



United States Department of the Interior

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Summary under the Criteria and Evidence for
Proposed Finding against Federal Acknowledgment
of the
MOWA Band of Choctaw

Prepared in response to a petition
submitted to the Secretary of the
Interior for Federal Acknowledgment that
this group exists as an Indian tribe.

DEC 15 1994

Approved: _____

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MOWA BAND OF CHOCTAW

PROPOSED FINDING

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INTRODUCTION

This finding has been prepared in response to the petition received by the Assistant Secretary - Indian Affairs from the MOWA Band of Choctaw seeking Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the Code of Federal Regulations (25 CFR 83).

This Proposed Finding on the MOWA Band of Choctaw petition is the first prepared under the provisions of 25 CFR 83.10(e) of the revised acknowledgment regulations, which became effective March 28, 1994. The applicable section of the regulations provides for review, prior to active consideration, to ascertain whether "the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e) . . . of Section 83.7" Paragraph 83.7(e) pertains to the genealogical descent of the petitioner from members of a historical American Indian tribe.

The revised regulations require that in such case, the Assistant Secretary shall decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the Federal Register.

The MOWA Band of Choctaw's petition for Federal acknowledgment claims that "the contemporary band of Mowa Choctaws of South Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during Indian removal in the 1830s" (MOWA Pet. Narr. 1988, 1). The ancestry claimed was presented by the petitioner in a narrative petition, genealogical notebooks containing family group sheets, a series of ancestry charts, a list of "Known Indian Ancestors," and a list of "Progenitor Name Lines."

The claims to Indian ancestry made by the petitioner were not found to be valid when the petition was examined.

The problems with the American Indian ancestry claimed by the petitioner fall into the following major categories:

- (1) the petitioner's two core ancestral families cannot document American Indian ancestry;
- (2) the petitioner's ancestors who were alive in 1880 have not been documented as descendants of the known removal-era, antebellum American Indians who were claimed as ancestors by the petitioner;

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- (3) many of the early nineteenth century persons claimed as members of their "founding Indian community" by the petitioner were not Choctaw, or even American Indian; and
- (4) only one percent of the petitioner's membership can document American Indian ancestry. This ancestry comes through other ancestral lines than those going to the two core families.

A substantial body of documentation was available on the petitioning group. This extensive evidence does not demonstrate either the Indian ancestry claimed in the petition or other Indian ancestry except for that which was credited to the petitioner under (4).

Applicable Regulations

Part 83 establishes procedures by which unrecognized Indian groups may seek Federal acknowledgment of an existing government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit documentary evidence that the group meets the seven criteria set forth in Section 83.7 of 25 CFR, "Procedures for Establishing That an American Indian Group Exists as an Indian Tribe; Final Rule," as published in the Federal Register, February 25, 1994. Failure to meet any one of the seven criteria will result in a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

This finding on the MOWA Band of Choctaw petition has been prepared under the provisions of 25 CFR 83.10(e) of the revised acknowledgment regulations, which became effective March 28, 1994. The applicable section of the regulations reads:

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

(1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f) or

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(g) of Section 83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken pursuant to paragraph (a) of this section. Rather, the Assistant Secretary shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the Federal Register. The periods for receipt of comments on the proposed finding from petitioners, interested parties and informed parties, for consideration of comments received, and for publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (h) through (l) of this section.

(2) If the review cannot clearly demonstrate that the group does not meet one or more of the mandatory criteria in paragraphs (e), (f) or (g) of Section 83.7, a full evaluation of the documented petition under all seven of the mandatory criteria shall be undertaken during active consideration of the documented petition pursuant to paragraph (g) of this section (Federal Register, February 25, 1994, 9297).

As indicated by the comment section pertaining to this revised regulation, "the section requires clear evidence, apparent on a preliminary review, that one of the three named criteria are not met." The following elements are included to ensure fairness to the petitioner: (1) the limited evaluation occurs only after the petitioner has had the opportunity to respond to the technical assistance review; (2) the proposed finding under this section is still subject to the comment process before a final determination is issued, just as is the case for a full evaluation of all seven criteria during the active consideration process; (3) the petitioner has the opportunity to request reconsideration under 83.11.

Publication of the Assistant Secretary's proposed finding in the Federal Register initiates a 180-day response period during which factual and/or legal arguments and evidence to rebut or support the evidence relied upon are received from the petitioner and any other interested party. Such evidence should be submitted in writing to the Office of the Assistant Secretary - Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2611-MIB.

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The period for comment on a proposed finding may be extended for up to an additional 180 days at the Assistant Secretary's discretion upon a finding of good cause. The petitioner and interested parties shall be notified of the time extension. Interested and informed parties who submit arguments and evidence to the Assistant Secretary must provide copies of their submissions to the petitioner. Additional procedural safeguards for the petitioner are found in sections 83.10(j) - 83.10(l) of the regulations.

After consideration of all written arguments and evidence received during the 180-day response period, the petitioner shall have a minimum of 60 days to respond to any submissions by interested and informed parties. After the petitioner's comments have been received, the Assistant Secretary will consult with the petitioner and interested parties to determine an equitable timeframe for consideration of written arguments and evidence submitted during the response period. The petitioner and interested parties will be notified of the date such consideration begins. The Assistant Secretary will make a final determination regarding the petitioner's status, a summary of which will be published in the Federal Register within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins. This determination will become effective 90 days from its date of publication unless a request for reconsideration is filed pursuant to 83.11.

If the Assistant Secretary for Indian Affairs declines to acknowledge the petitioner, the Assistant Secretary will analyze and forward to the petitioner other options, if any, under which the petitioner might make application for services or other benefits.

Administrative History

The MOWA Band of Choctaw's letter of intent to petition for Federal acknowledgment as an Indian tribe was in the form of a resolution dated May 16, 1983, accompanied by a letter dated May 19, 1983. These were received by the Branch of Acknowledgment and Research (hereafter BAR) on May 27, 1983. In accordance with the regulations, notice was sent to the Governor of Alabama and Attorney General of Alabama on June 24, 1983. The petition was assigned priority #86. Notice was published in the Federal Register on July 11, 1983, and in a major newspaper on November 24, 1983.

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The group's documented petition was received by BAR on April 28, 1988. BAR responded with an Obvious Deficiency Review (hereafter OD) letter on February 15, 1990. On June 6, 1991, BAR received a copy of the petitioner's "unauthorized response" from the office of Congressman Sonny Callahan.

Throughout this period, the group was also actively pursuing legislative recognition in both the House and the Senate (1987: S.1142, Shelby; H.R.3107, Callahan, Nichols, Erdreich); (1989: S.381, Shelby, Heflin; H.R.1562, Callahan); (1991: S.362, Shelby, Heflin; H.R.2349, Callahan); (1993: S.282, Shelby, Heflin, Inouye; H.R.3605, Hilliard); (1994: S. 282, H.R. 4231, Mowa Band of Choctaw Indians Recognition Act; hearing May 17, 1994). The record of the Senate Select Committee on Indian Affairs hearing on S.362, held June 26, 1991, was published; at this hearing, the petitioner stated on record that the petition was not complete. On September 9, 1991, BAR held a technical assistance teleconference with the petitioner and its researchers. On November 8, 1991, the MBC did submit a response to the OD; the petition was declared "ready" and waiting to be placed on active consideration on November 19, 1991.

As a result of the regulations in force at the time, petitioners would be transferred to active consideration status on the basis of the priority number: these were assigned according to chronological order of receipt of the letter of intent to petition by the BIA. The MOWA Band of Choctaw's comparatively high number (#86) delayed active consideration status because other petitioners with lower priority numbers submitted documented petitions and moved ahead of it in the queue. Since 1991, the petitioner has continued to submit supplementary materials for the petition. All supplements have been accepted as part of the working file and included with the petition material.

The petitioner has continued to seek legislative recognition. In 1994, the Mowa Recognition Act passed the Senate, but not the House of Representatives. Also, at least one effort was also made by the group in 1993 to have the President extend acknowledgment through executive order.

ABBREVIATIONS AND/OR ACRONYMS USED IN REPORT

- BAR = Branch of Acknowledgment and Research, Bureau of Indian Affairs (Evaluator of the Petition)
- Ex. = Documentary Exhibit submitted by the Petitioner
- Gen. bk. Notebook(s) containing family group sheets compiled by the MOWA Band of Choctaw, included in the petition for Federal acknowledgment as an Indian tribe
- MBC = MOWA Band of Choctaw
- MOWA = MOWA Band of Choctaw of Mobile and Washington Counties, Alabama. Petition for Federal acknowledgment as an Indian tribe
- Narr. Narrative portion, petition for Federal acknowledgment, MOWA Band of Choctaw

SUMMARY UNDER THE CRITERIA

Summary Evaluation under Criterion 83.7(e)

Evidence submitted by the MOWA Band of Choctaw (hereafter the petitioner or MBC), as well as evidence obtained through independent research by BIA staff, demonstrates that the petitioner does not meet criterion 83.7(e) required for Federal acknowledgment. In accordance with the regulations set forth in 25 CFR 83, failure to meet any one of the seven criteria requires a determination that the group does not exist as an Indian tribe within the meaning of Federal law.

This proposed finding is based on available evidence, and, as such, does not preclude the submission of other evidence to the contrary during the 180-day comment period which follows publication of this finding. Such new evidence may result in a change in the conclusions reached in the proposed finding, resulting in a full review of the MOWA Band of Choctaw's petition under all seven criteria prior to the final determination. The final determination, which will be published separately after the receipt of the comments, will be based on both the new evidence submitted in response to the proposed finding and the original evidence used in formulating the proposed finding.

In the summary of evidence which follows, according to the procedures established under section 83.10(e) of the regulations, only criterion 83.7(e) is considered. A summary of the evidence relied upon follows the analysis under the criterion. The summary statement is followed by the Technical Report, which is not a full historical analysis, but provides only enough historical background to permit the reader to understand the context of the genealogical discussion under criterion 83.10(e).

Requirements

Criterion 83.7(e) reads:

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

Summary Under the Criteria -- MOWA Band of Choctaw

The MOWA Band of Choctaw's petition for Federal acknowledgment claims that "the contemporary band of Mowa Choctaws of South Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during Indian removal in the 1830s" (MOWA Pet. Narr. 1988, 1). Upon examination of the petition, this claim was found to be invalid. Because of the anomalies, this finding on the MOWA Band of Choctaw petition has been prepared under the provisions of 25 CFR 83.10(e). Based upon a review of all materials submitted by the petitioner through September 1994, the following analysis presents the major conclusions.

In order to meet criterion 83.7(e), the petitioner must demonstrate Indian ancestry in descent from a historical tribe, or from tribes which combined and functioned as a single entity. In each case--not just for the examples cited in this report--the petitioner, when documenting descent from a particular individual who was supposedly a member of the historical tribe or tribes, must show that:

- (1) the person of this name was, in fact, of Indian descent from a particular tribe; and
- (2) the Indian person of this name was the same person as the ancestor claimed by the petitioner.

Problem Areas

This petitioner has problems that fall into the following major categories:

- (1) the petitioner's core ancestral families cannot document American Indian ancestry;
- (2) the families which are the actual MBC progenitors from 1880 have not been documented as descendants of the known removal-era, antebellum American Indians claimed as ancestors by the petitioner;
- (3) many of the early nineteenth century persons claimed as members of their "founding Indian community" by the petitioner cannot be demonstrated to be Choctaw, or even American Indian; and
- (4) only approximately one percent of the persons on the petitioner's current membership rolls (40 out of 3,960) have documented Indian ancestry.

Summary Under the Criteria -- MOWA Band of Choctaw

Methodology

In preparing analyses of Indian ancestry under criterion 83.7(e), the petitioner needs to pay particular attention to the chronology of development of its ancestral community. It is not feasible to claim that one individual is the child of another person if the alleged parent is shown by records to have been younger than the supposed child.

In general, in preparing analysis of the demography of any small population group, it is beneficial for the researcher to place the individuals being studied on a time-line/location grid. This enables the researcher to see at a glance which individuals were, in fact, contemporaries of one another. If the individuals were contemporaries, such a grid also charts clearly whether they lived in locations which would have made it feasible for them to be associates.

In making claims to Indian ancestry, the genealogical statements in the MBC petition were marked by internal inconsistencies (one thing was said about the person being discussed in one place in the petition; something contradictory was said about him/her elsewhere in the petition) and by significant methodological problems. For instance, the petition often assumed that two people with the same name were the same person, even if there were no documents to confirm their identity. Often, in fact, they were demonstrably not the same person. On occasion, the petition asserted such assumptions even when the claim was so logically inconsistent that it indicated a man was born in the same year as his supposed grandmother. Also, on the basis of limited documentary evidence, the petition narrative makes numerous unwarranted erroneous extrapolations.

The basic problem with the MOWA Band of Choctaw's petition is not one of a lack of documentation: a substantial body of documentation is available. For most of the ancestors claimed by the petitioner, the information located was as much as can be reasonably expected to be available for any ordinary resident of a southern state during the first half of the nineteenth century. The records utilized were the same type as are normally available: census records, land records, and other legal documents. No specific Indian records created by the Federal government's Office of Indian Affairs were found that applied to the petitioner's core ancestral families in the period before the Civil War.

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In many cases, the documents--contemporary primary source materials--clearly disproved claims that were made in the petition. In other cases, claims made in the petition could not be verified on the basis of contemporary primary source materials. This means that the claim was not specifically disproven by the available evidence, but neither did the petitioner submit nor did the BIA find acceptable evidence to support it.

No direct ancestors of the MBC were included as members of the Choctaw tribe on the final Dawes Roll. Members of the Laurendine family were identified in testimony to the Dawes Commission as being of Mississippi Choctaw ancestry: this identification has been given full credit in this finding.

Although individual MBC ancestors submitted applications for the Guion Miller Roll of Eastern Cherokees, and the 1972 Creek claims, these applications were rejected on the grounds that the applicants had not demonstrated any Cherokee ancestry or any Creek ancestry. Rejected applications do not provide evidence of Indian ancestry, although the applications themselves may be used as one set of clues to look for documentation of the asserted ancestry.

Specific Examples

Core Families Not Documented as American Indian. Research confirmed that the primary MBC ancestral families are Reed, Weaver, Rivers, and Byrd, as stated by the petitioner. Of these, Byrd and Rivers were determined to be branches of the Weaver family. However, research did not confirm that these families were American Indians who avoided removal to the West.

In the case of the Reed family, the documentation did not demonstrate or provide significant evidence of Indian ancestry. The earliest documentation asserting a claim of Indian ancestry for the Reed family dated to the 1880's, 50 years after the removal era.

The Reed family, whose origins have not been determined conclusively, is shown to have been resident in Washington County, Alabama, as early as 1818. Neither Daniel Reed, who died in 1844, nor his wife Rose, who died in 1878, are documented to have had American Indian ancestry. In the case of Rose Reed, no documentation asserting Indian ancestry was produced before her death. The first claim that her mother was Choctaw was made shortly after Rose's

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death. In the case of Daniel Reed, no document indicating that he might have been of Creek ancestry was submitted by the petitioner nor found by BIA researchers. Apparently, this attribution was made for the first time in the petition for Federal acknowledgment of the MOWA Band of Choctaw. No Reed descendant is known to have applied for any Indian claims award (Dawes Roll, Guion Miller Roll, etc.) on the basis of the ancestry of either Daniel Reed or his wife Rose.

Neither Daniel Reed nor his wife Rose associated with persons of proven American Indian ancestry throughout their lifetimes. Their neighbors and the persons who witnessed their legal documents were white. Their first documented association with the other core MBC family, Weaver, took place about 1850, with a series of three marriages between their sons and daughters of David Weaver.

The Reed family did not acquire documented American Indian ancestry by marriage during the removal era or before the Civil War. In three cases, the petitioner claimed that husbands of the second-generation Reed daughters were of American Indian ancestry: two of these claims were disproven, and the third could not be verified.

The petitioner claimed that John Harris, the husband of Judy Reed, had Indian ancestry through the Hollinger family. Research undertaken during evaluation of the petition demonstrated both that (1) this particular John Harris was not descended from the Hollingers, and (2) the branch of the Hollinger family from whom the petitioner claimed descent had no Indian ancestry. The narrative petition claimed that Emeline Reed's husband, Willis Daugherty, was a descendant of the Indian countryman Cornelius Daugherty and his Choctaw wife. However, a Bible record submitted as an exhibit by the petitioner, as well as Federal census records, indicate that Willis was a son of Peter Daugherty, who was born in Ireland. The census record listed Peter Daugherty's wife as white. The petition claimed finally that Peter Cole, second husband of Eliza Reed, had Indian ancestry through his parents, Mark Cole and Hannah. However, the petitioner did not submit documentation to prove either that Peter Cole was a son of Mark Cole and Hannah, or that either Mark or Hannah had Indian ancestry. BIA researchers located no evidence of Indian ancestry for Peter Cole.

The Weaver, Rivers, and Byrd families descend from four siblings: David, James, Edy, and Anne Weaver. Indian ancestry was not documented for these siblings. Evidence

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submitted by the petitioner indicated that in 1908, the identity of the father of these four siblings was not known to his grandchildren, who stated that their grandmother was a white woman, Linney Weaver. The Weaver and Byrd families moved from Georgia to Mobile County, Alabama, by 1830. Branches of the Weaver family also lived in Monroe County, Alabama, some 80 miles northeast of Mobile, by 1830.

The petitioner claimed Indian ancestry (Creek on the paternal side and Cherokee on the maternal side) for Cecile Weatherford, wife of David Weaver. The claim could not be verified. It was made on the basis of her family's oral tradition, which was stated on applications made to Guion Miller in 1908 for distribution of Eastern Cherokee Funds. The statements made in 1908 pertained to a woman who died in or before 1850. No confirming documentation dating to her lifetime was submitted by the petitioner or located by BIA staff researchers. The Weaver descendants' applications for distribution of Eastern Cherokee Funds were rejected by the Miller Commission on the grounds that they had not demonstrated Eastern Cherokee ancestry.

The petitioner submitted evidence which indicated that the wife of James Weaver and the husband of Edy Weaver were non-Indian: this was confirmed by further research. In the case of Anne Weaver's husband, Lemuel Byrd, no significant evidence supported the petitioner's claim that he had Cherokee ancestry. Thus, the petitioner cannot claim documented American Indian ancestry through any line of the Weaver/Byrd/Rivers core family.

Antebellum Ancestors Claimed as Indian by the Petitioner Were Not Indian. In numerous cases, evaluation and verification of the petition's genealogical claims to Indian ancestry indicated that persons described as American Indian by the petitioner, and claimed on the petitioner's list of "Known Indian Ancestors" were clearly not of American Indian ancestry. For example, Mary Josephine Juzan, wife of Adam Hollinger, was not Indian. Her father, Pierre Juzan, was French. Although he is known to have left children by Indian women, Mary Josephine's mother was his first wife, Catherine Parant, a woman who was also of French ancestry.

Petitioner Not Descended from Known Indian Families Claimed in the Petition. Evaluation and verification of the petition's genealogical claims to Indian ancestry other than through the core families discussed above indicated that, with the exception of the Brashears family (see below), the

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petitioner's members do not descend from the documented American Indian families who both:

- (1) resided in southwestern Alabama during the first half of the nineteenth century; and
- (2) are claimed as ancestors in the petition.

For example, the petitioner's members do not descend from the Indian branches of the Juzan, Hollinger, Gibson, or Colbert families as claimed by statements made in the petition. In the cases of these families, the ancestral lines claimed by the petitioner have been disproven in the evaluation process. Claims to ancestry from other Indian families, such as Piamingo Hometak, Fisher, Weatherford, and Cole, could not be verified in the evaluation process: no documentation supporting the petitioner's claim to descend from these persons was submitted by the petitioner or located by the BIA.

Documented Indian Ancestry Appears Late in the Petitioner's Development. In the case of those families on the petitioner's membership rolls who do have documented American Indian ancestry (approximately one percent of the total membership, or 40 out of 3,960), the documented Indian ancestors were not members of a removal-era, antebellum American Indian entity in southwestern Alabama. The first marriage between the MBC core families and Indian Brashears descendants did not take place until approximately 1880. The first marriage between the MBC core families and a descendant of the Mississippi Choctaw Williams and Laurendine families did not take place until 1904. The petitioner's documented Indian ancestry is limited in scope, entered the petitioner's core families through marriage in the late nineteenth and early twentieth centuries, and was not tribal in nature.

The petitioner's genealogical material appears basically sound for the period from 1880 to the present, in the sense that members on the current roll descend from those families on the 1880 Federal census whom they identify as their ancestors. A detailed review of the connections between the 1880 era and the present membership was not undertaken for this finding, because it was not necessary in order to establish that criterion 83.7(e), requiring descent from a historical Indian tribe or amalgamated tribes, was clearly not met by the petitioner.

Conclusions

In summary, the petitioner has not documented unambiguous Indian ancestry for its core families from any of the tribes claimed in the petition, nor that any tribal entity continued to exist in Washington and Mobile Counties, Alabama, after 1830, of which those core families could have become a part. Only in the case of approximately one percent of its membership has the petitioner documented descent from other known Indian families.

