in the record demonstrates a relationship between Eliza Dannelly and a John Danely a.k.a. Tul-se-fix-i-co, and her name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census. Therefore, this evidence does not demonstrate that Eliza Dannelly had Creek or Indian ancestry. Without a demonstration that Eliza Dannelly was a Creek or other Indian, it was not necessary to analyze the members' generation-to-generation descent from her.

**Mariah Padgett (born ca.1818)**

For evidence that Mariah Padgett was "Indian," the petitioner stated that she was a "possible collateral relative of Sizemore/Paggett. See 'Descendants of Arthur Sizemore.'" The petitioner did not identify which "Paggett" individual was the possible collateral relative to Mariah Padgett. The chart entitled "Descendants of Arthur Sizemore" depicted a Theodore Paggett (born probably circa 1800) as Arthur Sizemore's son-in-law. No evidence was provided of a relationship between Mariah Padgett and this "Theodore Paggett" or any other Paggett/Padgett. No document is cited or provided that demonstrates Creek or Indian ancestry for Theodore or any other Paggett/Padgett. If Mariah Padgett were a child of Theodore Paggett and his asserted wife Cynthia Sizemore, then she would have Creek Indian ancestry through Cynthia's father Arthur Sizemore. However, the petitioner does not assert or demonstrate that Mariah Padgett was either the daughter of Theodore Paggett or the granddaughter of Arthur Sizemore. Her name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census. This evidence does not identify the Paggett/Padgett to whom Mariah Padgett may have been related, demonstrate how Mariah Padgett was related to such a person, or demonstrate Creek ancestry for her relative and, thus, does not demonstrate that she had Creek or Indian ancestry. Without a demonstration that Mariah Padgett was a Creek or other Indian, it was not necessary to analyze the members' generation-to-generation descent from her.

**Isaac Simmons (born ca.1793)**

The "possible collateral relatives" the petitioner asserted for Isaac Simmons appeared in two documents transcribed on an Internet site. The originals of both documents are apparently available as National Archives microfilm publications, but the petitioner provided printouts of transcriptions on the Internet rather than photocopies of those microfilmed originals. One document, entitled "Creek Indians who Served in the Indian Wars, 1817-1840s," presented an alphabetical listing of soldiers and the companies in which they served.<sup>55</sup> The listing included a William P. "Simmon" of Richard's Company and a David Simmons of Broadnax's Company.

The second document listed debtors at the Creek Factory at Fort Wilkinson, circa 1803, under the title of "Debts of Indians and Indian Countrymen 180?" The petitioner printed this document from a Web address no longer functional, although the National Archives microfilm publication

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<sup>55</sup> Apparently extracted from Indian Wars Compiled Service Records Index, 1815-1858, NARA M629, rolls 1-2.

source is cited.<sup>56</sup> Although no Simmons appears on the single page provided, the online transcribed version includes a “James Simmons” who is not designated as an Indian or an Indian Countryman.<sup>57</sup> No submitted evidence establishes a relationship between Isaac Simmons and any of these Simmon/Simmons men. Isaac Simmons’ name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census. This evidence does not demonstrate that Isaac Simmons had Creek or Indian ancestry. Without a demonstration that Isaac Simmons was a Creek or other Indian, it was not necessary to analyze the members’ generation-to-generation descent from him.

**Elijah Ward (born ca.1780)**

According to the petitioner, Elijah Ward was the brother-in-law of Elizabeth (English) Ward and the husband of Sarah Anne Cochran (see above sections). The petitioner submitted three types of evidence intended to demonstrate Elijah Ward was a “Creek Indian.” The first consists of a former member’s 3-page ancestry chart without source citations other than E.C. numbers. Ancestry charts constitute an important element in a petition to illustrate a petitioner’s claims but do not constitute evidence that demonstrates the claims to be accurate. On this ancestry chart, no E.C. number is attributed to Elijah Ward, but “E.C.11032” is attributed to his claimed mother Nancy Knight. NARA TX data show that all 62 applications filed on E.C.11032 under Docket 21 were rejected.