The extensive available evidence does not demonstrate either the Indian ancestry claimed in the petition or other Indian ancestry. This extensive evidence either does not support at all, or in part disproves, Indian ancestry. Only approximately one percent of the petitioner's membership can demonstrate Indian ancestry of any kind. No evidence was found to demonstrate that the ancestors of the petitioner were descended from a single historic tribe or tribes which combined and functioned as an autonomous entity. We conclude, therefore, that the MOWA Band of Choctaws clearly does not meet the requirements of criterion 83.7(e).

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Conclusions

In summary, the petitioner has not documented unambiguous Indian ancestry for its core families from any of the tribes claimed in the petition, nor that any tribal entity continued to exist in Washington and Mobile Counties, Alabama, after 1830, of which those core families could have become a part. Only in the case of approximately one percent of its membership has the petitioner documented descent from other known Indian families.

The extensive available evidence does not demonstrate either the Indian ancestry claimed in the petition or other Indian ancestry. This extensive evidence either does not support at all, or in part disproves, Indian ancestry. Only approximately one percent of the petitioner's membership can demonstrate Indian ancestry of any kind. No evidence was found to demonstrate that the ancestors of the petitioner were descended from a single historic tribe or tribes which combined and functioned as an autonomous entity. We conclude, therefore, that the MOWA Band of Choctaws clearly does not meet the requirements of criterion 83.7(e).

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PROPOSED FINDING

MOWA BAND OF CHOCTAW INDIANS

December 15, 1994

United States Department of the Interior

Bureau of Indian Affairs

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TECHNICAL REPORT
MOWA BAND OF CHOCTAW
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TECHNICAL REPORT

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INTRODUCTION

The purpose of the Federal acknowledgment procedure is to identify and to establish a government-to-government relationship with Indian tribes which have existed continuously from the period of first contact with non-Indians, but which are not currently acknowledged. The regulations under 25 CFR Part 83, based upon legal precedent, specifically require continuous existence as a tribal entity. Criterion 83.7(e) reads:

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

The MOWA Band of Choctaw's (hereafter the petitioner or MBC) petition for Federal acknowledgment claims that "the contemporary band of Mowa Choctaws of South Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during Indian removal in the 1830s" (MOWA Pet. Narr. 1988, 1).

The petitioner's genealogical material appears basically sound for the period from 1880 to the present, in the sense that members on the current roll descend from those families on the 1880 Federal census whom they identify as their ancestors. A detailed review of the connections between the 1880 era and the present membership was not undertaken by BAR for this finding, because it was not needed to establish that criterion 83.7(e) was clearly not met by the petitioner.

The earlier genealogical material, prior to 1880, has problems that fall into four major categories:

- (1) many of the earlier ancestors claimed by the MBC as members of the petitioner's "founding Indian community" through "female lines" have not been documented as Choctaw, or even as American Indian;
- (2) the families which are the actual MBC progenitors from 1880 have not been documented as descendants of the

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earlier (removal-era, antebellum) American Indian ancestors claimed through "female lines" by the petitioner;

- (3) the petitioner's core ancestral families cannot document American Indian ancestry; and
- (4) only one percent of the persons on the petitioner's current membership rolls have documented Indian ancestry.

In making claims to Indian ancestry, the researchers who prepared the petition frequently assumed the identity of two individuals with the same or similar names without documenting that they were, in fact, the same person. Often, based on other evidence, they clearly were not the same person. Also, on the basis of limited documentary evidence, the petition narrative makes numerous unwarranted erroneous extrapolations.

No direct ancestors of the petitioner were identified as holding membership in any acknowledged tribe on the Dawes or comparable BIA rolls. Although individual MBC ancestors submitted applications in 1908 for the Guion Miller Roll of Eastern Cherokees, and the 1972 Creek claims, these applications were rejected at the time of submission for lack of demonstrated Cherokee and Creek ancestry. Rejected applications do not provide evidence of Indian ancestry. However, the applications themselves may be used as one set of clues to look for documentation of the asserted ancestry. A few direct and collateral ancestors of the group submitted applications as Mississippi Choctaw in the early twentieth century for the Dawes (Five Civilized Tribes) Rolls. When testimony identified these persons as Choctaw, even when the names did not appear on the final roll, it has been given full credit in this report.

Research by BAR staff has confirmed that the four primary MBC families are Reed, Weaver, Rivers, and Byrd. However, BAR research in evaluating and verifying the petitioner's genealogical claims also indicated that the petitioner does not descend from the Indian branches of the Juzan, Hollinger, or Colbert families. The petitioner descends from a Cole family, but not a Cole family with verified Indian lineage. The first genealogical connection between the MBC core families and Brashears descendants with Indian ancestry did not take place until approximately 1880. Because of these anomalies, BAR has prepared this technical

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report on the MOWA Band of Choctaw petition under the provisions of 25 CFR 83.10(e).

Social/Racial Distinctions. From the first quarter of the nineteenth century to the present, the progenitors of the petitioner, the petitioner's ancestors, lived in a situation in which the legal status of persons of varying ethnic heritages was defined by the laws of the State of Alabama. Historically, throughout this period, racial distinctions were made by and about both individuals and communities. To persons living in the region, these distinctions were important.

The more extreme theories of late nineteenth and early twentieth century racists cannot be projected backwards into the antebellum period. Neither is it even a matter of saying "Indian" and "African-American," when discussing a place and time when social/racial categories, while important, were nonetheless also fluid and to some extent dependent upon economic status and life style. It is not such a simple matter as saying "white" and "non-white."

In order to present an accurate picture of the development of the petitioner's core ancestral families, it has been necessary to understand and use the social/racial categories which were in effect at each period of its history. To some extent, it has been necessary to reference the vocabulary and/or terminology in use at each point in time, even when these words are now considered to be offensive. Such words, when used in source records or oral histories, have been placed in quotation marks to indicate that these words specifically were used by the informant, and that the usage was determined by BAR researchers to be critical in understanding the historical context of an event or the process of community development.

Discrimination on a racial basis can, in fact, be strong evidence for the existence of distinct community. Yet a distinct community is not necessarily an American Indian community. To understand the discrimination, it is necessary to understand the ethnohistorical context and the classifications that were used in the society in which the petitioner's ancestral group lived. That the BAR's researchers have found it necessary to employ these terms does not mean that the BAR's researchers or the Federal government endorse these terms.

Although racial heritage that is other than "Indian" may be present within a petitioning group, genealogical research

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focuses on whether the group's members descend from a historical Indian tribe.

SUMMARY OF THE EVIDENCE

The Petitioner Claims Varied Indian Ancestry. The MOWA Band of Choctaw's petition for Federal acknowledgment claims that "the contemporary band of Mowa Choctaws of South Alabama are descendants of full and mixed blood Choctaws, Creeks, Cherokees, and Chickasaws who avoided removal West during Indian removal in the 1830s" (MOWA Pet. Narr. 1988, 1). The petition also states that:

Several early progenitors--Juzan, Hollinger, McGillivray, Colbert, Frazier, Cole and Brashears--are reflected primarily through female lines, resulting in the loss of their surnames. Reed, Weaver, Rivers and Byrd are the surnames that have survived the passage of generations and represent the four major kinship groups (MOWA Pet. Narr. 1988, 30).

The Petitioner Descends from Two Non-Indian Core Families Which Settled in Alabama before the Civil War. The above, and other, assertions by the petitioner of multiple American Indian ancestry through "female lines" were either disproven by BAR researchers or could not be verified by BAR researchers, except in the case of Brashears. Many of the assertions made by the petitioner in the narrative and on the family group sheets and ancestry charts, which in themselves were internally inconsistent, were contradicted by the documents submitted by the MBC as exhibits to the petition.

On the basis of the documents submitted by the petitioner and research carried out by BAR staff, BAR concludes that all members of the MBC (100% of the current membership roll) descend from two non-Indian families which first appeared in southern Alabama during the first third of the nineteenth century. One of these families, which descends from Daniel and Rose Reed, is documented as having been resident in Washington County, Alabama, from 1818 onwards. The other major family descends from the four-person sibling group of David Weaver, James Weaver, Anne Weaver, and Edy Weaver, which is documented to have originated in Georgia, and to have been resident in Monroe and Mobile Counties, Alabama, from 1830 onwards. The other two "major" MBC families as claimed by the petitioner, Byrd and Rivers, are sub-lines of

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the Weaver family through Anne Weaver and Lemuel Byrd, and Edy Weaver and Joel T. Rivers.

Throughout the period before the Civil War, both the Reed and the Weaver family groupings were identified on Federal and state census records and county tax rolls in Mobile County, Alabama, and Washington County, Alabama, as "free persons of color." While Indians who held American citizenship (i.e., detribalized Indians) were sometimes included in the "free persons of color" census category, all other non-white free persons were included in it as well. In the absence of corroborative evidence, therefore, this census classification provides no proof that an individual or a family was American Indian. It does allow for the possibility, but no pre-Civil War record positively identified the Reed or Weaver families as "Indian" or as having Indian ancestry.

Evidence was presented by the petitioner to indicate that some Choctaw Indians remained in southern Alabama between the Treaty of Dancing Rabbit Creek in 1830 and the Civil War. However, no evidence was presented by the petitioner to indicate that either the Reed or the Weaver/Rivers/Byrd family was part of this group of Choctaw, or descended from them. For example, no pre-Civil War documents show members of the Reed or Weaver family associated as colleagues or witnesses with Felix Andry, who was married to a Choctaw woman named Nancy and who submitted claims to the Federal government on behalf of the Choctaw remaining in Alabama.

While the 1870 and 1880 Federal censuses of Mobile County, Alabama, identified some Mississippi Choctaw families residing in the county as "Indian" for ethnicity, no member of the MBC core families was identified as Indian in either of these decennial censuses. The Federal censuses of Washington and Mobile Counties, Alabama, for 1900 and 1910 did not utilize the separate "Indian population" census schedules. None of the Reed, Weaver, Byrd, or Rivers family members applied to the Dawes Commission as Choctaw or, more specifically, Mississippi Choctaw.

Indian Ancestry for Reed Family Not Demonstrated. The petitioner submitted no contemporary evidence to document Indian ancestry for either Daniel Reed or his wife Rose Gaines, who was born about 1780-1787. The petitioner's claims that he may have been related to a Creek Indian family named Reed were not documented. Ancestry charts included with the petition listed Daniel Reed's birthplace as Spanish West Florida, but this was not documented.

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No document produced within the lifetime of Daniel Reed identified him as Indian, or as of Indian ancestry. The 1818 Act of the Alabama Legislative Council which permitted him to free Rose described him as a "free male of colour." Nineteenth-century oral tradition indicated that Daniel Reed was a quarter Spanish, having come to Alabama from either Jamaica or Santo Domingo, by way of a stay of several years in Louisiana. None of the miscegenation trials which examined the background of Rose made any detailed investigation into the origins of Daniel Reed.

The question of whether or not Rose Reed's mother was Indian--a "Choctaw squaw"--was first addressed in the 1880's in the context of the trial for miscegenation of a white man who married one of Daniel and Rose Reed's granddaughters. The testimony given at that trial was not conclusive on the issue. To put its significance in context, under the Alabama law in force at the time, there was no prohibition against the marriage of whites and persons of Indian descent. In other words, if Rose Reed's mother had been Indian, her grandson-in-law was not guilty of miscegenation.

At the 1880's trial, the question of whether or not Rose Reed's mother was Choctaw was addressed by Mrs. Glorvena E. (Johnston) Johnston Rush. No direct record of her testimony survives, according to the petitioner. The evidence submitted consisted of a repetition of her testimony, from memory, given in 1920 by a member of the jury in the earlier trial.

Although Mrs. Rush has been described as a "contemporary" of Rose Reed, according to several Federal census records of Washington County, Alabama, she was born in 1820 and was, therefore, approximately 30 to 40 years younger than Rose. She cannot, therefore, have had direct knowledge of the circumstances of Rose's birth and youth. According to the witness in the 1920 trial, Mrs. Rush testified that Rose Reed, who had died in 1878, had told her that her mother was "a Choctaw squaw." This hearsay testimony was not documented by any contemporary evidence.

Testimony given in the trial in the 1880's and repeated at a trial in the 1920's indicated that prior to her emancipation by Daniel Reed in 1818, Rose had been resident in the household of George S. Gaines, who was said to be her

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father.¹ Mrs. Rush's testimony given in the 1880's, if repeated accurately in a 1920 court case, indicated that Rose Reed had been "reared" in the household of George S. Gaines.

However, the 19th century oral tradition which claimed that George S. Gaines was Rose Reed's father can not possibly be true, as George S. Gaines was probably four or five years younger than Rose and therefore could not have been her father. In addition, George S. Gaines did not move from Tennessee to Alabama to become the factor at the Choctaw trading house at St. Stephen's until 1805, approximately 20 years after the birth of Rose (Gaines) Reed. The limits of Mrs. Rush's hearsay evidence, even though it was given under oath in court, are clearly indicated by the simple chronological fact that since Rose would have been about 20 years old at the time George S. Gaines moved to Alabama, it is not likely that she was "reared" in his household at all.

Those documents produced concerning Rose Reed during her lifetime did not identify her as Indian. The earliest stated that she was a mulatto slave being emancipated by Daniel Reed in 1818, by permission of an Act of the Alabama Legislative Council. In the 1850 and 1860 Federal censuses, she was enumerated as mulatto; in the 1870 Federal census, she was enumerated as white.

Mixed Cherokee/Creek Ancestry for the Weaver Family Not Demonstrated. The petitioner claims mixed Cherokee and Creek ancestry for the Weaver family. The claim is based primarily upon the information given by those Weaver descendants who in 1908 submitted applications to Guion Miller to share in the distribution of Eastern Cherokee funds (cited as Guion Miller applications). BAR research was unable to locate any documents from the first half of the nineteenth century either to support or to disprove these claims.

All the Weaver descendants' Guion Miller applications were rejected by the Guion Miller Commission on the grounds that the applicants had not proven Eastern Cherokee ancestry. In their applications to share in the Eastern Cherokee Award, the surviving daughters of David Weaver, one of the four Weaver siblings, did not claim Cherokee ancestry on the

¹ The petition now claims that Rose Reed's father was a white planter and Choctaw interpreter named Young Gaines, who was both uncle and father-in-law of George S. Gaines.

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Weaver line, nor did any of their children claim Cherokee ancestry on the Weaver line. David Weaver's daughters indicated that on the Weaver side of the family, the grandfather was unknown and the grandmother was a white woman, Linney Weaver.

Census records indicate that the MBC ancestral Weaver family was in Monroe County and Mobile County, Alabama, by 1830. The petitioner's claim that the unknown father of David, James, Anne, and Edy Weaver was a Cherokee named "Dav [sic] Weaver" who was at Sharp Mountain, Georgia, in a different state, in 1835, could not be verified. The military pension application filed by Lemuel Byrd, a Weaver brother-in-law, indicated that the Weaver family's residence prior to 1830, during the decade 1810-1820, was in Putnam and Greene Counties, Georgia, which are in east central Georgia. Sharp Mountain, in Cherokee County, was in the northwestern section of the state. Georgia tax digests for this decade show four households headed by persons named Weaver, four "white" and one "free Negro," in Greene and Putnam counties, but no Indians by that name. Thus the petitioner's claim to Cherokee ancestry through "Dav" Weaver was not documented.

David Weaver's descendants submitted Guion Miller applications based on the ancestry of David Weaver's wife, not on that of David Weaver, himself. In 1908, her surviving daughters and her grandchildren indicated that his wife's maiden name was Cecile Weatherford, that she had borne a son to Sostang Chastang about 1829, had married David Weaver by 1830, and had died in 1850. They gave the names of her parents as William Weatherford, Creek, and Nancy Fisher, Cherokee.

Standard scholarly studies of the Weatherford family name William Weatherford's three wives as Mary Moniac, Sopoth Thlanie, and Mary Stiggins. Through these marriages, he had four children who survived to adulthood. The surviving documents pertaining to William Weatherford's estate settlement in Monroe County, Alabama, make no mention of a Nancy Fisher and make no provision for a daughter Cecile. The family affiliation of Nancy Fisher is not known. Some of the Guion Miller applications indicated that she was born in Tennessee. Thus, Indian ancestry through the Weatherford family is not shown, nor is it disproven.

Furthermore, there is no indication that from the date of Cecile Weatherford's marriage onward, she was ever, in any way, linked to a surviving Indian tribal grouping. Rather, she resided with her husband's family. Documents show that

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her husband's family functioned as part of the surrounding non-Indian society. Thus, even if BAR were to assume Indian ancestry for her, it would not create the required nexus to a tribe or amalgamated tribes functioning as a single entity as required by 83.7(e).

Since David Weaver's children and grandchildren traced their Indian ancestry through their mother and maternal grandmother, and not David Weaver, the Guion Miller applications provided no basis for the petitioner's claim that David Weaver or his siblings had Indian ancestry which they could pass to their descendants in the MBC. There is no documentation to show that David's three siblings married spouses with Indian connections or ancestry. David's brother, James Weaver, was married to a non-Indian woman who had been emancipated by a man named James Johnston in 1824 in Washington County, Alabama. David and James Weaver's sister, Edy Weaver, lived with a white Virginian named Joel T. Rivers, whose ancestry is well-known, who was not Indian, and who was the father of all of Edy Weaver's children who have left descendants in the MBC. The petitioner claimed that Lemuel Byrd, husband of David's sister Anne Weaver, was of part-Cherokee ancestry. No documentation was submitted to confirm this claim. Census records indicate that Lemuel Byrd was born in North Carolina and do not indicate that he had Indian ancestry. His military record indicates that he served from Putnam County, Georgia. No Indian families named Byrd were found in Putnam County.

The MBC Core Ancestral Families Did Not Constitute an Antebellum American Indian Community. Prior to 1880, the families from whom the modern MBC descends did not form a contiguous or near-contiguous settlement. The descendants of Daniel and Rose Reed formed a single settlement of close kin in Washington County, living among white, non-MBC, neighbors. In 1830, the Weaver descendants were divided in their residence between Monroe County and Mobile County. They consolidated in Mobile County by 1870. In Mobile County, the Weaver descendants lived in the vicinity of "Chastangs," a neighborhood occupied primarily by free Creole of color families.

While the families from Washington County and the families from Mobile County have intermarried since 1850, the documentation submitted does not indicate intermarriage or close contact between the Reeds and the Weavers prior to that date. Mid-19th century census groupings indicate that the Byrd and Weaver families were most closely associated with well-known free Creole of color families in Mobile

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County, such as Chastang. In one instance, the petition asserts directly that these Creole of color families (Chastang, Trenier, Juzan) were Indian (MOWA Pet. Narr. 1988, 36). However, all available documentation shows that their ancestry was a mixture of African and European, with no American Indian element in those branches associated with MBC direct ancestors.

No evidence has been located to indicate that there were any ties between the Reed family in Washington County, Alabama, and the Weaver, Rivers, and Byrd families in Mobile County, Alabama, prior to about 1850, when three marriages took place between three sons of Daniel and Rose Reed and three daughters of David Weaver. Prior to 1850, the four daughters of Daniel and Rose Reed had either married or borne children to local white men. The Indian ancestry alleged by the petitioner for one of these men, Peter Cole, could not be verified. The Indian ancestry alleged for two others, John Harris and Willis Daugherty, has been disproved.

The four Weaver siblings had 30 known children who survived childhood. Their marriages took place according to the following distribution:

- 10 married first cousins or first cousins once removed within the Weaver/Rivers/Byrd family (seven marriages in all)
- 8 married non-Indians, apparently not relatives (four spouses described on the Federal censuses as "white"; one as "black," one as "mulatto"; three of unknown ethnicity--one man married twice, for a total of nine spouses in this category)
- 7 no data (did not marry or left no descendants among the petitioner)
- 5 married Reeds (3 children of Daniel and Rose; 2 grandchildren of Daniel and Rose through George Reed and Maria).

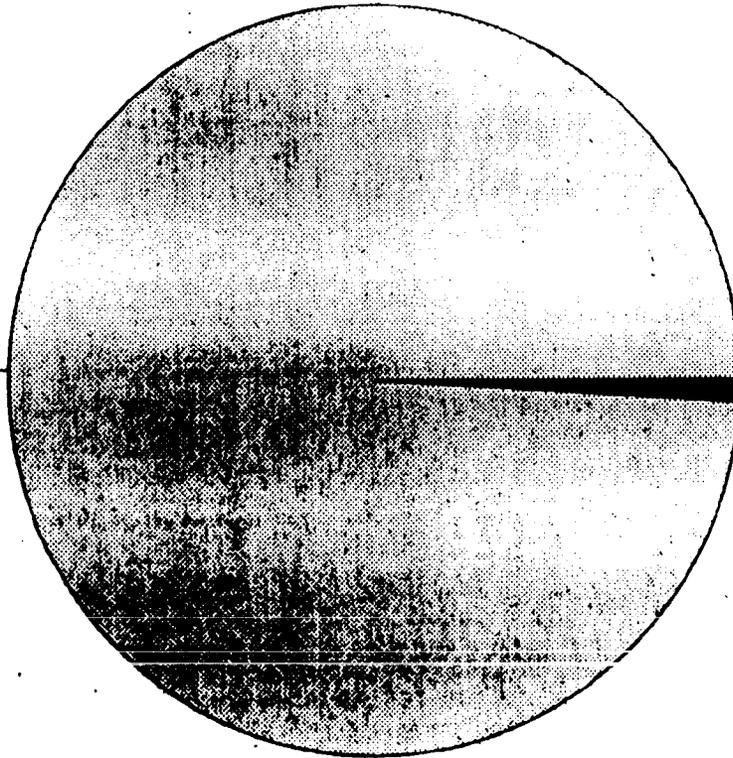
None of the Weaver siblings' children are documented as having married Indians.

Indian Ancestry Claims for Other Families Not Demonstrated. The Indian ancestry of several other families which were claimed by the petitioner to have contributed Choctaw ancestry to the MBC could not be confirmed. In virtually all cases, the Indians whom the MBC claimed as ancestors were not ancestors to the petitioner; and the ancestors of the petitioner were not Indian. For example, the Orso line.

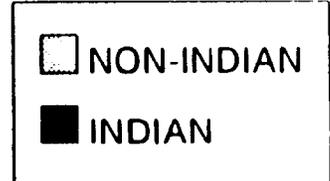
INDIAN ANCESTRY OF MOWA PETITIONER

101

NON-INDIAN
3960 99%
(estimate)



INDIAN
40 1%



Summary of Findings		
Non-Indian	3960	= 99%
indian	40	= 1%
TOTAL	4000	= 100%

Branch Of Acknowledgment & Res. 10/20/94

INDIAN ANCESTRY of MOWA PETITIONER

(Preparation of Pie Chart on page 10a)

From documentation provided to the Branch of Acknowledgment and Research (BAR), its researchers determined that among present-day MOWA, only descendants of Louisa Jane "Luliza" Brashears Smith (daughter of Alexander Brashears) and Margaret Brue Lofton (daughter of Marguerite Laurendine) have proven Indian ancestry. BAR tried to identify persons on the membership roll of the MOWA who descend from these two women. The women were born in 1835 and 1886 respectively, and had no known association with each other.

Methodology:

By using the books of ancestry provided to BAR by MOWA in the response to the obvious deficiency letter, BAR researchers identified the children of the two women, whom they married, and followed them by using a computer genealogical program called Personal Ancestor Files (PAF). MOWA provided BAR with four membership rolls. BAR researched all members by name, and when possible, also by name of the parents. In cases where there was insufficient evidence to conclusively link individuals to the two Indian women, but where it appeared possible that they belonged to the Indian family trees, BAR allowed Indian ancestry.

Findings:

The descendants of Louisa Jane "Luliza" Brashears Smith descend from only three of the twelve children born to her and her husband, Nathaniel John Smith. Those three children were: Barbara Ellen, George "Buddy", and Ira. Twenty-five members of the present-day MOWA were found to descend from (or were assumed to descend from) Barbara Ellen, George "Buddy", and Ira Smith.

The descendants of Margaret Brue Lofton descend from only two of the seven children born to her and her husband, George Lofton. Those two children were Cora Lee and Thelma. The total number of the MOWA membership who were found to descend from (or suspected to descend from) Cora and Thelma is fifteen.

Conclusions:

By using the documentation and membership rolls provided by MOWA a total of 40 members of the present-day group can be reasonably assumed to be descended from the two women of Indian ancestry. Though MOWA claimed a membership close to 5,000 persons in testimony before a U.S. Senate Committee, the membership rolls provided by MOWA showed an actual membership closer to 4,000. BAR could not document the exact membership because the petitioner submitted several lists during the acknowledgment process, with duplications at times. BAR also allowed adjustments for new members added since the last list was submitted. The graph on the previous page used 3,960 to show the percent of membership of Indian descent, as calculated by BAR from the documentation provided by the MOWA petition and responses to the obvious deficiency letters.

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claimed by the petitioner to descend from the Hollinger family, was not valid. Gilbert Orso, whose children intermarried with MBC families after the Civil War, could not be documented as a descendant of Caroline (Hollinger) Orso Montgomery. Even if he could be documented as one of her children, this line would still not provide Indian ancestry for the petitioner, as Caroline (Hollinger) Orso Montgomery was a daughter of Adam Hollinger by his non-Indian wife, Mary Josephine Juzan. The Indian mixed-blood Hollinger and Juzan families, discussed in the petition as MBC ancestors, are not ancestral to members of the MBC.

This example is the kind of methodological mistake repeatedly made in the petition. This, and numerous other mistakes, are dealt with in greater depth in the body of this Technical Report.

One Percent of MBC Members Have Documented Indian Ancestry. A small number of members of the MBC petitioner (15 out of approximately 3,960) can trace ancestry to Alexander Brashears, an Indian who remained in Alabama after the 1830 Treaty of Dancing Rabbit Creek and opted to become a U.S. citizen. By 1850 the mixed Creek/Choctaw/European family of Alexander Brashears was residing in Mobile County, Alabama, not far from the Weaver family. However, no documents indicate that there was any direct association between the Brashears and the MBC core families until after 1880, when the children of one of Alexander Brashears' daughters began to intermarry, not with the Weavers, but with one branch of Reed descendants.

The Indian ancestry of Alexander Brashears is documented. However, from 1830 onwards, he was counted as white on all Federal census records and he was never shown as part of any tribal grouping. Moreover, the descendants of Alexander Brashears, generally, are not identified with the MBC: descendants of only one daughter, Louisa (Brashears) Smith, have married into the petitioning group.

A small number of members of the MBC petitioner (25 out of approximately 3,960) can trace ancestry to Mississippi Choctaw families named Williams and Laurendine that moved into Mobile County, Alabama, after the Civil War, and intermarried with the well-known Mobile County non-Indian Creole of color family named Brue. On the 1870 and 1880 Federal census records of Mobile County, this small group of Mississippi Choctaw were identified as "Indian" in the census column for ethnicity.

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The marriage between Margaret "Nellie" Brue and George Lofton which introduced this Mississippi Choctaw lineage into the petitioning group did not take place until 1904. Between 1870 and 1900, this group of Mississippi Choctaw families who had moved to Creola, Mobile County, Alabama, are not shown by Federal census or other records to have had any association with the MBC families living in other locations in the county.

Summary. In summary, the evidence presented by the petitioner indicates that the MBC is descended from two primary families of free persons of color who were resident in Alabama prior to 1830, and who cannot document Indian ancestry. While these families have traditions of early Indian ancestry through two women, available evidence does not demonstrate that these women were Indians or of Indian ancestry. The weight of the evidence submitted by the petitioner for the Reed family does not support the claim of Indian ancestry in the case of that family.

The evidence presented by the petitioner does not indicate that Rose Reed or Cecile Weatherford, neither of whom has documented Indian ancestry, lived as a members of a historical North American Indian tribe during their adult lives. Rather, the evidence indicates that these women married non-Indians and were part of the wider non-Indian society of southwestern Alabama. Specifically, each of the core MBC ancestral families lived, before the Civil War, in a surrounding community which had no apparent Indian ancestry; the Reeds in Washington County, Alabama, and the Weavers in Mobile County, Alabama. Only after the Civil War did the descendants of these core families begin to merge into a single, distinct, but still non-Indian, community.

Neither did the petition present evidence that pieces of historic tribes (Choctaw, Creek, Chickasaw, Cherokee, etc.), or individual isolated Indian families, amalgamated in southwestern Alabama after the Treaty of Dancing Rabbit Creek in 1830 into distinct Indian communities which functioned as a new tribal grouping from which the petitioner can be shown to descend.

The petitioner has presented multiple, sometimes conflicting, claims to Indian ancestry. The claims of the petitioner to pre-Civil War Indian ancestry from families other than the Reeds and the Weavers were either disproven by BAR research or could not be verified by BAR research.

HISTORICAL BACKGROUND

Indians in Southern Alabama. A recent historian of the Mississippi Band of Choctaw has written that:

Today several thousand recognized full-blood Choctaw live in Mississippi, and several multiracial isolated groups claim Choctaw lineage. Most early mixed-blood families, however, simply accepted roles in the white communities that sprang up around them. Their survivors are today a large proportion of the modern population (Wells 1986, 53).

This historical context must be taken into account in analyzing the circumstances in which the families ancestral to the MBC petitioner lived in the first half of the nineteenth century. The existence of some families with some Indian ancestry who resided in the counties of Mobile and Washington in Alabama did not, under the historical circumstances, constitute the existence of a continuing American Indian tribal community within which the MBC ancestors functioned. Many of the families of known Indian descent had become part of the wider non-Indian society.

The Choctaws before Removal, 1699-1798²

The first sustained contact between the Choctaw Indians and European colonizers began after the French founded posts and settlements such as Biloxi, Mobile, Natchitoches, Natchez, and New Orleans along the Gulf Coast, the Mississippi River, and the Red River of the south during the years from 1699 to 1718 (Swanton 1946, 72). At that time, anthropologists and historians have agreed, the core territory of the Choctaws was what is now east-central Mississippi, primarily the counties of Neshoba, Kemper, Newton, Lauderdale, Jasper, Clarke, and Wayne (White 1983, Map 2 [4]).

The Choctaws lived in more than sixty permanent villages, which were organized politically into three geographical divisions, each with its own chief (Gatschet 1884, 100, 108, 109; Cushman 1899, 163-164; Hodge 1907, 288-289; Swanton 1911, map; Swanton 1931, 54/55 and 59-75; Debo 1934, 20;

² Much of the material in this subsection first appeared in the BAR historical technical report on the Jena Band of Choctaw, October 1994 (available by request from BAR/BIA).

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Swanton 1946, Map 1; Cotterill 1954, 6; McKee 1980, 38-39). Even the southernmost of these village groupings, those of the Yowani Choctaw on the Chickasawhay River (White 1983, Map 2 [4]), were northwest of Mobile and Washington Counties, Alabama, where the petitioner's ancestors have been located. The core areas of Choctaw settlement were well to the northwest (White 1983, Map 3 [6]).

Traditional Choctaw territory passed from French to British colonial control by the treaty of 1763 which ended the Seven Years' War (Debo 1934, 30; Kinnaid and Kinnaid 1980, 349; Rea 1968). A boundary line then was established between the Choctaws and the British by a treaty of 1765, which granted Britain a strip of land along the Gulf of Mexico and along the eastern bank of the Mississippi River (Cotterill 1954, 33; De Vorse 1966, 207-211). The United States assumed control from Britain of the northern half of Choctaw territory at the end of the American Revolution in 1783, and then acquired most of the Choctaw territory by the Treaty of San Lorenzo, or Pinckney Treaty, of 1795 with Spain (Berry 1917, 477; Debo 1934, 31; Kinnaid and Kinnaid, 356, 366).

During its colonial rule, Spain negotiated several treaties with the Choctaws east of the Mississippi River between 1784 and 1793 (Berry 1917, 463-464, 474-475; Debo 1934, 32-33; Cotterill 1954, 107-108; Holmes 1975, 68, 71; Kinnaid 1946, pt.3:223-227; Kinnaid 1979, 45-48; Kinnaid and Kinnaid, 350-351). Daniel Clark reported to the Secretary of State that the Spaniards believed that their treaties with the Choctaws had been nullified by the Treaty of San Lorenzo of 1795 (Clark 9/29/1803, 62; Kinnaid and Kinnaid, 366; U.S. Statutes 1795). Jack D.L. Holmes' "Notes on the Spanish Fort San Esteban de Tombeche" provides an overview of the area from 1789 through 1798 (Holmes 1965). The population of the area under Spanish administration was not large: by the end of 1796, excluding Indians, it was 287: 84 white adults, 106 white children, and 97 Negro slaves. The great majority of the white adults, 89%, came from the United States (Holmes 1965, 286-287; Holmes 1966).

Establishment of Mississippi Territory. In 1798, at the time of the appointment of the first American governor of the Mississippi Territory, approximately 20,000 Choctaw lived in the southern three-quarters of the modern state of Mississippi and in the western portion of the modern state of Alabama (Guice 1985, 158-159). Robert V. Haynes' article, "Early Washington County, Alabama," is a convenient but not particularly detailed survey of the early Federal period in the area (Haynes 1965). The territory to the

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south, the southern part of modern Mobile and Baldwin Counties, Alabama, remained within Spanish West Florida until 1813 (Nuzum 1971, map at 50).

Washington County, Mississippi Territory, was created on June 4, 1800. It measured 300 miles from east to west and 88 miles from north to south. The eastern boundary was the state line of Georgia, and the western boundary extended to the Pearl River, half way across modern Mississippi. In 1800, the non-Indian population of this region was 733 white and 517 non-white residents (Ball 1882, 178). After the organization of the Mississippi Territory, American immigration into the region was rapid. By 1810, a territorially much smaller Washington County contained 2,000 whites (Ball 1992, 179). Sixteen counties in Mississippi and 29 counties in Alabama have been subsequently formed, in part or in whole, from the original area of this county (Waddell and Brown 1989a, Preface; see Map Supplement). Mobile and southern Baldwin Counties, lying south of Washington, were not included in the Mississippi Territory, but remained within Spanish Florida until 1813 (Waddell and Brown 1989b, Preface; see Map Supplement; Ball 1882, 178-179).

U.S./Choctaw Treaties, 1786-1830.³ The United States and the Choctaws signed nine treaties during the half-century from 1786 to 1830. The first treaty between the Government of the United States and the Choctaws was made at Hopewell, in South Carolina, in 1786. In this treaty the two parties pledged to maintain peace, defined the boundaries of Choctaw lands as had been done in the British treaty of 1765, and acknowledged that Choctaw lands were to be under the protection of the United States (U.S. Statutes 1786; Debo 1934, 32; Cotterill 1954, 68). The remaining treaties ceded about 23.4 million acres of Choctaw lands in Mississippi and southwestern Alabama to the United States (Ferguson 1985, 214, 217-218). In contrast to the general movement of American settlers from east to west, the lands acquired by the United States from the Choctaws in these treaties began in 1801 on the southwestern corner of Choctaw territory and generally moved in stages to the north along the eastern bank of the Mississippi River and to the east into the interior of the state of Mississippi. For a map of Choctaw cessions, 1801-1830, see Guice (Guice 1985, 166; see Map

³ Much of the material in this subsection first appeared in the BAR historical technical report on the Jena Band of Choctaw (October 1994, available on request from BAR/BIA).

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Supplement); for a chart of the treaties, see Wells (Wells 1985, 196). Finally, by the Treaty of Dancing Rabbit Creek in 1830, the Choctaws ceded the last of their lands and agreed to remove to lands they had acquired from the Government in what would become the Indian Territory (see DeRosier 1970, map at p. 29; Royce 1900, plate for Mississippi, cessions #43, 61, 115, 156).

The Treaty of Fort Adams of 1801 reaffirmed the previous boundary between the Choctaws and Britain. By doing so, the Choctaws ceded their claim to lands lying west of that line, east of the Mississippi River, and south of the Yazoo River. This amounted to more than 2 1/2 million acres in the southwestern corner of Mississippi (Guice 1985, 167). In addition, the Choctaws consented to the opening of a wagon road through their territory (U.S. Statutes 1801; Debo 1934, 34; DeRosier 1970, 29; Ferguson 1985, 215). In 1802, at Fort Confederation, a treaty formalized the southern Choctaw boundary between the Chickasawhay and Tombigbee rivers, along a line drawn earlier by the British (Guice 1985, 167). In 1803, at Hoe Buckintoopa, the treaty clarified the Fort Confederation line and the Choctaw ceded 853,760 acres between the Tombigbee and Chickasawhay rivers, north of Mobile (Ferguson 1985, 215; Guice 1985, 167; Wells 1985, 194).

By the Treaty of Mount Dexter, signed in 1805 (but not ratified until 1808), the Choctaws ceded to the United States a large strip of land containing more than 5 million acres along their southern boundary, surrounding the Hoe Buckintoopa cession on the north and west (U.S. Statutes 1805; Debo 1934, 34; Cotterill 1954, 149; DeRosier 1970, 31-32; Ferguson 1985, 218; Wells 1985, 194). The Choctaws ceded Alabama lands on the eastern edge of their territory by the Treaty of Fort St. Stephens in 1816 (U.S. Statutes 1816; Ferguson 1985, 218; Guice 1985, 166).

By 1818, a committee of the United States Congress recognized that portions of the Choctaw tribe had "gradually emigrated to the west, and formed considerable settlements for hunting, and even for agricultural purposes," on public lands within the Louisiana Purchase. The committee contended that this was "in direct violation of the treaty of Hopewell," and reported a bill to prohibit Choctaw emigration and settlement on the public lands west of the Mississippi until the Choctaws should make a treaty to acquire such western lands in exchange for a cession of their lands in Mississippi. Such a treaty would never be obtained, the committee feared, "so long as the Choctaw

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tribe of Indians are permitted to live and hunt on the lands of the United States west of the Mississippi. . . ." (U.S. House 12/1/1818, 180-181). Andrew Jackson, one of the commissioners appointed by the president to negotiate such a treaty with the Choctaws, proposed telling them that a bill had been reported in Congress "to enforce the return of that part of the [Choctaw] nation which had settled west" of the Mississippi River, and predicting that if they declined to move to the western lands selected for them by the United States those lands would be settled by whites, sold by the Government, and forever lost by the Choctaws (Jackson 4/22/1819, 229).

By the Treaty of Doak's Stand of 1820, the Choctaws ceded to the United States 5.2 million acres of land in Mississippi in exchange for about 13 million acres of land in what is now southern Oklahoma. The lands in Mississippi ceded by the Choctaws represented the southwestern portion of their remaining territory (U.S. Statutes 1820; Debo 1934, 49; Cotterill 1954, 209; DeRosier 1970, 58-68; Ferguson 1985, 217-219). This was the first treaty which contained provisions for removing the Choctaws to the West, and it provided them with all of the land they would ever receive in Indian Territory (DeRosier 1970, 69; Ferguson 1985, 219). The Choctaws, however, did not voluntarily move to the new territory. The new agent appointed for the Choctaws west of the Mississippi reported in 1828 that he believed that at most 50 Choctaws had settled in their new territory. Only eight Choctaws actually had reported to the agent (McClellan 9/28/1828, 753, and McKenney 11/20/1828, 790).

The removal treaty of 1830 was negotiated soon after Congress passed a general Indian Removal Act and the Mississippi legislature passed legislation to extend its laws over the Choctaws and to abolish their tribal governments (Wright 1928, 106; Debo 1934, 51; Cotterill 1954, 239). The negotiators stressed that the president would not protect the Choctaws from the enforcement of state laws if they chose to remain in Mississippi. By the Treaty of Dancing Rabbit Creek, the Choctaws ceded "the entire country they own and possess, east of the Mississippi River" and agreed "to move beyond the Mississippi River" to the lands they had acquired by the treaty of 1820. What was new with the treaty of 1830 was that the United States now agreed to grant these western lands to the Choctaw Nation in fee simple, and to pledge that no state or territory would have the right to pass laws which would apply to the Choctaw Nation. The United States agreed to remove the Choctaws to the West at Federal expense over the period from 1831 to

1833. Choctaw consent to the treaty appeared to be won by the late addition of Article 14, which provided that Choctaw individuals would be permitted to remain in Mississippi, to receive one section of land, and to become citizens of the state (U.S. Statutes 1830, Art. 14; Wright 1928, 104, 109; Foreman 1932, 26-29; Debo 1934, 54-55; DeRosier 1970, 119-126; Ferguson 1985, 217, 220-225).

Some Choctaws emigrated to the West on their own, and the Government encouraged this by approving, in 1831, a "commutation" plan which pledged to pay \$10 upon arrival in the West to each Choctaw who removed at his own expense (Wright 1928, 107-110). The Choctaw removal parties organized by the Government departed from Vicksburg and Memphis in the fall of 1831, 1832, and 1833. Although the removals mandated by the treaty of 1830 came to an end in 1834, Choctaws continued to move from Mississippi to Indian Territory during the remainder of the 19th century. Some emigrated as individuals or in small groups, but the Federal Government again organized removal parties in the mid-1840's. About 5,000 Choctaws were removed during the four years from 1844 to 1847. Several hundred Choctaws emigrated annually for the next several years, and a few hundred more left during the early 1850's (Foreman 1932, 103-104 and 103 n.38; Debo 1934, 70-71).

Free Persons of Color (African Descent) in Southern Alabama. Not all non-whites in early Alabama were American Indian. Several major studies have analyzed the position of free persons of color of African descent in antebellum Alabama. The pioneering effort of Gary B. Mills for "Anglo" Alabama (Mills 1981)⁴ has been followed by the dissertation of one of Mills' students on free Negroes in Mobile County (Nordmann 1990) and Lois Gould's dissertation on free women of color in the Gulf ports (Gould 1991).

Nordmann has documented extensively the development in Mobile County, from colonial French and Spanish origins, of a significant group of non-white families who are ordinarily described as "Creoles of color" or, occasionally, simply as "Creoles." The primary family names were Chastang, Andry, Dubroca, Brue (Broux), and Collins (Nordmann 1990, Chapter 1). Information on several of these families is also

⁴ Mills defined "Anglo" Alabama as being all but modern Baldwin and Mobile Counties. That is, "Anglo" Alabama comprised the area of the state in which the early European settlers were primarily of British and U.S. origin, rather than colonial French or Spanish (Mills 1981, 17).

summarized in Andrews and Higgins' Creole Mobile. A Compendium of the Colonial Families of the Central Gulf Coast 1702-1813 (Andrews and Higgins 1974).