The second type of evidence submitted is a 1993 publication on the Ward family, entitled *The Wards and Bakers, Pioneers of West Florida*. This book includes transcriptions of a Ward descendant’s 1955 letter and 1957 affidavit about Elijah’s claimed mother Nancy (Knight) Ward as well as the transcription of an alleged December 10, 1842, *Pensacola Gazette* newspaper article on the Ward genealogy. The 1955 letter and 1957 affidavit transcriptions do not mention Elijah Ward but the affidavit asserts that Nancy Knight who married John Ward was “Indian.” The affiant (b.1870) does not claim to have known his great-grandmother Nancy (Knight) Ward, but stated that it was “common knowledge in our family that our great-grandmother, Nancy Knight (Nichte), was a Creek Indian woman.” This hearsay information does not state that Elijah Ward was the son of Nancy (Knight) Ward, and such a relationship is not documented by other evidence in the record. This evidence does not demonstrate Elijah Ward to have Creek or Indian ancestry.

The book’s author points out that the alleged 1842 date of the *Pensacola Gazette* newspaper article is not possible, as the article transcription mentioned individuals born as late as 1860. Elijah Ward’s post-1860 death is mentioned as well. The opening paragraph refers to finding John Ward’s 1720 will among “[r]ecords from Archives Department, Columbia, South Carolina,” which was established under that name in 1954.<sup>58</sup> Thus, this article appears to have

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<sup>56</sup> Records of the Creek Factory of the Office of Indian Trade of the Bureau of Indian Affairs, 1795-1821, NARA M1334, roll 13.

<sup>57</sup> The term “Indian countrymen” is generally used to refer to non-Indians, such as traders or merchants, living among or married to the Indians.

<sup>58</sup> The South Carolina “Historical Commission,” created in 1891, became the “Archives Department” in 1954; “Department of Archives and History,” South Carolina State Library Digital Collections (<http://dc.statelibrary.sc.gov/handle/10827/231>; accessed July 30, 2013.)

been published long after the claimed publication date. While it offers clues to the family's history that could lead to the identification of records demonstrating some of the events it describes, the article itself does not constitute acceptable evidence that Elijah Ward had Creek or Indian ancestry.

The third type of evidence submitted is a typed transcription of 1837-1838 Yellow River enlistments into Captain Barrow's Company, on which someone has handwritten "Creek Indian" next to the names of several enlistees, including an Elijah Ward. Images of the "Compiled Service Records of Volunteer Soldiers Who Served in Organizations from the State of Florida During the Florida Indian Wars, 1835-1858" (NARA RG 94, M1086) are available online via Ancestry.com.<sup>59</sup> The two compiled service records for Elijah Ward do not include any notations that he was a "Creek Indian" or Indian. The compiled service records were extracted from two original company muster rolls. If the original rolls specify that the company was composed of Creek Indians, then images of those original records should be submitted. The service records appear to pertain to the petitioner's Elijah Ward because this soldier and several others in the same company also appear as heads of households in the 1840 Federal census of Walton County, FL, where the petitioner's Elijah Ward resided.<sup>60</sup> Elijah Ward's name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census. The evidence in the record does not establish Creek or Indian ancestry for the 20 members claiming descent from Elijah Ward. Without a demonstration that Elijah Ward was a Creek or other Indian, it was not necessary to analyze the members' generation-to-generation descent from him.

**James B. Ward** (born ca.1796)

The petitioner cited two documents recorded in the mid-1900s as evidence James B. Ward was "Indian" (not "Creek Indian"). The first is the alleged 1861 letter recorded in the Miscellaneous Record volume (page 468) in Taylor County, FL, in 1957 which was discussed under the earlier section on Elizabeth (English) Ward. The analysis of that document found it has no reliable evidentiary value. The second document is the 1956 affidavit of a grandson claiming personal knowledge that his grandparents "were both Creek Indian." This document is one of the nine sworn statements submitted for Elizabeth (English) Ward, and was generally analyzed in that section. The affiant was born circa 1878, long after the claimed 1862 death of James B. Ward, so his affidavit consists of family tradition rather than firsthand knowledge. Records of the United States' interactions with the Eastern Creeks survive from James B. Ward's lifetime that could document whether the family consisted of Creek Indian descendants. James B. Ward's name was not found among the 1817 Friendly Creek claimants or in the 1832 Creek census. The evidence does not demonstrate that James B. Ward had Creek or Indian ancestry. Without a demonstration that James B. Ward was a Creek or other Indian, it was not necessary to analyze the members' generation-to-generation descent from him.