Because of the colonial origins of this group, they were exempt from many provisions of Alabama law which otherwise applied to "free negroes" and "mulattoes." For example, the 1822 Alabama law which forbade "free negroes" and "mulattoes" from selling liquor stated, "Provided, That this act shall not affect any free negro, mulatto, or other person, who, by the treaty between the United States and Spain, became citizens of the United States, or the descendants of any such person" (Toulmin 1823, 643). It was again determined in 1828 by the Alabama General Assembly that the families whom historians designate as "Creoles of color" in Mobile County and Baldwin County were "protected by the Louisiana Purchase Treaty of 1803, 'that had guaranteed to free residents of Louisiana and their descendants the rights, privileges, and immunities of citizens of the United States'" (Nordmann 1990, 37). As an example of the effects of this exemption, Mobile County, during the 1850's, supported public schools for the Creole of color community (Nordmann 1990).

This original group, during the 1820's, was supplemented by new emancipations, as approved by the Alabama General Assembly,⁵ and by free persons of color who migrated of their own accord to the Mobile area (Nordmann 1990, 60). After 1831, it became more difficult to emancipate slaves in Alabama, and Alabama laws pertaining to free persons of color became more restrictive, as was generally the case across the south because of the impact of Nat Turner's rebellion (see Shelly 1971). For example, on February 2, 1839, the Alabama General Assembly passed "An Act The [sic] more effectual to prohibit free negroes and persons of color from entering into and remaining in this State" (Acts of Alabama, 1938, 134-136). Although aimed primarily at sailors and mariners arriving in Alabama ports, the Act contained the two following provisions:

Sec. 6. And be it further enacted, That it shall be lawful for any person to seize and make a slave

⁵ In 1823, Toulmin summarized 13 emancipation acts that had been approved since establishment of Alabama Territory in 1818, covering 42 individuals (Toulmin 1823, 642). During the 1829 session, the Alabama General Assembly approved 28 separate emancipation acts, pertaining to 52 individual slaves (Acts of Alabama 1830, 36-38).

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for life to his own use any free person of color who may have come into the State of Alabama, since the first day of February, one thousand eight hundred and thirty-two: *Provided*, that this section shall not take effect until the first day of August next (Acts of Alabama 1838, 136).

The impact of this provision was to create, as an exempt class within the law, and, therefore, as another distinct class, not only descendants of the Creole of color families who had been in Alabama in 1803, but also those free persons of color who were resident in Alabama prior to February 1, 1832, and, by implication, their descendants born in the state. The petitioner's Reed and Weaver/Byrd ancestors generally fell within this second exempt category.⁶

After the Civil war, Alabama laws defining what made a person non-white continued to become more restrictive, although the "one drop" theory⁷ was not placed into law until 1927 (see below).

As a result of the legal definitions, the handling of "Creoles" and other free persons of color in the county records is not consistent. Before the Civil War, free persons of color were listed in the "white" marriage records in Mobile County. After 1865, Mobile County maintained separate marriage license files for "white" and "colored." Although some members of these Creole families are listed in the "colored" books, others continued to be listed in the "white" books, with no definable pattern emerging.

The major distinction between Mobile County, Alabama's, "Creoles of color" and the petitioner's core ancestral families appears to have been that the primary ancestry of the MBC was "Anglo" rather than French or Spanish colonial, and that the MBC ancestors' religious affiliation was

⁶ It is well to continually bear in mind Mills' caution that many discussions of such discriminatory statutes make "little or no attempt . . . to determine the extent to which these statutes were enforced or the effect that they had on individual lives" (Mills 1981, 18 note 7).

⁷ The "one drop theory" is verbal shorthand for the concept that any amount of African ancestry, no matter how small, perpetually classified the individual or family as non-white within the context of the segregation system.

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ordinarily Protestant rather than Catholic.⁶ Although there were some other connections between the colonial Creole of color families and the petitioner's core ancestral families, the major Creole connection of MBC ancestors in the 19th century came through Jerome Chastang, a son of Cecile Weatherford born prior to her marriage to David Weaver, who seems to have functioned more in association with his Weaver half-siblings than with his paternal Chastang relatives.⁷ Only one other MBC/Creole of color marriage, that of Robert Weaver to Annette Chastang, has been identified in the antebellum period, but members of these Creole of color families served as baptismal sponsors for children of both David and Cecile Weaver and James and Margaret Weaver (Mobile Cathedral 1838-1846).

Terminology. In popular published literature (Carmer 1934), academic studies pertaining to the petitioner (Murphy 1935; Green 1941; Gilbert 1946; Gilbert 1949; Price 1950; Beale 1972; Griessman 1975), and newspaper accounts (Birmingham News 1967), the group has frequently been denominated by the term "Cajan" (also spelled "Cajun"). The term was used by the local non-MBC population to describe the group (Washington County Board of Education 1929). Members of the petitioner regard the term as derogatory. It has been used in this Technical Report only in quotations and where necessary in analysis of source materials that used it.

Development and Usage of the Term "Cajan." The term "Cajan" as used to describe the petitioner's ancestors seems to have been an artificial one, developed in the second half of the nineteenth century to distinguish them both from the Catholic Creoles of color in Mobile and Baldwin Counties, Alabama, and from the population of emancipated slaves (Green 1941, 8). No contemporary documentation was

⁶ However, in the pre-Civil War period, the children of David and Cecile Weaver were baptized as Catholics (Mobile Cathedral 1838-1846).

⁷ Jerome's actual place within the larger Chastang family constellation has not been clearly documented. The petition states that the "Sostang" Chastang whom Jerome Chastang claimed as his father on his Guion Miller Eastern Cherokee Funds application was "Edward Saustiene Chastang," son of Dr. John Chastang (MOWA Pet. Narr. 1988, 17-18). Edward [NMN] Chastang, son of Dr. John Chastang and Louison, a free Negro, left a will which was probated on November 18, 1843. It left his entire property to his eight children by Celeste Collin, a member of another free Creole of color family (Andrews 1992b, 180). Andrews points out that the petition narrative, at this point, had generations confused and asserted chronological impossibilities (Andrews 1992b, 180).

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presented to indicate the term's earliest use. According to oral tradition, Alabama State Senator, L.W. McRae assigned the name to the group, who were among his constituents, about 1885 (Green 1941, 8; Price 1951, 55). This would be approximately the date of the first miscegenation case affecting the Reed family.

The similarity of "Cajan" to the Louisiana usage of "Cajun" has upon occasion resulted in the assumption that this group was of Acadian ancestry (cf. Alabama School Journal, April 1931 in MOWA Pet. 1988, Ex.). In 1934, local tradition, as reported to writer Carl Carmer, was that Daniel Reed, "had a big family o' sons and daughters an' they all looked white an' they all married white. Reckon one of 'em married French an' that was where the name Cajan come from" (Carmer 1934, 259).

Other terminology. It is necessary to be cautious in using early documents to identify the ethnicity of an individual or a family. However, researchers familiar with the process have developed certain criteria. Gary B. Mills writes:

By 1870, census officials had developed reasonably precise criteria for denoting common ethnicities of that era. Marshals were instructed to label individuals White (W), Black (B), Mulatto (M), Chinese (C), or Indian (I); and they were cautioned: "Be particularly careful in reporting the class *Mulatto*. The word here is generic, and includes quadroons, octoroons, and all persons having any perceptible trace of African blood. Important scientific results depend upon the correct determination of this class." On the less-specific pre-1850 forms, individuals who were not perceptibly white had been grouped into a general category whose label varied from "all other free persons except Indians not taxed" (1800) to "free colored persons" (1840) (Mills 1990, 263).

On the early censuses, many well known Indian and mixed Indian-white families were classed as "white" rather than as "free persons of color," but the categories were by no means uniform. In the 1816 census of Monroe County, Alabama, for example, the Creek households of John Weatherford, William Hollinger, and David Tate were classified as "white" (Monroe County, Alabama 1816 Census 1967, 193, 195). On the same census, however, the Creek family of George Stiggins was classified as "free persons of color" (Monroe County,

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Alabama 1816 Census 1967, 193). On the 1830 census of Monroe County, the Creek household headed by John Weatherford was classified as "white" (U.S. Census 1830a, 54), while the Creek households of Mary Weatherford and Susannah Sizemore, among others, were classified as "free persons of color" (U.S. Census 1830c, 55).

Because of this inconsistency, Mills emphasizes the necessity of not relying upon individual records, but determining the question of ethnicity upon the basis of a broad range of documents:

Any assumption of ethnicity on the basis of census data from a single year (or any other single document) may err. Determining the ethnic identity of any family labeled *free people of color* (or *f.p.c.*) on any record invariably requires exhaustive research in the widest-possible variety of resources. This is especially so when treating the large number of southeastern families who traditionally paint their family tree red rather than black (Mills 1990, 264).¹⁰

Mills emphasized that no known Federal or state census authorized the use of the term "mulatto" for Indians, although the census term "free person of color" did include Indians as well as persons of African ancestry (Mills 1990, 265).

The occasional genealogical assertion that a certain family labeled M on a census was actually of Indian extraction almost invariably represents a case of mixed Indian-Negro ancestry or one in which the modern descendant belongs to today's fast-growing Wanna-be tribe (Mills 1990, 265).

BIA policy in matters of Federal acknowledgment is that partial non-Indian heritage, of any ethnicity, is not a bar to acknowledgment as an Indian tribe if the petitioner can demonstrate that the non-Indians joined, by marriage or adoption, an Indian tribe which has existed continuously since first sustained contact with non-Indians.

¹⁰ On this issue, see also Mills' statement that, "Only by claiming to be of Indian, rather than Negro, ancestry were many light-skinned free Negroes able to move out of black society" (Mills 1981, note 3').

Development of Alabama Miscegenation and School Segregation Laws, 1852-1927. A prerequisite for understanding the development of any southern ethnic group whose ancestry includes antebellum free persons of color requires an understanding of the legal conditions which prevailed at various time periods and the social relations which resulted, in part, from the legal status. Understanding these circumstances makes it possible to comprehend the motives which led the members of such groups to claim Indian rather than African ancestry or, in cases where both components were present, to emphasize the Indian rather than the African ancestry.

Prior to the Civil War, the restrictions which Alabama placed upon free persons of color were by no means uniform. Neither were they logically consistent. Over a period of approximately 80 years, from 1852 to 1927, there was in Alabama a steady movement to a stricter legal definition of what made a person "Negro." After the Civil War, Alabama law was apparently interpreted to mean that prohibitions against interracial marriage applied to persons of African descent, but not to persons of Indian descent. The earliest record of possible Choctaw ancestry for Rose (Gaines) Reed took place in the context of a trial in which a white man was accused of miscegenation for having married one of her granddaughters.

The development of the Alabama legal system pertaining to interracial marriage, as it impacted upon the self-definition of the petitioner's ancestors, may be broken down into four primary periods: prior to 1852; from 1852 through 1896; from 1896 through 1927; and from 1927 until the Civil Rights movement.

Before 1852. By the 1830's, the law of Alabama held that,

Negroes, mulattoes, Indians, and all persons of mixed blood, descended from Negro or Indian ancestors, to the third generation inclusive, though one ancestor of each generation may have been a white person, whether bond or free, must not be witness in any cause, civil or criminal, except for or against each other (Mills 1981, 30 note 35).

During the same period, however, the law codes of Alabama did not prohibit interracial marriages: the marriage codes of 1805 and 1833 "authorized designated officials to 'solemnize the rites of matrimony between any free persons'

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who presented a license" (Mills 1981, 18). In other words, prior to 1852, the classification of persons in Alabama as "mulatto," with the accompanying restrictions, extended to persons who were in the "third generation" from any person of fully African ancestry, even though the other parent in each generation was white.¹¹ A classification as "mulatto" did not, however, prohibit a free person of color from marrying a white person.

In 1941, Clatis Green in his thesis on education in Washington County, Alabama, stated that,

The descendants of Rose and Daniel Reed, especially the descendants of the daughters, have never classed themselves as Negroes or even of colored blood. This fact might be attributed to the lack of strict laws dealing with miscegenation at that time. In 1830, the statutes classed Mulattos as one-half white and one-half black. [Acts of Alabama Legislature 1830]; thus we find them neither white nor black (Green 1941, 20).

1852-1896. Clatis Green stated that:

The legislature in 1852 changed this code, extending the term, Mulatto, to the fourth generation from Negro blood [Acts of Alabama Legislature, 1852], and persons of this blood were permitted to marry whites (Green 1941, 20).

In fact, as Gary B. Mills pointed out, although the 1852 Code of Alabama did attempt to restrict interracial marriages, it neither prohibited nor invalidated them.

Antebellum Alabama did not actually outlaw intermarriage between black and white or slave and free. An attempt was made in 1852 to prevent additional marriages of this type by a legislative act that fined officials who knowingly performed them, but under that law a marriage, once it occurred, would not be declared invalid (Mills 1990, 277 note 27).

¹¹ I.e., African ancestor; 1st generation = child ("mulatto"); 2nd generation = grandchild ("quadroon"); 3rd generation = great-grandchild ("octoroon").

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In other words, from 1852 through 1896 in Alabama, persons with one-sixteenth or less African ancestry were legally permitted to marry whites, without restrictions, while marriages between whites and persons of more than one-eighth or more African ancestry were not invalid after they had taken place. This is the legal context in which the miscegenation trial of John Goodman for marrying Virginia Reed took place about 1885 in Washington County, Alabama. It is difficult to comprehend the charge against Goodman, since under the 1852 code, a fine was imposed upon officials who performed interracial marriages, but no penalty was imposed upon the contracting parties (Mills 1981, 19).

1896-1927. Green's thesis continued by saying that,

Again in 1896, this statute was amended extending [the definition of Negro] through to the fifth generation [Acts of Alabama Legislature 1896] (Green 1941, 21).

In other words, in Alabama from 1896 through 1927, persons with one-thirty/second (1/32) or less African ancestry were still legally defined as white. In practice, in addition to being a qualification for marriage with whites, this definition extended also to other aspects of legal status, such as attendance at white schools.

1927-1960's. The "one-drop rule," or insistence that any amount of African ancestry, no matter how small, classified a descendant forever as Negro under the system of segregation, was not placed into the law of Alabama until after World War I--not until 1927. Green writes:

In 1927 the Alabama Legislature changed the term, Mulatto, to mean anyone of Negro blood or person of color who is a descendant of a Negro ancestor regardless of the number of generations removed [Acts of Alabama Legislature 1927]. Therefore, it is noticeable that the laws of Alabama pertaining to the races are more strictly construed with succeeding generations (Green 1941, 21).

This 1927 change of the statute was followed by several lawsuits in the early 1930's, directed at the school systems of Washington County and Mobile County, Alabama, pertaining primarily to the right of children from MBC ancestral families to continue attending white schools. In at least one case in Washington County, students who started school under the pre-1927 law were refused the right to graduate

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under the 1927 law (Washington County News, April 3, 1930). The genealogical material collected by Aubrey D. Price (Price c. 1935), and submitted by the petitioner, was collected by the investigator primarily as the result of an attempt made by the Mobile County, Alabama, school system to ferret out those children whose families, accepted as white for the past several generations, were now to be excluded from the white segregated school system on the grounds that they had a limited amount of African ancestry (MOWA Pet. 1988, Ex. Mobile County Schools File; Aubrey D. Price File).

WHO WERE THE MBC ANCESTORS?

The final section of this report consists of an analysis of numerous claims to Indian ancestry made by the petitioner. The petition states that:

Several early progenitors--Juzan,¹² Hollinger,¹³

¹² See further discussion below, in the section on the Treaty of Dancing Rabbit Creek.

¹³ Adam Hollinger, in addition to his family by his non-Indian wife, Marie Josephine Juzan, had a "half breed son," named William Hollinger, mentioned in an 1808 deed of gift (Washington County, Mississippi Territory 1808). However, the petition does not claim this son as a progenitor. The daughter whom it claims, Caroline (Hollinger) Orso Montgomery, had no American Indian ancestry.

The non-Indian Alexander Hollinger, who was named as a son of Adam Hollinger in 1808, was not the same man as the part-Indian Alexander Hollinger of Baldwin County, Alabama, who was the first husband of a second, different, woman named Caroline (Orso) Hollinger (see charts at the end of this Technical Report for further discussion). The Hollinger family was socially prominent and well-documented. Alexander Hollinger, son of Adam Hollinger, appeared on the 1850 census of Mobile County, Alabama, age 57, with a second wife named Tabitha [nee Tabitha Moore] and family. Tabitha was non-Indian. The petitioner does not descend through this line.

The following analysis is complex, but accurate:

- (a) Caroline (Hollinger) Orso Montgomery did have a son named Zeno Orso, Jr., who was born by 1813, who married Mary Cupp and who lived in Mobile and Washington Counties, Alabama. Mary Cupp was probably a granddaughter of Willis Windham (not William Windham), as claimed in the petition, but there is no evidence that Willis Windham was Indian--census records indicate that he was born in Virginia;
- (b) the Gilbert Orso who first appeared on the census records of Washington County, Alabama, in 1880, never appeared as a child in the earlier census records of the family of Zeno Orso, Jr. and Mary Cupp. Since they were always enumerated as white, while Gilbert Orso and his family were always enumerated as either mulatto or black, it is not probable

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McGillivray, Colbert,¹⁴ Frazier,¹⁵ Cole¹⁶ and Brashears¹⁷--are reflected primarily through

- that he was a child of this family: his origin is not known;
- (c) the Caroline Hollinger who divorced a part-Indian man named Alexander Hollinger, of Baldwin County, in Mobile County, Alabama, in 1859, **may**, on the basis of age and proximity, be the daughter Caroline who appeared with Zeno Orso, Jr. and his wife Mary (Cupp) Orso on the 1850 census. The divorce papers stated specifically that she had no children by Alexander Hollinger. She also **may** be the Caroline Orso who later, according to the petition, married first Milton Echols and then Joseph Platt, and was the mother of Charles Echols who married Alabama Reed, daughter of George and Ellen Britannia (Weaver) Reed in 1884;
- (d) however, for a claim for additional American Indian ancestry for the petitioner, it makes no difference whether Caroline (Orso?) Echols was, or was not, a daughter of Zeno Orso, for the Orso family had no documented American Indian lineage--not from the Orsos, not from the Hollingers, not from the Juzans, not from the Cupps, and not from the Windhams (see further discussion of these lines in the charts at the end of this Technical Report).

¹⁴ The petition claims that George Reed, son of Daniel and Rose Reed, had a second wife, Maria "Colbert," born 1819, the daughter of Thomas Stewart Colbert and Viola (Vann) Colbert of the well-known Chickasaw Colbert family (MOWA Pet. Narr. 1988, 62; 62 note 20), and great-granddaughter of William Colbert. However, Thomas Stuart/Stewart Colbert is not known to have had a daughter Maria.

Levi Colbert, of the Alabama Colbert family, had a daughter Maria; however documentation submitted by the petitioner proves she married Joel Kemp, had Kemp children, and died in Oklahoma after 1846 (Martin n.d., #47).

The documents all say that the Colberts moved west to Oklahoma by the 1850's. The Chickasaw were primarily a northern Alabama tribe. None of the Chickasaw Colbert family were known to have been in the area of Washington or Mobile Counties, Alabama.

¹⁵ The Frazier claim apparently refers to Charles Frazier, interpreter for the Choctaw Factory at St. Stephens, Washington County, Alabama (MOWA Pet. Narr. 1988, 12). He has not been documented as an ancestor of any nineteenth-century MOWA family. The first Frazier to marry into the community was Irene Fraizer [sic] Lofton, born 15, 1893 (Washington County Historical Society 1989, 232). There is a gap of 80 years between the appearance of Charles Frazier in the documents and the birth of Irene Fraizer.

¹⁶ See discussion of this claim in the body of the report, under the Reed family.

¹⁷ The petition states that the MOWA descend from Turner Brashears, who "had mixed blood families among the Creeks and the Choctaws" through a son Samuel Brashears who married Rachel Durant, daughter of Benjamin Durant and Sophia McGillivray (MOWA Pet. Narr.

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female lines, resulting in the loss of their surnames.¹⁸ Reed, Weaver, Rivers and Byrd are the surnames that have survived the passage of generations and represent the four major kinship groups (MOWA Pet. Narr. 1988, 30).

However, BAR research disproved most of the Indian ancestry claimed on these "female lines," and could not confirm the remainder except for those which came through the Brashears family (see the "Families with Documented American Indian Lineage" section of this Technical Report and the charts in the final section of this Technical Report). The present section presents a study of the core MBC families, the "major" ancestral families claimed by the petitioner, attempting to weigh the documentation pertaining to their ancestry and the circumstances of their original residence in southwestern Alabama.

Reed Family.

Petition Claims. According to the petition, one ancestral couple is defined as Daniel Reed (half Creek) and his wife Rose, whose birth date is given as 1797, the daughter of the white interpreter Young Gaines¹⁹ and a Yowanni Choctaw

1988, 20), and who, along with his in-laws, petitioned President Madison in 1815 (MOWA Pet. Narr. 1988, 26-27; 27 note 8).

In 1815, Samuel and Alexander Brashears petitioned the United States Government, as Creeks (NARS RG 75, Microfilm Series 271, Roll 1, May 29, 1815). Later, Alexander Brashears is mentioned in the American State Papers (ASP, Public Lands, 1528) as one of those Choctaw who "wished to become citizens" under the act of 24 August 1831. He was described as "Indian, half breed" with five children under 10 and two children over 10. In 1833, he was still living in Sumter County, Alabama, but he had moved to Mobile County, Alabama, by 1846 (Guion Miller Application 1908, #9576, Emeline Jane Smith). In 1850, he was enumerated on the Federal census in Mobile County, Alabama. See additional discussion in the body of the Technical Report, in the section on MBC families with documented American Indian lineage.

¹⁸ For further discussion of the Juzan, Hollinger, and Colbert claims, see the charts in the final section of the Technical Report. The McGillivray claim comes through either the Durant/Jones line, which cannot be verified (see the charts in the final section of the Technical Report), or through the Brashears line, which can be verified, but which does not marry into the petitioning group until after 1880 (see discussion in the body of the Technical Report).

¹⁹ Young Gaines was already an inhabitant of the Mobile jurisdiction on October 10, 1787, when he filed for a Spanish warrant of survey for 20 acres on the Tombigbee River (American State Papers (hereafter cited as ASP) 1834b, 622). According to testimony he gave at

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woman named Kul-il-o-ka (Kachiloke) (MOWA Pet. Narr. 1988, 14, 31). According to the petitioner, oral tradition²⁰ maintained that Rose's Choctaw mother moved to Rapides, Louisiana (MOWA Pet. Narr. 1988, 33), but that Rose remained in the care of a slave woman of Young Gaines, from whom Daniel Reed purchased her.

The petition does not address the question of why, if Rose were the daughter of a free Choctaw woman, she would have been held as a slave and later emancipated. There is no documentation for the alleged purchase of Rose from Young Gaines by Daniel Reed. The date must have been prior to her emancipation in 1818. In 1828, in Perry County, Mississippi, Daniel Reed did purchase the freedom of his son George (born about 1814 or 1815) from Young Gaines, for \$525.00. Daniel filed the deed in Washington County, Alabama (MOWA Pet. 1988, Ex. Reed File). The price

a Federal land hearing in 1804, Young Gaines was in Alabama in 1788 and 1789 (ASP 1834b, 618). The 1797 Spanish census of the District of San Esteban, Alabama did not list him as resident in 1796 (Holmes 1966, 123).

The 1803 tax list of Washington County, Mississippi Territory, listed Young Gaines as owning 2,400 acres and holding 12 black polls [slaves upon whom he owed tax] (Strickland and Strickland 1980, 5). On the 1804 tax roll, Young Gaines, Jr. held four slaves, Young Gaines, Sr. held 12 slaves, and his mother-in-law, Ann Lawrence, held four slaves. In addition, David Gaines held one slave (Strickland and Strickland 1980, 5, 8). In both years, the Gaines family is listed in proximity to Levin Hainsworth, with whom the Reed family would later be associated (Strickland and Strickland 1980, 5-6). The 1810 census of Washington County, Mississippi Territory (now Alabama) listed Young Gaines with five white males over 21; two white males under 21; one white female over 21, three white females under 21, no free persons of color, and 32 slaves (Washington County (Now) Alabama 1967, 126).

The traditional story mentioned in the petition about Young Gaines' supposedly hiding treasure "when the Yowanni moved west in 1805" (MOWA Pet. Narr. 1988, 41), may be a version of a folklore story about the royal store-house keeper at St. Stephen's having done so during the Spanish period, and having been killed before he could reveal the location (Holmes 1965, 285, citing to New Decatur (Ala.) Advertiser, January 28, 1899).

²⁰ When the petition cites oral history or oral tradition, it frequently does not indicate the source. Upon occasion, it refers to interviews with specific persons, most of which took place in the 1970's or 1980's, in connection with preparation of the petition. The petitioner did not submit either the oral interview tapes or full transcriptions of these interviews for BAR use. The Rivers family file contains one three-page transcription. Otherwise, citations to "oral history" indicate that this is a claim made in the petition narrative, unless some other source is specified in the discussion.

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represented fair market value for a 14-year-old male slave: it was not a token sum.

The claim of the petition that Young Gaines supposedly sent a carriage to Louisiana to bring back Kul-il-o-ka and her children (MOWA Pet. Narr. 1988, 34) should be considered in light of the statement that, "the two regions of white settlement [on the Tombigbee and Mississippi rivers] were separated by about one hundred fifty miles of almost impenetrable wilderness, and until 1813 travel between them via the two rivers and the Gulf of Mexico was possible only at the sufferance of Spain" (Lightner 1967, 188).

Daniel Reed.

Petition Claims. The MOWA petition states that "according to oral history," Elizabeth Reed was the Creek mother of Daniel Reed (MOWA Pet. Narr. 1988, 17; 35-36), but does not footnote the source of the oral history.²¹ The MOWA petition alleges, also on the basis of oral tradition, that a George W. Reed, supposedly the son of Hardy Reed and a Creek woman whose maiden name was Elizabeth Tarvin, was the brother of Daniel Reed,²² as were Amos Reed and Squire Reed, but provides no documentation for these assertions, and BAR researchers located none (MOWA Pet. Narr. 1988, 17, note 38; 39-40; 40 note 48).²³ Neither does the petition document that the "Millie" or "Mihee" Reed listed on the

²¹ The petition references an interview: "Israel Reed, whose grandfather, Israel Reed, was a former slave who belonged to Daniel Reed, said that Daniel Reed's mother outlived Daniel and went west on the Oregon boat" (MOWA Pet. Narr. 1988, 36 note 37). However, no transcript of the interview was submitted with the petition. The reference did not indicate when or by whom the interview was done or where it was available.

On the basis of nothing more than an overlapping land claim and oral history, the petition also states that Elizabeth Reed was apparently a wife of Pierre Juzan (MOWA Pet. Narr. 1988, 17 and 17 note 38).

²² The documents cited by petition as pertaining to this George W. Reed (MOWA Pet. Narr. 1988, 39-40) may or may not all apply to the same man, and there is no documentation to indicate that the man, or any of the men, to whom they pertained was a brother of Daniel Reed.

²³ On the 1816 census of Monroe County, Alabama, George W. Reed was listed as having a household consisting of one white male under 21, one white male over 21, one white female over 21, no free persons of color, and no slaves (Monroe County, Alabama 1816 Census 1967, 190). A Ruben Reed was also listed in this census (Monroe County, Alabama 1816 Census 1967, 193).

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1829 Creek Removal Rolls had any genealogical relationship to Daniel Reed, but says only that the names of her children were "similar" to the names that Daniel and Rose Reed gave their children (MOWA Pet. Narr. 1988, 40; 40 note 50). Elsewhere, the petition suggests that Daniel Reed was possibly a descendant of Peter Reed, a non-Indian who was an interpreter for the British in 1763 (MOWA Pet. Narr. 1988, 35), but again provides no documentation for the hypothesis presented, nor does it indicate the existence of any known filial relationship between Peter Reed and Hardy Reed. The petition also presented, but did not document, a claim that Daniel Reed was Young Gaines' overseer (MOWA Pet. Narr. 1988, 34, 41).

Origins. Daniel Reed's exact date of birth is not known. He was certainly of age in 1818 when he emancipated his wife Rose, which means that he was unquestionably born before 1797. As his oldest known child, Judy, was born between 1805 and 1812 according to the census records (U.S. Census 1850a; U.S. Census 1860a), it can be estimated that he was probably born by 1785/1792. However, he may have been considerably older: tradition stated that he was 77 years old at the time of his death in 1844 (Green 1941, 13), which would place his birth in 1767.

Daniel Reed's origins are not conclusively documented either. His birthplace was variously given as Mississippi (1880 Federal census record of a daughter),²⁴ Texas (1900 Federal census of a son),²⁵ Mexico (Guion Miller Eastern Cherokee Applications 1907, 43,606, Alabama (Reed) Echols; Guion Miller Eastern Cherokee Applications 1907, 41,604, Wesley Reed; Guion Miller Eastern Cherokee Applications 1907, 41,606, Ruben Reed), or, according to one grandson, Kentucky (Guion Miller Eastern Cherokee Application 41,718; Seaborn Reed, 1907). The petitioner's ancestry charts say

²⁴ 1880 U.S. Census, Washington Co., AL, #3/3: Willis Daugherty, w, m, 51, farmer, b. AL, father b. Ireland, mother b. AL; Emeline E. Daugherty, f, 45, wife, b. AL, parents b. MS; Mary, mu, f, 23, dau; John F., mu, f, 21, son; Louisa, mu, f, 15, dau; Ida, mu, f, 12, dau; Ella, mu, f, 9, dau; Belle, mu, f, 5, dau; John Windham, w, m, 80, laborer, b. GA, parents b. GA (U.S. Census 1880b, 141A line 13).

²⁵ 1900 U.S. Census, Washington Co., AL, Precinct 8 Reeds, #29-32: Reuben Reed, B, b. 2-1824, AL, father b. TX, mother b. AL; Emma, b. 1-1843, AL, parents b. GA; Rose, b. 12-1864; Needham, b. 2-1867; Mollie, b. 7-1870; Reuben Jr., b. 3-1874; Dave, b. 4-1876; Wheeler, b. 1-1878; George, b. 2-1881; John, b. 3-1885; Percy, b. 4-1889; Alice, Granddau, b. 12-1887 (U.S. Census 1900b, 68A).

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that Daniel Reed was born in Spanish West Florida, but cite no source for this information.²⁶

Non-family tradition pointed to a possible Caribbean or Hispanic origin for Daniel Reed. Local oral history collected in 1941 by A.D. Price said he was from Santo Domingo (Green 1941, 8); local tradition reported to Carl Carmer in 1934 said he was from Jamaica (Carmer 1934, 250). In a 1920 trial in Washington County, Alabama, one of Daniel Reed's grandsons, Reuben P. Reed, testified that:

Daniel Reed, who was Percy Reed's grandfather, was a Spaniard. I never saw him, but Mr. Powell Johnson said he was a quarter Spaniard. The Judge [referring to the Goodman trial, which took place in the 1880's] asked him if he was Spanish he said he ought to have been, he lived in Louisiana, where there was nothing else for seven years (MOWA Pet. 1988, Ex. Reed File).

No document submitted by the petitioner which pertains to Daniel Reed said that he was Indian, or of partial Indian ancestry. Apparently, the first time this claim was made was in the MOWA petition itself. None of the possible birthplaces listed on various nineteenth-century documents lends credence to claims of Creek ancestry for Daniel Reed

Various writers have claimed that Daniel Reed was listed as a freed Negro in Toulmin's 1823 Digest of Alabama Laws (for example, Carleton 1992, 254). Clatis Green stated that,

[t]here is no authority other than tradition that Daniel Reed, the man of color, was of the French or Spanish colonies, but he was constantly referred to as a freed slave from San Domingo. Be this as it may, it is known that he is listed as a freed Negro in Toulmin's Digest of Alabama Laws [p. 642] (Green 1941, 8).

However, the actual citation in Toulmin says "free negro" not "freed Negro" (Toulmin 1823, 642), and no contemporary

²⁶ A logical hypothesis might be that this supposition was made on the basis of the oral tradition that Lemuel Byrd, who is documented as having served in the Seminole War from Georgia during 1817, supposedly hanged two of Daniel Reed's brothers, leading to "bad blood" between the two men (MOWA Pet. Narr. 1988, 35 note 33, referring to testimony given "under oath" in miscegenation cases, 1920-30). However, the petition never specifically makes this connection.

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document describing him as either a "freed Negro" or "freed slave" has been located by BAR researchers.

Daniel Reed "established himself in the southwest corner of what is now Washington County, Alabama, about nine miles northeast of Deer Park, Alabama. Here Daniel built a double-pen log house and started life in Washington County with his wife, Rose, whom he supposedly had purchased from the Gaines" (Green 1941, 9-10). The date of his arrival is not well documented.²⁷ The 1805 tax roll of Washington County, Mississippi Territory, shows a Daniel Reed as a free male over 21 (Strickland and Strickland 1980, 23), but it is not known if the entry refers to the MBC ancestor, as there were other Reeds in the county as well: Amos Reed in 1805 and 1808, and John Read in 1813 and 1814 (Strickland and Strickland 1980, 16, 40, 77, 86). The petition states that Daniel Reed and Amos Reed "were listed together" paying personal property tax in 1805 (MOWA Pet. Narr. 1988, 36), but their names are not adjacent, or even near to one another, on the tax list. He was not listed as a head of household in the 1810 census of Washington County, Alabama. However, the county contained five unnamed free persons of color living in five separate white households (Washington County (Now) Alabama 1867, 126, 128, 133).²⁸

Legal Records. A number of legal records and documents have been located which chart the life of Daniel Reed after his settlement in Washington County, Alabama. These included one land purchase in the time period 1817-1820²⁹ and two

²⁷ Report of the Senate Select Committee on Indian Affairs, to accompany S.282, MOWA Band of Choctaw Indians Recognition Act, states "This particular community has existed since at least 1800" (U.S. Senate. Select Committee on Indian Affairs 1993, 1).

²⁸ The households of George Brown, Muriah McRae, Thomas Malone Priscilla Miles, and Henry Jones (Washington County (Now) Alabama 1867, 126, 128, 133).

²⁹ Relinquishment. Daniel Reed of Washington County, under Act for the relief of the purchasers of the Public Lands prior to the 1st day of July, 1820; relinquish St. Stephens purchase: Sept. 30, 1817. No. 2181, date Oct. 30, 117, 2 1/2 of NE Section 28 Twp 6 Range 2 W. Applied to following purchase: 1817 Sept. 30, 2181, 1817 Oct 30. E 1/2 of NE sectin 28 Twp 6 range 2 W, signed 15 September 1821, Daniel Reed X mark Reed (seal), wit. Hiram Morrison for Israel Pickens, Register MOWA Pet. 1988, Ex. Reed File).

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others in 1836.³⁰ He was listed as a free person of color in the 1830 and 1840 Federal censuses of Washington County, Alabama.³¹ In addition to Rose, he emancipated three of their children: Judy and Eliza in 1820; and George in 1829.³² The remainder of his children by Rose were

³⁰ Land Office--St. Stephens, Ala. No. 7532. June 13, 1836. Daniel Reed of Washington County, Alabama, purchased South West quarter of the South West quarter of Section No. Thirty five of Township number five in Range number three West containing 39 95 1/2 Acres at the rate of One Dollar and Twenty Five Cents per Acre, amounting to Forty nine -- 94 Dollars (MOWA Pet. 1988, Ex. Reed File; Hahn 1983, 83).

Land Office, St. Stephens, Ala. October 11th 1836. Daniel Reed of Washington County, Ala., on this day purchased South east quarter of the North east quarter, of Section Number twenty eight of Township Number Six in Range Number two, West, 39 90 1/2/100 acres. \$49.88 (MOWA Pet. 1988, Ex. Reed File; not referenced in Hahn 1983).

³¹ 1830 U.S. Census, Washington Co., AL: Daniel Reed, 10 fpec in household (U.S. Census 1830b, 255).

1840 U.S. Census, Washington Co., AL: Daniel Reed: 1 wm 30-40; no white females; fpec: 3 males under 10, 3 males 10-24; 1 male 55-100; 3 females under 10; 2 females 10-24; 1 female 55-100; 1 female over 100 (U.S. Census 1840b, 275).

³² All of these emancipation documents, for Rose Reed, Judy and Eliza Reed, and George Reed, were submitted as exhibits by the petitioner.

AN ACT,
TO AUTHORIZE THE EMANCIPATION OF CERTAIN SLAVES THEREIN NAMED,
Be it further enacted that DANIEL REED, a free man of color, of the county of Washington, be and he is hereby authorized to emancipate certain Mulatto slaves, Judy and Eliza (Acts of Alabama 1820, 44).

[Washington County, Alabama, Deed Book], p. 198:
Young Gaines)

To Daniel Reed) Bill of Sale

Know all men by these presents that I Young Gaines of the County of Perry and State of Mississippi in consideration of the Sum of five hundred and Twenty five dollars paid to me by me Daniel Reed of the County of Washington and State of Alabama. The receipt whereof I do hereby Acknowledge do hereby give, grant, bargain, Sell and Convey unto said Daniel Reed his son George for the Sum foresaid to have and to hold the Son George against the lawfull [sic] Claims and demands of all persons. I do hereby warrant and defend the said George unto the said Daniel Reed against the lawful Claims and demands of person or persons to have and to hold as his own right and property.

Signed Sealed and delivered

in presence of

Young Gaines (LS)

Test

George D. Gaines)

September 25th 1828

James M. Bradley)

Recorded the 21st day of October 1829.

Wm Grimes Regr.

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apparently free-born. It is unclear whether one son, Baptist or Battease,³³ mentioned in Daniel's will (see below) but not in Rose's will, was the child of another woman, or died without heirs between 1844 and 1873.

The will of Daniel Reed, probated 31 August 1844, in Washington County, Alabama, reads as follows:

I, Daniel Reed of the said County do make this to be my last Will and Testament, being in my proper mind. After paying my just debts, first, I give

(MOWA Pet. 1988, Ex. Reed File)

Clatis Green wrote that there was a statute of the Alabama Legislature, approved January 20, 1830; Acts of Alabama of 1830, p. 36: declaring certain alleged members of this family "free persons of color" (Green 1941, 39-40). He was apparently referring to the following:

Sec. 9. And be it further enacted, That Daniel Reed, a free man of colour of the county of Washington be, and he is hereby authorized to emancipate a certain mulatto male slave by the name of George Reed (Acts of Alabama 1830, 36).

" p. 252

State of Alabama)
Washington County) Know all men by these Presents that we James Johnston and Daniel Reed as principals and B L Turner as Security are held and firmly bound unto J D Lister Judge of the County Court of Washington County and State Aforesaid and his Successors in office in the penal Sum of five Thousand dollars good and lawful Money of the United States of America for which payment well and truly to be made we bind ourselves and our heirs Exors adms and assigns Jointly Severally and firmly by these Presents as Witness our hands and Seals this 17th July 1843. The condition of the above obligation is Such by the last will and testament of Joseph Johnston one Negro boy of his by the name of Baptist to be emancipated from the bonds of Servile Slavery. In consequence of the with of the Said Testator, by an Act of the last Legislature of said State of Alabama as aforesaid, did grant and make free the said boy Baptist on condition that James Johnston & Daniel Reed enter into bond and Sufficient Security to be approved by the Judge as afore said that the said Baptist should never become a charge to the State, or County in said state & demean himself agreeable to Said act which Emancipated him then this obligation to be void & none effect or otherwise to be and remain in full force and virtue in law. James Johnston (Seal) Daniel his X mark Reed (seal) B J Turner. Attest John Rain. I Joseph D Lister Judge of the County Court of the county of Washington do approve of the Security as given by the said Johnston & Reed this 17 July 1843 J D Lister Judge County Court. Recorded July 20th 1843. H J Y Moss Repr. (MOWA Pet. 1988, Ex. Reed File).

The will of Joseph Johnston was probated July 3, 1839, in Washington County, Alabama (Matte 1982, 409).

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and bequeath unto my dearly beloved wife, all my lands and tenements, also my hogs and cattle, also sheep and horses. I also give and bequeath her all my household and kitchen furniture. I give unto my dearly beloved daughter, Lucretia Reed, four calves; to my dearly beloved daughter, Emaline Reed, eight heifer calves; also to my beloved son, Ballease [sic], three two-year old heifers. I also bequeath unto my son, William Reed, my blacksmith tools. I also appoint my son, William Reed, executor of my estate. Daniel his X mark Reed (Green 1941, 12; quoting Washington County Deed Record B, 69).

According to Green, Daniel Reed's will was "admitted to Probate August 31st 1844 by the Hon J D Lister the County Court of Washington County Ala Attest H J Y Mars Clk. Recorded August 31st 1844 by H J Y Moss Repr. (Green 1941, 12). Green added: "Although Daniel's will did not specify all his children, it was administered to each, share and share alike" (Green 1941, 12; citing "Personal record kept by R.D. Hooks, Tainette, Alabama, secured May 1, 1941).

According to Green, after Daniel Reed's death in 1844, when his will was presented at the probate office for recording, the following names were given as the names of his children: Julia Ann Reed, Eliza Reed, George Reed, Matilda Ann Reed, William Reed, Reuben Reed, Lucretia Reed, and Emaline Reed (Green 1941, 11; citing Washington County Census Record K, 211). "Immediately following these names is found seals of the probate judge and county clerk, certifying that these children, being children of free persons of color, were free" (Green 1941, 11).

There is nothing in the court records pertaining to the estate of Daniel Reed that would indicate his children were considered to be of American Indian ancestry. Rather, the implication of the wording of the court records is that their non-white ancestry was considered, in 1844, to be African:

I, Josiah D. Lister, Judge of the county court of the county aforesaid do hereby certify that I know of my own personal knowledge that the persons named on the other side of this sheet are of right free, they being the children of freed persons of color who were made free by a special act of the Legislature of the said state. In witness whereof I have hereunto set my hand and seal this August

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31st, 1844. (Green 1941, 11; quoting Washington County Census Record K, 212).

Be it remembered that on the date hereof before me, Henry J.Y.Y. Moss, Clerk of the County Court of the county aforesaid mentioned, personally appeared to the Honorable Josiah D. Lister, Judge of the County Court, whose proper signature to the foregoing certificate was appended and he acknowledged that he signed and sealed the same on the date thereof and for the purposes therein mentioned. Given under my hand this 31st day of August in the year 1844 (Green 1941, 11; quoting Washington County Court Record A, 95).