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<sup>59</sup> Elijah Ward served as a private in Lt. Rose's Company, 8 Regiment Florida Mounted Militia, March 12-May 12, 1837, enrolled at Uchianna; private in Capt. Burrow's Mounted Company, 1 Regt. Florida Militia, May 13, 1837-January 13, 1838, enrolled at Yellow River.

<sup>60</sup> Captain Reubin N. Barrow, 1st Lt. Stephen Senterfit(te), Lewis Bagget(te), Enos Evans, David Ward, and William Ward.

### **Lydia Wright (born ca.1800)**

The petitioner cited two items of evidence for its assertion that Lydia Wright was a “Creek Indian.” One item is a 1957 letter written by Lydia (Wright) Purvis’ great-grandson James Lamar Ward (b.1905) who identified her as “a half breed named Wright.” He stated that he “felt sure” that an estranged relative had “in his personal files information that will prove that the brother of the Wright girls was mentioned as a half breed Creek in passport papers etc.” The writer likely refers to the passports Georgia and other states issued to anyone traveling through Indian lands within their states, but no passport issued to a theorized or demonstrated brother of Lydia (Wright) Purvis was submitted. The other item cited as evidence is the statement, “Possible collateral relative of Charlie Wright, Eastern Creek #11247.” All seven Docket 21 applications filed through Charlie Wright were rejected, so it has not been demonstrated that he was a Creek Indian.<sup>61</sup> Charlie Wright was not described by age or residence, and no evidence beyond a shared surname was provided to illustrate why any degree of relationship between Charlie Wright and Lydia Wright was theorized.

Neither Charlie Wright’s nor Lydia Wright’s names were found among the 1817 Friendly Creek claimants or in the 1832 Creek census. The submitted evidence is neither contemporary with the individuals’ lives nor documented. Thus, this evidence does not demonstrate that Lydia Wright had Creek or Indian ancestry. Without a demonstration that Lydia Wright was a Creek or other Indian, it was not necessary to analyze the members’ generation-to-generation descent from her.

### *Other Descent Problems*

Due to missing birth certificates and missing ancestry charts, the claimed ancestry of five members could not be determined (members no. 12021, 12022, 12023, 12039, and 12089). No evidence acceptable to the Secretary establishes Creek or Indian ancestry for these five members.

### Summary

The majority of the group’s members claim descent from Elizabeth (English) Ward. The petitioner claims that she was a Creek Indian child found alongside a river or a road and reared by a non-Indian English family. Evidence created and recorded in Elizabeth (English) Ward’s lifetime — not all of which appears in the materials the BIA reviewed for the Eastern Creek claims — shows her participation in land dealings as an actual heir of James English, even while a minor. In the absence of a legislative petition establishing her as an unrelated heir (as done in similar petitions in early Georgia), the evidence contemporary to her lifetime supports a conclusion that Elizabeth English was a biological child of non-Indian James English and his non-Indian wife, and was not an adopted Indian child.

Analysis of the documentation that the petitioner submitted and OFA obtained did not verify Creek or other Indian ancestry for any of the petitioner’s members, including the 515 current

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<sup>61</sup> The rejection code (R1) on those seven applications denotes the failure to prove Creek Indian blood for either the applicant or the lineal ancestor through whom eligibility was claimed. Thus, this designation does not clarify whether the lineal ancestor lacked evidence of Creek Indian blood or whether the applicant lacked evidence of descent from a documented Creek Indian.

members who claim descent from Elizabeth (English) Ward, the 20 members who claim descent from her brother-in-law Elijah Ward and his wife Sarah Anne Cochran, or the 59 current members who do not claim English or Ward descent. OFA did not identify any current members who claim to descend from four of the 16 historical Creek individuals the petitioner asserts as ancestors (Nimrod Doyle, Richard Taylor, Daniel David Ward, and Joshua Wiggins). Members' documented ancestry demonstrates that they do not descend from another four of the 16 (James Earle, William Tarvin, Arthur Sizemore, and Mary Bailey). Evidence of Creek or Indian ancestry was insufficient for the remaining eight of the 16 claimed historical Creek individuals, and, therefore, it was not necessary to analyze whether each member's file included sufficient evidence to demonstrate generation-by-generation descent from the ancestor(s) claimed.



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