Oral History and Local Tradition. In 1934, writer Carl Carmer, author of Stars Fell Over Alabama, made a special trip to investigate the "Cajan" settlement in Washington and Mobile Counties. He reported the local oral tradition, from a local farmer from Vinegar Bend, north of Citronelle, that the Reeds came from Tibbie, that Daniel Reed was a free Negro from Jamaica who had come into Washington County almost a hundred years before, that he had bought a bondswoman named Rose from General Gaines,³⁴ and had built the overnight stopping point/hotel/cow pen for cotton wagons, etc., along the road going from Choctaw County and north Washington County to market in Mobile. This was still, in 1934, known as the Rose Reed place (Carmer 1934, 259).

Was there any possible connection of Daniel Reed to a "historical tribe" in the acknowledgment context? There is no indication in the documentary record pertaining to the life of Daniel Reed in Washington County, Alabama, from 1811 through 1844, to indicate that he was in any way associated with any tribe of American Indians, or with families of known American Indian descent. His was the only family of free persons of color that resided permanently in antebellum

³⁴ George S. Gaines, Choctaw Factor 1807-1818 (Guice 1985, 163). "Perhaps no local individual enjoyed the respect of the Choctaw more than did George Strothers [sic] Gaines. . . . Although Gaines resided in his post as factor in 1818, he continued to be a favorite among the Choctaw" (Wells 1985, 197).

"As early as 1805, settlers in Washington County petitioned for the removal of the Choctaw factory into the Choctaw nation, but it remained at St. Stephens until it was relocated in 1814 at Ft. Confederation, further upriver" (Guice 1985, 163). Wells dates the relocation to 1819 (Wells 1985, 197).

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Washington County, Alabama. The 1840 U.S. census showed all of his neighbors bearing non-MBC surnames.³⁵ None of the claims made in the petition which portrayed him as of partly Creek ancestry could be verified by BAR research. The witnesses and securities who appear associated with him in all records located were white American citizens.

Rose (Gaines) Reed. Rose Reed was emancipated by Daniel Reed, under an Act of the Alabama Legislative Council, in 1818.³⁶ This is the first documentary record of her existence. The standard conclusion by local historians has been that she was "a slave woman, Rose, who was owned by a family by the name of Gaines, large landowners, who had moved from Perry County, Mississippi Territory, to St. Stephens" (Green 1941, 9).³⁷ Nineteenth-century testimony associated her with the household of George S. Gaines.³⁸ The Gaines family's American origin was in Virginia, but George S. Gaines was born in North Carolina. The family moved to Tennessee in 1794 (Ball 1882, 444).

Petition claims. As can be seen above in the section dealing with the MOWA Petition claims pertaining to the Reed family generally, the interpretation of Rose Reed's origins

³⁵ On one side of Daniel Reed, the ten heads of household bore the names: Benjamin Woolard, Daniel Nix, Thomas Norton, W.H. Markham, Benjamin Needham, William Nicholson, Harvey Stokeley, David Rudder, Thomas Wilson, and Benjamin Moseley. On the other side of him, the ten heads of household were: L.B. O'Neil, John W. Overstreet, Berry Robinson, Daniel Robinson, Drury Reynolds, James Wallace, James Pary, W.W. Puckett, N.T. Posey, and G. W. Roney (Chapman 1970, 152-153).

³⁶ A date of emancipation which certainly refutes the testimony at a legal hearing in Chatom, Washington County, in Alabama, in January 1929, pertaining to the right of Reed descendants to attend the white schools, which stated that "one Rose Reed, supposedly a Negro, was sold on the auction block at Jackson, Alabama, during the Civil war" (Alabama School Journal April 1931 in MOWA Pet. 1988, Ex.). If there was a Rose Reed sold in Jackson during the Civil War, it was not the ancestress of the petitioner's Reed family. Other hearsay testimony at the same hearing claimed that Rose Reed was a Cherokee Indian "enslaved and sold along with the imported Africans" (Alabama School Journal April 1931 in MOWA Pet. 1988, Ex.)

³⁷ Green reversed the actual Gaines migration: Young Gaines first lived in Alabama, and then moved to Perry County, Mississippi, where he died in 1829. George S. Gaines moved to Alabama from Tennessee in 1805, and then to State Line, Mississippi, about 1856.

³⁸ He born in Stokes County, North Carolina, in 1784 and died in December, 1872, at State Line, Mississippi (Matte 1982, 160).

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presented by the petitioner differed dramatically from Clatis Green's conclusion in 1941. To restate, the petition claims that her father was the white planter and Choctaw interpreter, Young Gaines, and that her mother was a Choctaw woman who moved to Rapides Parish, Louisiana, early in the nineteenth century (MOWA Pet. Narr. 1988, 14, 31, 33). The petition says that when her mother moved to Louisiana, Rose remained in the care of a slave woman of Young Gaines, from whom Daniel Reed purchased her. The petition does not address the question of why, if Rose's mother was a free woman, Rose would have been held as a slave in the household of her alleged father and come into the possession of her husband as his slave. There is no documentation for the alleged purchase of Rose from Young Gaines by Daniel Reed.³⁹ None of the claims about her family made by the petitioner could be verified by BAR researchers.

Some of the claims could be disproven. For example, the man whom the petition calls Jerry "Gaines," Rose's brother (MOWA Pet. Narr. 1988, 34 and 34 note 31), can be documented as having been born in Mississippi, the son of Philip Goins and his Choctaw wife Oti (Nash 1990a, Nash 1990b; 1810 census, St. Landry Parish, Louisiana).⁴⁰ The petition actually notes that Texas records carry his family as "Goins". If it were true that Jerry/Jeremiah Goins was the brother of Daniel Reed's wife Rose, then the petition erroneously attributes her parentage. If Rose were indeed a Gaines, then Jeremiah Goins was not her brother. None of Nash's Goins research documented a sister named Rose for Jeremiah Goins (Nash 1990a, Nash 1990b).

Contemporary Legal Documents. The emancipation document for Rose Reed does not indicate that she was of American Indian origin:

An Act to Authorize Daniel Reed to emancipate his
Mullatto Slave Rose.

Sec 1. Be it enacted by the Legislative Council
and House of Representatives of the Alabama
Territory, in General Assembly Convened, That

³⁹ It is documented that in 1828, in Perry County, Mississippi, Daniel Reed did purchase the freedom of his son George (b.c. 1815) from Young Gaines (see above). For a general critique of these claims, see Andrews 1992b.

⁴⁰ A rapid check of the early records of St. Landry Parish, LA, indicated that there were numerous Reed families in residence in the first two decades of the nineteenth century.

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Daniel Reed, a free male of Colour, be, and he is hereby, authorized and empowered, to emancipate, set free and discharge from the bonds of Slavery, his Mullatto Slave named Rose; provided that he shall give bond, payable to the Governor of the Alabama Territory, Conditioned, that the said Woman Rose shall not become Chargeable to any county or Town within the Territory; which bond shall be filed in the Office of the Clerk of the County Court of Washington County agreeably to the provisions by law in such cases made and Provided. Gabriel Moore Speaker of the House of Representatives. James Titus President of the Legislative Council. Approved 13th February 1818. Wm W Bibb Governor of the Alabama Territory. Daw. Coleman clk Feby 13th 1818 (Acts of Alabama Legislative Council 1818, 66).

Neither do any of the Federal census records in which she was individually listed indicate that she was Indian.⁴¹ Two Federal census records indicate that Rose was born in Mississippi (U.S. Census 1850b, 331; U.S. Census 1870b, #54/54); one states that she was born in Alabama (U.S. Census 1860b, 1004). Her children ordinarily told the census taker that she was born in either Mississippi (U.S. Census 1880b, 141A) or Alabama (U.S. Census 1880b, 124B; U.S. Census 1880b, 126A; U.S. Census 1900b, 68A). One Guion Miller application by a grandson indicates that she was born in northern Alabama (Guion Miller Eastern Cherokee Applications 1907, 41,606, Ruben Reed).

⁴¹ 1850 U.S. Census, Washington Co., AL, #40/40: Rosa Reed, 70, F, mu, \$100, b. Miss; Reuben, 25, m, mu; Matilda, 33, f, mu; Delia, 20, f, mu; Eliza, 10, f, mu; Sarah, 7, f, mu; Thomas, 3, m, mu; Rosa, 1, f, mu. (U.S. Census 1850b, 331). Delia is unidentified in the petitioner's genealogical submissions. It is possible that this was the daughter "Lucretia" who otherwise doesn't show up on the 1850 census.

1860 U.S. Census, Washington Co., AL, #337/337: Rose Reed, 80, f, mu, farmer, \$200, \$2470, b. AL; Matilda, 45, f, mu, b. AL; Reuben, 38, m, mu, b. AL; Virginia, 17, f, mu; Rose, 14, f, mu; Benjamin, 9, m, mu; Rebecca, 7, f, mu; Eliza, 4, f, mu; Lettie/Lethe, 2, f, mu; Needham Bryant, [W], 48, laborer, b. AL; Benj. Chapman, 46, [W], b. Tenn. (U.S. Census 1860b, 1004).

1870 U.S. Census, Washington Co., AL., Beat #4, P.O. State Line, Mississippi, line 28, #54/54: Bryant, Needham, 56, m, w, farmer, \$200, b. AL; Rosa, 24, f, keeping house, b. AL; Rebecca, 16, f, w, b. AL; Eliza, 14, f, w, b. AL; **Rose, 95, f, w, b. Mississippi**; Reed, 50, f, w, b. AL; Frank, 6, m, b. AL; Walter, 3, m, b. AL; Fredric, 2/12, m, w, b. AL (U.S. Census 1870b).

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Two of these Federal census records indicate that Rose Reed was born about 1780 (U.S. Census 1850b, 331; U.S. Census 1860b, 1004), while one indicates her birthdate as approximately 1775 (U.S. Census 1870b, #54/54). As her youngest known child, Emeline, was apparently born between 1830 and 1835 (U.S. Census 1860b, 1005; U.S. Census 1870b, 107; 1880 U.S. Census 1880b, 141A), a birthdate of approximately 1780, as indicated by the census records, is a few years too early to be consistent with a woman's normal childbearing span of 15-45 years. Emeline's age would indicate a probable earliest birth date for Rose of between 1785 and 1790.

As Rose's oldest known child, Judy, was born about 1805/1812 (U.S. Census 1850a, 455; U.S. Census 1860a, 147), Rose could have been several years younger than indicated by the census records, but, extrapolating from the birth date of her last child, she could not have been older. The birthdate of 1797 given for Rose on some ancestry charts submitted by the petitioner was apparently reached by subtracting 15 years from 1812 (the later of two census birth dates for her daughter Judy), as no other documentation exists for it.⁴² Her apparent age casts doubt upon the petitioner's claim that Young Gaines was her father (MOWA Pet. Narr. 1988, 31), since the earliest date so far located indicating his presence in the Mississippi Territory was 1787 (ASP 1834b, 622).⁴³

Testimony in Court Suits. The petitioner presented an extensive transcript of testimony taken in a 1918-1922 miscegenation case that resulted from the marriage of Percy Reed and Helen Calkins (MOWA Pet. 1988, Ex. Reed File). Testimony concerning Rose Reed's ethnicity was inconsistent. It was given at a time greatly removed from the events being discussed. Some of the testimony presented in court was chronologically impossible.

In an affidavit dated November 14, 1920, Jennie Rain Williams, age 78, born near Tibbie in Washington County, made a limited statement. She said that she knew the "Daniel Reed old place," near Tibbie. She did not know Daniel Reed, and was told that he died in 1844. She knew

⁴² The second known child, Eliza, was born about 1812/1816 (U.S. Census 1850a, 472r; U.S. Census 1850b, #41/41; U.S. Census 1860b, 1007).

⁴³ The earliest date for Young Gaines' presence in Alabama documented in the petition was 1799 (MOWA Pet. Narr. 1988, 31 note 23).

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Rose Reed, "who was a widow when I reached the age at which I could understand. She lived in my neighborhood until her death nearly 50 years ago." Ms. Williams never knew George S. Gaines [who was supposedly Rose Reed's father] (MOWA Pet. 1988, Ex. Reed File).

The original testimony of John J. Richardson, 74 years old, contained statements which were chronological improbabilities or impossibilities. He said that he had seen Rose Reed's mother at George S. Gaines' home,⁴⁴ and that Rose's mother was

a mighty old woman when I knew her, a yellow woman, mulatto, ginger cake color. Rose Reed was brighter than her mother. I knew Percy [Reed]'s great Grandmother until she died. She was carried by Gaines to State Line, Mississippi, and I used to go there and get trees from his nursery, and would see her. I didn't visit him during slavery time. I have been to his house in slavery time [sic for the inconsistency between the two successive sentences]. I would see Rose and her mother there--they did not associate with white people, but lived like other slaves⁴⁵ (MOWA Pet. 1988, Ex. Reed File).

On cross-examination, Richardson modified this testimony by saying that he only knew Rose's mother from "heresay" [sic]. but reiterated that Rose lived in the home of "old man Gaines" (MOWA Pet. 1988, Ex. Reed File). As Rose was emancipated by Daniel Reed in 1818, while Mr. Richardson was

⁴⁴ If Rose Reed was born about 1780, her mother must have been born by about 1765. Even if the latest date for Rose's birth given in the petitioner's ancestry charts, 1797, were accepted, her mother must have been born by 1783.

George S. Gaines moved to State Line, Mississippi, in 1856 (MOWA Pet. 1982, 161). At that date, Rose Reed's mother would have been aged between 73 and 91 years--probably in the older part of this range. It is barely possible, chronologically, that Richardson, born in 1844, could, as a child or young man, have seen the woman whom he described as Rose's mother. However, other than his testimony in 1920, no independent documentation confirms that Rose's mother survived to such a great age, or that she was ever a member of the household of George S. Gaines.

⁴⁵ Rose Reed was emancipated by her husband, Daniel Reed, in 1818, 28 years before the man delivering this testimony was even born. He certainly could not have seen her living as a slave with her mother in the household of George S. Gaines.

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not born until 1846, this testimony too could have been only hearsay.

In a related affidavit dated January 17, 1921, Richardson stated that he was born in 1846, had lived all his life in Washington County, knew Rose Reed, and heard that she was George S. Gaines' daughter and that one of Gaines' cooks was her mother. This information was based, he stated, on hearsay from "the old people, my father, Peter Beech, Sr., Joel Martin, and perhaps others." In the affidavit, Richardson also said that he knew one Daniel Reed, and had seen him three or four times between 1855 and 1860,⁴⁶ but admitted that this man might have been some other Daniel Reed than Rose's husband, since there were several men of the name in the county (MOWA Pet. 1988, Ex. Reed File).

Reuben P. Reed, a cousin of the defendant, testified that he had heard the family's descent proven in court 30 years before, but did not say by whom it had been proven or what documents had been used. Reuben P. Reed stated that this testimony, which would have taken place about 1880 and was apparently the Goodman trial, had indicated that Daniel Reed was a quarter Spanish, and Rose Reed was a half Indian and half white woman: "Mr. Gaines was her father. A Choctaw squaw was her mother. Don't know this woman's name. Rose was raised by a black woman, who belonged to George S. Gaines,"⁴⁷ but she was not Rose Reed's mother" (MOWA Pet. 1988, Ex. Reed File).

George W. Sullivan, age 74, testified that he had lived in Washington County, Alabama, about 72 years. "About 40 years ago," he had been a member of the jury in the Washington County Circuit Court which tried one Goodman for marrying one of the Reeds, and he had heard all the evidence on the trial of that case. Sullivan was questioned concerning testimony of Mrs. Glorvena Rush, of McIntosh, at the Goodman trial. He replied that "he knew Mrs. Glovena [sic] Rush," and that she was a contemporary of Rose Reed and George S

⁴⁶ Rose Reed's husband, Daniel Reed, as proven by his probate records cited above, died in 1844, two years before Richardson's birth.

⁴⁷ If Rose was born about 1780-1790, she was approximately 15 to 25 years old by the time George S. Gaines moved to Alabama in 1805; if she was born as late as 1797, she was still eight years old when he moved to Alabama.

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Gaines." She said she was an "old settler and knew them both," that Rose Reed had told her [Mrs. Rush] that her [Roses's] mother was a "Choctaw squaw." Mrs. Rush had also said that George S. Gaines was Rose Reed's father.

No direct record of Mrs. Rush's testimony at the trial held in the 1880's survives, according to the petitioner. The evidence submitted consisted of a repetition of her testimony, from memory, given in 1920 by a member of the jury in the earlier trial (MOWA Pet. 1988, Ex. Reed File).

Although she has been described as a "contemporary" of Rose Reed, according to several Federal census records of Washington County, Alabama, Mrs. Rush was born in 1820 and was, therefore, approximately 30-40 years younger than Rose. She could not, therefore, have had direct knowledge of the circumstances of Rose's birth and youth. According to the witness in the 1920 trial, Mrs. Rush testified that Rose Reed, who had died in 1878, had told her that her mother was "a Choctaw squaw." Mrs. Rush's testimony, if repeated accurately in a 1920 court case, indicated that even if Rose

" A typewritten sheet on the Johnston family in the petitioner's Reed file (MOWA Pet. 1988, Ex. Reed File) says:
Joseph Calloway Johnston m. Clara Cato. Issue:

1. Glorvina Elvira Rush
2. Powell
3. Oscar
4. Albert
5. Lewis
6. Amanda
7. Virginia
8. Clara J.
9. Lewis.

A typed historical program, McIntosh, AL, Methodist Church, Homecoming service 1961, says Mrs. Glorvina Elvina Johnston Rush is buried at that church (MOWA Pet. 1988, Ex. Reed Family File).

June (?) 2, 1840, George W. Johnston m. Glovena E. Johnston.
Bondsman: Jas. Johnston (Mallon 1966, 710).

1850 U.S. Census, Washington Co., AL, p. 337, #143/143: George M. Johnston, 32, m, W, \$9000, b. AL; Glovina, 30, f, W, b. AL; Elizabeth, 65, f, W, b. GA; Powell B., 22, m, w, b. AL; Virginia, 16, f, W, b. AL; Clara I., 14, f, W, b. AL (U.S. Census 1850b).

1860 U.S. Census, Washington Co., AL, p. 985-986, #186/186: John G. Rush, 43, m, farmer, 30,000/76,776, b. SC; Glovina E., 41, f, b. AL; Oscar S. Rush, 7, m, b. AL; Garrett Rush, 5, m, b. AL; Stella Rush, 3, f, b. AL; Hellen Garrett, 18, f, teach school, b. AL; William McNeil, 22, m, overseer, b. AL (U.S. Census 1860b).

1870 U.S. Census, Washington Co., AL, Beat 1, p. 994, #45/45: Rush, J.G., 53, m, w, Preacher, \$3000/600, b. SC; #46/46: Rush, G.E., 50, f, 2, \$10,000/\$700, b. AL; Oscar S., 17, m, w, b. AL; Garret C., 15, m, w, b. AL; Stella A., 12, f, b. AL (U.S. Census 1870b).

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Reed's mother was Choctaw, Rose Reed had been "reared" in the household of George S. Gaines in a non-Indian, non-tribal context.

Sullivan added:

I remember Rose Reed, the great grandmother of Percy Reed. The one supposed to be the concubine [sic] of George S. Gaines. She had long straight hair. These people have intermarried with the white people around there, among whom are the Taylors, Wadsworth, Wilkes and Williams families (MOWA Pet. 1988, Ex. Reed File).

Oral history and local tradition. Rose Reed outlived her husband by 44 years. By the end of her life, because of her great age, she was a well-known local personality.

About the year 1875, "Aunt" Rose Reed, as she is now commonly called, made her last public appearance at a barbecue given in her honor. At this feast she stated that she must be at least 110 years old (Personal interview with James C. Martin, Sr., Millry, Alabama, January 2, 1941). but according to the first records showing her age, and judging from her youngest daughter's age, she was evidently about ninety years old.

Rose Reed died in the fall of 1877 or spring of 1878. No more striking personality has lived in Washington County, Alabama. She was known far and wide during her lifetime, and her passing has not dimmed her personality. Every child in Southwest Alabama has heard the story of Rose Reed (Green 1941, 19; citing Personal interview with A.D. Price, Toulminville, Alabama, May 2, 1941).

Other documents. Rose Reed's will, written in 1873, was probated in March, 1878:

Almighty God the Giver and Taker of all things that be, Thy Righteous will have for all men to die and afterwards to Judgment. First, I command my spirit to God who gave it, my body to friends to be buried in a Christian burial ground, Amen.

Touching my worldly estate that God has pleased to bless me with. First, after my burial expenses are paid, it is my will and wish that my stock of cattle and hogs be equally divided among my

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several children viz: Judy, Eliza, George, Matilda, Reuben, Emeline, and William. My further will and wish is, my dwelling, land, and premises, and kitchen, and tenements be appraised and for one of my children to take it at the appraised value and pay the other heirs a proportional share of the appraisement. It is my further will and wish that whatever my above named children or grandchildren may have heretofore received shall not be charged against them in the division of my estate. It is my will and wish that my children make this division among themselves, but if any dispute should arise among them, to choose three disinterested men and let them make the divisions for them. In witness whereof I have hereunto set my hand, affixed my seal this the 19th day of September, 1873 (Green 1941, 19-20; quoting Washington County Will Book 136).

Marriages and alliances of Daniel and Rose Reed's children.

Judy Reed appeared in the 1850 census in the household of a white man named John Harris, aged 84, who was born in North Carolina: Judy and her children were recorded as mulatto (U.S. Census 1850a, 455). The petition's statement that he was John Harris Jr., son of John and Lavitia (Hollinger) Harris and grandson of Adam and Mary Josephine (Juzan) Hollinger (MOWA Pet. Narr. 1988, 18, 62), is not correct, since he was born in the same year as his putative grandmother.⁴⁹ The North Carolinian John Harris does appear to have been the father of Judy Reed's children, who carried the name of Harris in all later census records and legal documents. After the death of John Harris, she appeared in the 1860 census as Judy Reed (U.S. Census 1860a, 147). In 1860, she was in Mobile County, Alabama, owner of an 80-acre farm valued at \$200.00, and with \$400.00 worth of livestock (Nordmann 1990, 221).

Eliza Reed bore children to at least two different men. Her twin daughters, Celestine and Florentine, were the children of a white man named Francois Pargado [Paragoll], who in 1838 left a nuncupative will⁵⁰ bequeathing them his

⁴⁹ He was also born in North Carolina, not Alabama, where the Hollinger family had lived since the 1760's.

⁵⁰ A will dictated orally by the decedent in the presence of at least two witnesses.

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property and naming Eliza as their guardian (MOWA Pet. 1988, Ex. Reed File; Washington County, Alabama 1:73). The father of her younger children was Peter Cole, who appears listed next door to her household in the 1850 census, which recorded Eliza and her children as mulatto and Peter Cole as white (U.S. Census 1850a, 472r; U.S. Census 1850b, #41/41 and #42/42). The petition claims that this Peter Cole was the son of Mark Cole and Hannah, and that he was of partly Choctaw ancestry (MOWA Pet. Narr. 1988, 63). The petitioner did not document, except from oral history and the similarity of given names, either Peter Cole's parentage or the Choctaw connection of his supposed parents (MOWA Pet. Narr. 1988, 63 and 63 note 23).⁵¹

After the 1859 death of Peter Cole, Eliza appeared in the 1860 census as Eliza Pagarde (U.S. Census 1860b, 1007). Eliza also had two older sons, Thomas and Seaborn, who used the surname Reed. BAR researchers' analysis indicates that it was primarily her descendants who settled in the Charity Chapel area of Mobile County, Alabama, and intermarried with the children of Nathaniel J. and Louisa (Brashears) Smith (see Smith/Brashears discussion below).

Daniel and Rose Reed's third daughter, Matilda Reed, was born, according to various censuses, between 1813 and 1820 in Alabama. She was married prior to 1860 to Needham F. Bryant, a white man who was born about 1814 in Alabama.⁵² In the 1860 census, the couple and their children were living in the household headed by Rose Reed (U.S. Census

⁵¹ The index to Washington County, Alabama, Deed Book "H" shows December 20, 1822, Martha H. Cole from Mark Cole; May 10, 1838, Jesse and Peter Cole from Mark Cole (Taylor and Mallon n.d., 51). The petition did not submit copies of these deeds.

A Mark Cole, born in 1770, appears on the 1816-30 census of Wayne County, Mississippi, as does a Jesse Cole, born after 1775, in the 1820 census. However, there were numerous other Cole families in Wayne County (Strickland and Edwards 1987, 34).

If, in fact, Peter Cole was a first cousin of Elizabeth Gibbs, wife of William Thomas Byrd (MOWA Pet. Narr. 1988, 63 note 23), BAR research makes it unlikely that his ancestry was Choctaw.

⁵² The petition makes several unverified claims to possible Choctaw ancestry for Needham Bryant (MOWA Pet. Narr. 1988, 64 note 2).

Testimony of Reuben P. Reed in 1920 Percy Reed/Helen Calkins miscegenation case: "Old man Needham Bryant testified on the Goodman trial, at old St. Stephens, over 30 years ago that Rose Reed told him that her mother was a Choctaw Indian Squaw. Bryant is now dead." Bryant also testified, "that Rose Reed told him that a Choctaw Indian was her mother and that old man Gaines was her father" (MOWA Pet. Narr. 1988, Ex. Reed File).

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1860b, 1004), while in 1870, Rose Reed was living in the household headed by Needham Bryant (U.S. Census 1870b, #54/54).⁵³ In the 1870 census, the entire household, including Rose, was identified as white; in 1880, Needham Bryant was identified as white, but his wife as mulatto (U.S. Census 1880b, 141).⁵⁴

Emaline Reed, the youngest daughter, was born between 1830 and 1835 in Alabama (U.S. Census 1860b, 1005; U.S. Census 1870b, 107; U.S. census 1880b, 141A). The earlier birthdate seems most probable, as she had a child born in 1845 and another born in 1849 (U.S. Census 1860b, 1005). She married a white man, Willis Daugherty, who was born about 1830 in Alabama. There seems to be no justification for the petition's statement that he was a son of the Choctaw countryman Cornelius Daugherty and a daughter of Piamingo Hometak (MOWA Pet. Narr. 1988, 14), since he stated on the census that his father was born in Ireland (U.S. Census 1880b, 141A).

Willis Daugherty served in the Confederate army and received Alabama Civil War Pension #15105. The pension data indicates that Willis Daugherty of Seaboard, served in Co. E, 36 Reg., enlisted May 15, 1862 at Mt. Vernon; was wounded, losing one arm at Chicamauga; and was 70 years of age in 1899 (Waddell and Brown 1989). He survived his wife. The 1900 census listed him as white, a widower, age 71. His youngest daughter by Emaline, living in his household, was also listed as white (U.S. Census 1900b, #22/24).

George Reed, Reuben Reed, and William Reed, the three sons of Daniel and Rose Reed all married daughters of David Weaver of Mobile County, Alabama. Their descendants are considered below in the discussion of the Weaver family and its possible American Indian ancestry. Green's thesis on the education of the children of this group in Washington County, Alabama, indicated that David Weaver's daughters, the wives of the Reed sons, were mulatto (Green 1941, 79). Laura Frances Murphy, on the other hand, writing about the group from a Mobile County perspective, indicated that it

⁵³ Variant reading of this census, giving Matilda, 50, f. w. housekeeper, following N. Bryant; his holdings as \$300; and Rose Reed, 95, f. mulatto, b. Mississippi at the end of the listing (Green 1941, 16).

⁵⁴ Green said that this family had never been located after the 1870 census (Green 1941, 16).

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was the marriages to Rose Reed's descendants which had brought "Negro blood" into the Weaver and Byrd families (Murphy 1935, 12-13).

The petition also asserts that George Reed, the oldest son of Daniel and Rose Reed, "had another wife--Miriah Colbert-- descendant of the Chickasaw Colberts" (MOWA Pet. Narr. 1988, 43; see also 62, 62 note 20, 65). The petition does not document this claim. BAR researchers located no document giving a maiden name for the woman called Maria Reed and found no document that she was ever George Reed's wife, though her children asserted that they were heirs of his body. For further analysis of the claim of the petitioner to a Colbert connection, see the charts at the end of this Technical Report.

Was there any possible connection of Rose (Gaines) Reed to a "historical tribe" in the acknowledgment context? Even if it could be documented that the mother of Rose Reed was a Choctaw woman who moved from Mississippi Territory to Louisiana at some time late in the eighteenth century or early in the nineteenth century, leaving behind a daughter Rose who was a slave in the household of a Gaines family, this would not be significant in the context of the question of Federal acknowledgment of the petitioner as an Indian tribe.

Census records, deeds, and wills indicate that Rose Reed spent the 60 years of her married life and widowhood, from her emancipation in 1818 until her death in 1878, with no documented contact with any tribal entity. The 1850 agricultural census of Washington County, Alabama, summarized in the petition, shows her with a conventional, modestly prosperous farmstead (MOWA Pet. Narr. 1988, 64-65). Her neighbors, as shown on the 1850 census, were either her relatives or persons with non-MBC surnames.⁵⁵ No person of known Indian ancestry ever appeared as a witness, security, or other associate on any legal document pertaining to Rose Reed. She lived in Washington County, Alabama, as a member

⁵⁵ The ten heads of household listed on the census immediately prior to Rose Reed were: Benjamin Woolard, Sol Anderson, Peter E. Hays, Thomas L. Stokely, Abner Womack, Warren P. Murrell, L. James Wilson, James Richardson, Charlotte Richardson, and M. Arnold King. Listed on the census immediately following Rose Reed, the heads of household were Peter Cole (her son-in-law), John C. Davidson, Meridith Landrum, Peter Daugherty (possibly the father of another son-in-law), George Wiliford, James Preston, Robert McKern, Willis Grimes, James E. Baxter, and John Platt (Matte 1982, 420).

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of a landowning, tax-paying free family of color. None of Rose Reed's descendants completed Dawes Roll⁵⁶ applications as Choctaw based upon her supposed Choctaw ancestry. The concatenation of evidence indicates that even if Rose Reed had some American Indian ancestry, she had no tribal affiliation. Even if her mother had been a tribal member, Rose would be considered to have left, to have married a non-Indian, and to have become a member of the surrounding wider society.

Weaver-Rivers-Byrd Family.

Petition Claims. The Weaver and Byrd families are asserted by the petitioner to be of **Cherokee** ancestry from "Georgia (Greene Co.) and North Carolina" (MOWA Pet. Narr. 1988, 45). The petition documents the geographical origins of these families, but the Cherokee ancestry of the Weaver paternal line and of the Byrd family (see below) is presented only as oral tradition. The petition's identification of the father of David, James, Ann, and Edy Weaver as a Cherokee named "Dav Weaver" who was residing in 1835 at Sharp Mountain, Cherokee County, Georgia (MOWA Pet. Narr. 1988, 48), could not be verified by BAR researchers (see the charts of findings on "Known Indian Ancestors" in the final section of this report). Although early Federal census records for Georgia are missing, early tax digests show non-Indian Weaver families in Greene County in 1809 (R.J. Taylor Foundation 1986a, 96) and 1815 (R.J. Taylor Foundation 1986b, 97). In each of these years, in addition to the white taxpayers, one of the taxpayers listed in Greene County, Georgia, was David Weaver, a free Negro (R.J. Taylor

⁵⁶ "Other Records Relating to Enrollment of the Five Civilized Tribes."

The records relating to applications for identification as Mississippi Choctaw, 1901-7 (17 ft.) consist principally of documents received by the Bureau from the Commission to the Five Civilized Tribes (Dawes Commission). The enclosures consist of applications, petitions, affidavits and other evidence, transcripts of testimony, correspondence of the Commission, including notifications of decisions, and other records. They relate to applications filed pursuant to an act of June 28, 1898 (30 Stat. 495, 503), which provided that the Commission should determine the identity of Choctaw Indians who, under article 14 of the Treaty of Dancing Rabbit Creek of 1830, claimed rights to Choctaw lands in Indian Territory. Almost all of the original applications and requests for review of claims were rejected (Hill 1981, 95).

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Foundation 1986a, 96; R.J. Taylor Foundation 1986b, 97). The index to the 1820 census of Georgia showed no Weaver families in Putnam or Green Counties (Jackson and Teeple 1976).

Weaver. What is known of the ancestry of David Weaver, James Weaver, Anne (Weaver) Byrd, and Edy (Weaver) Rivers?

Petition claims. The petitioner reports oral tradition as saying that Dave Weaver's mother was a white woman named Linney, married to a Cherokee named Dave Weaver, and that she and her children came from Georgia by way of Coweta to Claiborne in Monroe County, Alabama (MOWA Pet. Narr. 1988, 47-48), where she was listed on the 1830 census and apparently died before the 1840 census was taken (U.S. Census 1830c, 56; U.S. Census 1840c).

Parents of the Weaver siblings. The chronology of the documented settlement of the Weaver family in Alabama does not coincide with the petitioner's claim that Linney Weaver's supposed husband, "Dav" Weaver, was listed on the 1835 Cherokee Roll as living at Sharp Mt., Georgia (MOWA Pet. Narr. 1988, 48, 117). Neither did the documentation submitted with the petition demonstrate that the Dave Weaver who was listed on the 1835 Henderson Roll of Cherokees (MOWA Pet. 1988, 5) was the husband of Linney Weaver and father of David, Anna, and the other Weavers who are MBC ancestors.

The petition attempts to deal with the fact that the children and grandchildren of this supposed Cherokee man did not make Guion Miller applications in his right by stating:

Testimony indicates that the identity of Dave Weaver, Sr., who apparently did enroll [on the Henderson Roll] at that time, had become obscure. His descendants either did not know to claim through him, or perhaps felt they were not eligible due to matrilineal descent rules (MOWA Pet. Narr. 1988, 117).

For further analysis of the petition's claim that the father of David, James, Anne, and Edy Weaver was a Georgia Cherokee named "Dav Weaver" who lived at Sharp Mountain (MOWA Pet. Narr. 1988, 48), see the charts at the end of the Technical Report. In fact, on their applications to Guion Miller to share in the award of Eastern Cherokee Funds, which were prepared in 1907-1908, members of the family said forthrightly that they **did not know the identity** of their paternal grandfather. David Weaver's daughter, Lorinda

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Reed, who was born near Mt. Vernon, Mobile County, Alabama, in 1832, stated, "Dont [sic] know name of Grandfather" (Guion Miller Eastern Cherokee Fund Applications, #17392, Lorinda Reed). Her sister, Ellen Brittania (Weaver) Reed, born near Mt. Vernon, Alabama, and giving her age as 75 on January 26, 1907, stated, "I dont know who my Grandfather was" (Guion Miller Eastern Cherokee Fund Applications, #17393, Mrs. Tiney (Bretenea) Reed).

The mother of the Weaver siblings was said by her granddaughters to be Linney Weaver, a white woman, born in Georgia (Guion Miller Eastern Cherokee Fund Applications #17392, Lorinda Reed; #17393, Mrs. Tiney (Bretenea) Reed). By 1830, Linney Weaver was residing in Monroe County, Alabama.⁵⁷

David Weaver, son of Linney Weaver, who settled in Mobile County, Alabama, by 1830, was born about 1799. Various census records indicate his place of birth as North Carolina, Georgia, or Alabama, and classify him as a free person of color, mulatto, white, or black.⁵⁸ His date of death is given as April, 1889 (Guion Miller Eastern Cherokee Fund Application #17391, David Crocket Weaver).

⁵⁷ 1830 U.S. Census, Monroe Co., AL; District allotted to Georgia-Lafayette: Linney Weaver, 1 white female 50-60; 1 fpc male 20-24 (U.S. Census 1830c, 56 line 14).

⁵⁸ 1830 U.S. Census, Mobile Co., AL, excluding the City of Mobile: p. 11, line 8: David Weaver, 1 white female 15-20; 1 white female 20-30; 1 white female 30-40; 1 white female 40-50; 1 fpc male under 10; 2 fpc males 10-24; 1 fpc male 24-36; 1 fpc female under 10; 1 fpc female 10-24; 2 fpc females 24-36. Total: 8 (U.S. Census 1830a, 11 line 8). The total accounts for everyone but the first three white females. Were they entered on the wrong line?

He has not been located on the 1840 Federal census.

U.S. Census, Mobile Co., AL, #559/559: David Weaver, 51, farmer, b. AL; Thomas, 19, m, mu; Lorine, 18, f, mu; Tiny, 16, f, mu; Eliza, 14, f, mu; David, 10, m, mu; Albert, 6, m, mu; Alfred, 4, m, mu; John, 2, m, mu; Nancy Jordan, 34, f, W; Rachel Jordan, 13, f, W; Eda Jordan, 11, f, W; Josiah Jordan, 8, m, W; Eda Jordan, 6, f, W (U.S. Census 1850a, 481).

1860 U.S. Census, Northern Division, Mobile Co., AL, #59/59: David Weaver, 59, m, [W], trader, b. AL (U.S. Census 1860a, 137). He was living alone, but next door to the household of Washington Byrd. Houses away from Lemuel and Anne (Weaver) Byrd.

1870 U.S. Census, Mobile Co., AL, #116/116: David Weaver, 64, B, farmer, b. GA; Thomas, 37, m, b. Coal Laborer, b. AL; Mary, 39, his wife, b. GA; Sophine, 6, f, B, b. AL (U.S. Census 1870a, 14).

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In the first census in which David Weaver is listed in Mobile County, Alabama, in 1830, he and his brother-in-law, Lemuel Byrd, were residing in a neighborhood of primarily free Creole of color families (U.S. Census 1830a, 9-11).⁵⁹ This locale is compatible with the evidence that David Weaver's wife, nee Cecile Weatherford, who apparently died before the 1850 Federal census, had borne a son to a Chastang man before her marriage to him (Guion Miller Eastern Cherokee Fund Application #14393, Jerome Chastang). (See below for a more extensive discussion). Neither the 1850 nor 1860 Federal census indicated that David Weaver was a landowner or owned livestock (Nordmann 1990, Appendix).

James "Jim" Weaver, David Weaver's brother, was born between 1800 and 1810 in Georgia. He was possibly the "fpc" (free person of color) male on 1830 census with Linney Weaver in Monroe County, Alabama. Census records consistently described him as a free person of color or as mulatto.⁶⁰ The surname of his wife Margaret/Marguerite is given by the petitioner as Parnell (MOWA Pet. Narr. 1988, 54). She was born between 1810 and 1816 in Alabama, according to census records. The petition states that, "Peggie, or Marguerite, was described as a 'light complexioned, blue-eyed mulatto' slave girl age 14 when she was emancipated by James Johnston of Mobile County on December 25, 1824" (MOWA Pet. Narr. 1988, 54, citing to Act of Alabama Legislature, 1824). "At

⁵⁹ Pages 9-10 of this census record showed numerous Chastang households and many free persons of color (U.S. Census 1830a, 9-10).

Page 11 showed the immediate neighborhood as: Franklin G. Kimball, Joseph Limonier, Thos. Moy, John Christopher, Joshua Bryant Joseph Bates, Sr., Lemuel Bird, David Weaver, William Lewis (1 white male 20-30), Reaubin Louery, Isaac Johnston, John Johnston, William Thomas, Dixon Wainwright, Littleton Crabtree, Antwine Hindenburg, Ebene Erins, Henry Center (U.S. Census 1830a, 11). None of these is familiar as MBC names claimed by the petitioner.

⁶⁰ 1840 U.S. Census, Mobile Co., AL, line 17: James Weiver, 1 fpc m under 10; 1 fpc m 10-24; 1 fpc m 24-36; 1 fpc f 24-36. His name was followed by those of: John Larkin, Gassi[?] Evans, Salina Powers, Jane Lewis, David Butler, R.D. Dinnison, John Hutchison, Oliver Smith, Jan Lofton, George Cox (U.S. Census 1840a, 74). On page 75, the surnames Chastang, Campbell, Andry, and Windham appeared (U.S. Census 1840a, 75). He has not been located on the 1850 Federal census.

1860 U.S. Census, Washington Co., AL, #341/341: James Weaver, 50, m, mu, b. GA; Margaret, 50, f, mu, b. AL; William, 18, m, mu; Robert, 25, m, mu; Taylor, 13, m, mu; Daniel, 6, m, mu; Isabella Patrick, 7, f, mu (U.S. Census 1860b, 1005).

1870 U.S. Census, Washington Co., AL, #115/115: James Weaver, 70, m, mu farmer, \$125, b. GA; Peggy, 60, f, mu, b. GA; Isabella, 18, f, mu; Isaac, 11, m, mu; Joseph, 9, m, mu (U.S. Census 1870b).

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age eighteen, in 1828 Peggie was released of bond, and in 1831 the name "Wever" [sic] was inserted on bond" (MOWA Pet. Narr. 1988, 54, with no source citation).

Edy Weaver Rivers. The petition states that, "Edy Weaver, Jim and Dave's other sister, remained in Claiborne [Monroe County, Alabama] and worked as a housekeeper for Joel Rivers" (MOWA Pet. Narr. 1988, 56). Joel T. Rivers was apparently the father of her children, who subsequently went by the Rivers surname. The petitioner attributes four children to the couple (MOWA Pet. Narr. 1988, 57 note 95), but the structure of his household as shown by the 1830 and 1840 Federal census records indicates that there may have been more children.⁶¹

Joel T. Rivers' white, Virginian ancestry and his life are well documented, although the author of the Rivers family genealogy omitted all reference to the free family of color that he sired and stated erroneously that the 1850 Federal census showed him living alone except for his overseer.⁶² Joel T. Rivers was born about 1776-1777, in Virginia, son of Joel and Rhoda (Harwell) Rivers, and moved to Alabama by way of North Carolina and Tennessee (Ross 1972 1:244-246).⁶³

⁶¹ 1830 U.S. Census, Monroe Co., AL; District allotted to George Lafayette, line 16: Joel T. Rivers, 1 white male 20-30; 1 white male 30-40; 1 white male 50-60; 2 fpc males under 10; 3 fpc females under 10; 1 fpc female 24-36. Total: 9 (U.S. Census 1830c, 57).

1840 U.S. Census, Monroe Co., AL, line 28: Joel T. Rivers: 1 wm under 5, 1 wm 10-15; 1 wm 15-20; 1 wm 60-70; 1 wf under 5; 1 wf 5-10; 2 wf 10-15; 1 wf 15-20; 1 fpc f 36-55; no slaves. Total: 10 (U.S. Census 1840c, 233).

⁶² 1850 U.S. Census, Monroe Co., AL, #334: Joel T. Rivers, 73, m, w, b. VA; Edy, 51, f, B, b. GA; Simolene, 31, f, B, b. AL; Nancy, 26, f, c, b. AL; Rhoda, 23, f, c, b. AL; George, 20, m, c, b. AL; Mary, 17, f, c, b. AL; James, 11, m, c, b. AL (U.S. Census 1850c).

⁶³ The petition refers to this book and the petitioner submitted a copy of the Rivers chapter. However, the petition narrative reversed the discussion of Joel Rivers and Joel T. Rivers, showing Rhoda Harwell as the deceased wife of Edy Weaver's companion rather than as his mother (MOWA Pet. Narr. 1988, 56).

The petition says he that he was born in 1877 [sic] in Virginia, and died in 1853 at Grove Hill, Alabama, and that he was the son of Joel T. Rivers and Rhoda Harwell. One pet. anc. chart says Joel T. Rivers was born in 1827 [sic] in Virginia, but that must be an error, since Joel T. Rivers and Edy Weaver had children born in the 1820's.

In 1882, a local historian wrote: "Richard Rivers and Joel Rivers were brothers from Tennessee. Both lived to be very aged men. The latter died at Grove Hill when the yellow fever prevailed in 1853. He had a son, Hinchey Rivers, and a daughter who became Mrs. C.E. Woodard"

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Census records indicate that Edy Weaver was born about 1799 in Georgia. Although one ancestry chart submitted by the petitioner says that she was born about 1779, that must be a typographical error. One ancestry chart submitted by the petitioner says she died about 1845 in Monroe County, Alabama, but the census indicates that she was still alive in 1860.⁶⁴

Joel T. Rivers provided for Edy Weaver and her children. On July 20, 1844, Joel T. Rivers of the County of Monroe, Alabama, of the first part, made an indenture with James H. Draughon of the same place of the second part and Edy Weaver of the same place as aforesaid of the third part, for land in Monroe County to hold for the benefit of Edy Weaver and the issue of her body. The document was witnessed by G[ardner] D. Foster [JP] and John J. McDonald and filed for record August 4, 1844 (MOWA Pet. 1988, Ex. Rivers file).

Edy Weaver Rivers does not appear on the 1870 Federal census of Monroe Co., Alabama, and was not located on the index to the 1870 Federal census of Alabama. BAR's research was unable to locate estate administrations for either Joel T. Rivers or Edy Weaver Rivers at the Monroe County Courthouse.⁶⁵ Checking the names of Rivers, Weaver, and Draughon in the direct and indirect indexes to deeds in Monroe County gave no information as to what became of the land placed in trust in 1844.

Anne Weaver Byrd. See the discussion below under the name of her husband, Lemuel Byrd.

Cecile Weatherford. For one Weaver maternal line, that of David Weaver's wife, oral tradition is supplemented to some extent by 1908 applications to Guion Miller for inclusion in the distribution of Eastern Cherokee funds under the act of 1906.

(Ball 1882, 368). Elsewhere, he gives the daughter's name: "Charles E. Woodard [who died in 1853] married Miss Martha V. Rivers of Franklin, Tennessee," and indicated that this family resided in Clarke County, Alabama (Ball 1882, 411).

⁶⁴ 1860 U.S. Census, Monroe Co., AL, #926: Edy Weaver, 59, f, mu, b. GA; Nancy, 33, b. AL; Mary, 23, b. AL; Sarah, 15; Martha, 11; Joel, 8; Rhoda, 8; Martha, 6; James, 4; Elizabeth, 3; Augustus, 3 (U.S. Census 1860c, 137).

⁶⁵ Rivers may have died in Clarke County (Ball 1882, 368).

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Petition claims. The petitioner alleges that the wife of David Weaver was Cecile Weatherford, daughter of William Weatherford⁶⁶ and Nancy Fisher⁶⁷ (MOWA Pet. Narr. 1988, 53). The petition did not present documentation, other than the assertions made on the 1908 Guion Miller applications (see below), regarding maternal Weatherford ancestry for the children of David Weaver (MOWA Pet. Narr. 1988, 53 and 53 note 84): his wife was apparently dead prior to the 1850 census. The Guion Miller applications contain several

⁶⁶ Guion Miller Report, #1139, John F. McGhee:

There are several hundred persons who have filed applications for participation in the distribution of the Eastern Cherokee fund, who for the most part, live in the extreme southern section of Alabama and the western section of Florida, who are not Cherokees at all, . . . Quite a number of these claim descent from such historic Creek characters as Billy Weatherford, . . . and most of these applicant's [sic] claim only through the Hollinger, . . . families, which are all of Creek origin . . . and they file their applications under the impression that descendants of Creek Indians are entitled to share in this fund. This idea was spread in certain sections of the south by some attorneys and claim agents, . . . (Cherokee by Blood 1: 362).

The petitioner also submitted a list of MOWA applicants under Docket 21, Indian Claims Commission, but did not submit copies of the applications themselves. The petitioner additionally submitted copies of eight letters from the MOWA Creek applications file. These, from the Muskogee Area Office of the BIA, dated January 20, 1972, stated in each case: "You have not proven that William Weatherford or Josiah Fisher is your lineal ancestor, nor have you proven that you, or any other ancestor through whom eligibility may be claimed, are Creek Indian by blood" (MOWA Pet 1988, Exhibit, Docket 21).

⁶⁷ The petition also alleges that Nancy Fisher later married Phillip Chastang, son of Dr. John Chastang, "with whom she raised her child, Cecile". It claims that George Reed, son of Daniel and Rose Reed, was also married on September 21, 1861, to Fotenez/Fotany Weaver, granddaughter of Nancy (Fisher) Edenfield and Phillip Chastang (MOWA Pet. Narr. 1988, 28, note 12; 29, note 17).

The document in question stated that Foteny Weaver was the granddaughter of Nancy Edenfield Chastang: it nowhere indicated that Fotenez/Fotany Weaver was the granddaughter of Philip Chastang, nor that Nancy Edenfield Chastang's maiden name was Fisher, nor that this Fotenez/Fotany Weaver was a daughter of David Weaver, the MBC ancestor. The 1850 census of Mobile County, Alabama, did not place a daughter with this name in the David Weaver household; she was not listed as a sibling on any of the Guion Miller Eastern Cherokee Fund applications completed by his known children; nor is she listed among his children elsewhere in the petition (MOWA Pet. Narr. 1988, 30 note 19).

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variants of the maiden name of David Weaver's wife.⁶⁸ The

⁶⁸ Letter of Thomas Reed, Guion Miller Applications, February 7, 1908. Transmitted by R.P. Reed.

My grandparents on Mothers side were David Weaver and **Tiny Cecil Weaver born Weatherford** died some time in 1850 was born in Georgia My Uncles and aunts are Jerome Chestang Tiney Reed David C Weaver, Emma Reed Alfred Weaver and Albert Weaver who are living and Thomas, Eliza Jane, Mathilda and Geo W. Weaver who are dead. Those alive are now claimants with myself .

. . . My reason for believing myself entitled under descend from Cherokee Indians is my mothers statement to the fact as received from her mother and grandmother . . . I claim the right to participate through my mother's Grandmother Nancy Weatherford."

Letter of Seaborn Read, Fairford, Ala, 2.17.1908, Application No. 41718 - 14293.

My father was William Ried born in Washington Co Ala and my mother is Lorinde Reed born at Mount Vernon Mobile Co. Ala. . . . My Grandparents on Fathers side were Daniel Reed born in Kentucky and Rose Reed born in Washington Co Alabama were not living in 1851 On Mothers side my Grandparents were David Weaver born in Georgia and **Tiney Cecile Weaver (born Weatherford) in Georgia** died some time in 1850.

Application of David Crocket Weaver, res. Sims Chapel, Washington Co., AL. Born Feb. 3 [year illegible], Mt. Vernon, AL. He claimed through "Nancy Fisher; also Wm. Weatherford my Grand Father." He was age 67; his wife was age 63. In one place, he said that his **mother's** maiden name Nancy Fisher; Father Dave Weaver; elsewhere, he named his **mother Souly Fisher**. His father died April 7[?], 1889; his mother died in 1851. Grandparents William Weatherford and Nancy Fisher Idimish. My grandmother was a Cherokee sqaw [sic] and my grandfather was Wm Weatherford an Indian warrer [sic] of the Creek nation."

Application of Emaline/Tiny (Weaver) Reed, Fairford, AL, born 1843 near Mt. Vernon, Alabama, age 64. Her father was David Weaver born in Georgia; her mother was **Social Weaver, born in Tennessee**. Her grandmother **Nancy Fisher was born in Tennessee**.

Letter of Britina (Weaver) Reed, Fairford, Ala, 2/17/1908:

My father was David Weaver born in Georgia and **my mother was Cecile Weaver born in Georgia (Weatherford) and died in 1850 before enrollment** . . . My Grandparents were on Mothers side Bill Weatherford and Nancy Weatherford born Fisher an Cherokee Indian squaw who died in 1850 about 16 days after my mother (Cecile) died. They were born in Tennessee. My Grandmother in Fathers side was Linny weaver a white woman born in Georgia. I dont know who my Grandfather was My Uncles and Aunts on fathers side were Annie Byrd, Jeddy Rivers and Jim Weaver on Mothers side had none I believe that I am descended from Cherokee Indians because my mother Cecile and Grandmother Nancy Weatherford repeatedly told me so I claim through my Grandmother Nancy Weatherford.

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Weaver applications were rejected by the Miller Commission for lack of documentation of Eastern Cherokee ancestry. The Miller Commission did not rule on other Indian ancestry.

The petition claims that during the Creek War, Nancy Fisher swam a deep creek with her daughter, Cecile, strapped to her back, to reach safety (MOWA Pet. Narr. 1988, 27). However, in a version of what was apparently the same story related to a researcher in 1934, no names were attached to the incident and the circumstances were quite different: "Jim Lars Byrd of the Tassie Byrd neighborhood tells interesting stories of Indian-white couples. When the soldiers were moved from Mount Vernon, he saw one squaw with a half-breed papoose swim a deep creek to escape going away with the father of her child" (Murphy 1935, 10).

Known Descendants of William Weatherford. The petition's claim that Cecile Weatherford was the daughter of William Weatherford (said to be Creek) and Nancy Fisher (said to be Cherokee) is based upon the family's oral tradition, as recorded on various applications for Guion Miller Eastern Cherokee Funds completed in 1907 and 1908 (MOWA Pet. Narr. 1988, 27 note 10; 28-29).

The Weatherford family file submitted by the petitioner as an exhibit, including recollections from documented Weatherford descendants collected by the Alabama Department of Archives and History and the Mississippi Department of Archives and History, also made no mention of either Nancy Fisher, Cecile Weatherford, or the Weaver family (MOWA Pet. 1988, Ex. Weatherford Family File).

Richard H. Faust's thesis on William Weatherford (Faust 1973) contains extensive information on his parents, his uncle Alexander McGillivray, his full siblings, his half-siblings (Faust 1973, 15-19), his three marriages, and his children. William Weatherford's three wives were Mary Moniac, Sopoht Thlanie, and Mary Stiggins. Through these marriages, he had four children who survived to adulthood (Faust 1973, 21, 24, 58, 69).

In spite of the lack of mention in these sources, the possibility remained open. The probable birthdate of Cecile Weatherford, as approximated from the birth of her oldest

Alfred Weaver, in his application, said his parents were David Weaver and **Nancy Fisher**. Elsewhere, he said that his grandparents on his mother's side were Wm. Weatherford and Nancy Fisher.

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child in 1829 or 1830, indicated that she could have been born in the time period between the death of Sopot Thlanie in 1813 and Weatherford's remarriage to Mary Stiggins in 1817. A BAR researcher visited the Monroe County, Alabama, courthouse at Monroeville in an attempt to find documentation which would provide independent confirmation of this family tradition. However, the Weatherford family information located in the Monroe County, Alabama, courthouse, which included probate and marriage records, provided no supporting data. The surviving documents pertaining to William Weatherford's estate settlement in Monroe County, Alabama (Monroe County Probate Order Book 1, 5, 21), made no mention of Nancy Fisher and made no provision for a daughter named Cecile. Neither do other Monroe County documents pertaining to the Weatherford family mention Cecile, or the Weavers (Monroe County Reverse Index to Deeds; Monroe County Direct Index to Deeds; Monroe County Probate Order Book 1, 20; Monroe County Probate Order Book 2, 503, 517; Monroe County Marriage Book A).

Petition Claims Concerning Nancy Fisher. In the 1908 Guion Miller application files, one of Cecile Weatherford's daughters stated that Cecile and her mother Nancy Fisher were born in Tennessee (Guion Miller Eastern Cherokee Fund Application 17393, Mrs. Tiney/Bretenea (Weaver) Reed), but another daughter said in one place that Cecile was born in Tennessee and elsewhere that she was born in Georgia (Guion Miller Eastern Cherokee Fund Application 17392, Lorinda (Weaver) Reed), while a grandson stated that Cecile was born in Georgia (Guion Miller Eastern Cherokee Fund Application 41715, Thomas Reed to Miller 2/7/1908).

Nor has the petitioner's claim that Nancy Fisher, mother of Cecile Weatherford, had earlier married Charine Edenfield and later married Philippe Chastang⁶⁹ been proven. The only document submitted in support of this contention was the will of Philippe Chastang in which he left land to his wife "Nancy Edenfield Chastang"--land which after her death was to become the property of her (not their) granddaughter, Foteney Weaver (MOWA Pet. 1988, Ex. Reed File). Philippe Chastang's will did not mention his wife as Nancy Fisher. There is no "Foteney" or any similar name in the petitioner's list of the children of David Weaver (MOWA Pet.

⁶⁹ Philippe Chastang was a son of Dr. John Chastang and Louison, an emancipated slave. The children of John Chastang and Louison were: Brazile, Philippe, Tanon, Eugene, Auguste, Eduardo, Juan Batista, Marguerite, Isabella, and Louise (Andrews and Higgins 1974, 13-14).

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Narr. 1988, 53 note 84) or in his known daughters' lists of their siblings on the 1908 Guion Miller applications. Foteney Weaver, granddaughter of Nancy Edenfield Chastang, did, according to a Bible record submitted by the petitioner, marry a man named George Reed in 1861. This couple did, according to a deed submitted by the petitioner, in 1861, immediately after the marriage, sell the land that she had inherited (MOWA Pet. 1988, Ex. Reed File). There is no further record of this woman. Thus, available documentary evidence does not support the petitioner's claim that Nancy Fisher was the same person as Nancy Edenfield Chastang.

The Chastang Connection. About 1829, before her marriage to David Weaver, Cecile Weatherford bore a son, Jerome Chastang. This man, nicknamed "Pic" Chastang, has left numerous descendants in the MBC.

The petitioner's claim that Cecile Weatherford bore two children, James and Jerome, to Edward Saustiene Chastang before she married Dave Weaver (MOWA Pet. Narr. 1988, 29-30) could not be verified on the basis of the documentation submitted. Elsewhere, the petition claimed that James Chastang was a half-brother to Jerome on the father's side, and a full brother to a Mary Chastang who supposedly married Samuel Windham (MOWA Pet. Narr. 1988, 19 note 45).

In the 1908 Guion Miller Eastern Cherokee application files, David Weaver's children listed Jerome Chastang as a half-brother, while Jerome Chastang (#14,393) listed the Weavers as half-siblings. There was no information on Jerome Chastang's application form showing that he had a full brother named James Chastang, in spite of the petition's citation to the same Guion Miller file (MOWA Pet. Narr. 1988, 29 note 18).

The petitioner claimed that ancestor Jerome "Pic" Chastang was the son of Edward Saustiene Chastang by Cecile Weatherford, daughter of Nancy Fisher and William Weatherford (MOWA Pet. Narr. 1988, 18 note 42; see critique of this claim in Andrews 1992). The petitioner submitted a copy of the will of John Chastang, which did not verify this paternal lineage (MOWA Pet. 1988, Ex. Chastang File). John Chastang died in 1813, so his will could not possibly have provided a direct reference to a grandson supposedly born about 1829 or 1830.

John Chastang's will did mention his son Edward (MOWA Pet. 1988, Ex. Chastang Files; Andrews and Higgins 1974, 13).

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Edward Chastang died in 1843. His will mentioned Nancy, whom he described as "the woman I live with as wife," and several children, including a son "Faustuin," who was also called Fostin or Foster (Andrews and Higgins 1974, 13; U.S. Census 1850a).⁷⁰ No references located by BAR researchers indicate that Edward Chastang's middle name was Saustiene (Andrews and Higgins 1974, 13).

The petitioner also submitted an abstract only of the 1846 will of another man, who was named Saustin Chastin. It named six children who had been borne to him out of wedlock by a free woman of color, Delphine Juzan:⁷¹ Juzan, Soustin, Edward, Coralie, Joseph, and Adolph (MOWA Pet. 1988, Ex. Chastang File). The abstract of an 1860 estate settlement for Zenon Chastang listed ten children: Zenon, Jr.; Alphonse, Francis, Joseph, Lewis, Saustiene, Edward of Baldwin County, Catherine the wife of Edward Chastang; Isabella, widow of Joseph Laurent; Louisa, wife of Jerome Andry (MOWA Pet. 1988, Ex. Chastang File).⁷²

None of this material from Chastang family records, pertaining to men with names similar to "Sostang" Chastang either determined the paternity of Jerome Chastang, MBC ancestor, or provided any information pertaining to Cecile Weatherford.

Guion Miller Eastern Cherokee Fund Applications Completed by Grandchildren of David Weaver and Cecile Weatherford. In 1907 and 1908, several grandchildren of David Weaver and

⁷⁰ The children, borne to him by Celeste Collin, a free Creole of color woman, were Louisa, Jacques, Gertrude, Francoise, Catherine, Faustuin, Alexis, and Sylvestre (Andrews and Higgins 1974, 13; Andrews 1992b, 180).

⁷¹ Delphine Juzan was one of the children borne to Daniel Juzan, a white man, by Justine Lorant (also spelled Laurent), a free Creole of color woman: Dalcour Juzan, Justine Juzan, Carmine Juzan, Martelet Juzan, and Merone Juzan (King and Barlow 1987, 84; MOWA Pet. 1988, Ex. Chastang File, abstract with variant readings of the names). The will of Justine Laurent, who died October 15, 1867, named: Barbara, wife of Faustiu Chastang; Thomas Juzan; Clemencia Gomez, wife of William Gomez; Eliza Laurent, wife of Balletine Laurent; Lucom[?] Nicholas; Adelle Nicholas; Sedoin J. Chastang, Rome Juzan, Clemencia Hall, and Nellie Hall (abstract in: MOWA Pet. 1988, Ex. Chastang File).

⁷² John Chastang's brother Joseph had a descendant named "Sidoin" Chastang who, although himself white, also left a Creole of color family in Mobile County, Alabama (Nordmann 1990, 24). Sidoin Chastang was in the correct age range to have possibly fathered Jerome Chastang, but the name does not really have a similar pronunciation to "Sostang."

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Cecile Weatherford also completed applications for the distribution of Eastern Cherokee funds by Guion Miller, based upon the supposed Cherokee ancestry of Cecile Weatherford through her mother, Nancy Fisher. Unfortunately, the information which they provided was inconsistent, inconclusive, and added nothing to the statements that had been made by Cecile's daughters.

Alabama (Reed) Echols, a daughter of George and Ellen Britina (Weaver) Reed, listed her paternal grandparents as "Daniel Reed and Wm Weatherford" and her maternal grandparents as "Britinia Fisher Weaver and Cecily Warford [sic]." Her sister Corinnia (Reed) Weaver also filed a claim, listing grandparents only as Daniel Reed and Rose Reed, omitting the Weaver side of the family entirely.

Geo. R. Weaver of Sims Chapel, Alabama, in one place listed his grandparents as David Weaver and Cecely Weaver and Jesse Evans and Mahala Evans. Another entry on the same application form gave the names as David Weaver and Cicely Weatherford, born in Georgia.

The application of Lemuel Weaver indicated the grandparents as David Weaver and Cicely Weatherford [name omitted] and Mimey Byrd. He indicated that they were living in Mobile County, Alabama, in 1846. The Miller Commission's rejection of the Lemuel Weaver application (#95) stated: "It does not appear that any ancestor was ever enrolled or that any ancestor was party to the treaties of 1835-6 or 46. Shows no connection with the Eastern Cherokees."⁷³

Was there any possible connection of Cecile (Weatherford) Weaver to a "historical tribe" in the acknowledgment context? Even if proof of Creek and Cherokee ancestry could be located for Cecile Weatherford, wife of David Weaver, there is nothing to indicate that this would be relevant to a petition for Federal recognition of the MBC as an Indian tribe. Aside from the unconfirmed narratives of the circumstances of her birth, statements by her descendants in their Guion Miller applications place Cecile Weatherford, about 1829, at a settlement called Chastangs, in Mobile County, Alabama, where she bore a child to a free Creole of color from the Chastang family. Shortly thereafter, she married David Weaver, who had come to Alabama from Georgia.

⁷³ Other applicants: Benja. A. Weaver, Oscar Weaver; David G. Weaver, Clifford Weaver, David Weaver, Irene Rivers, Jennie Rivers. All were rejected.

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and who has no documented Indian ancestry. Census records for this family place them in the vicinity of whites and of non-Indian free persons of color throughout the antebellum period. There is no indication that Cecile Weatherford maintained any type of tribal affiliation, or that she was a member of any American Indian community. Rather, it appears that even if she was of Indian ancestry, she had left her tribe.

Lemuel Byrd. Several families named Byrd settled in Mobile County, Alabama. There were two men named Lemuel Byrd: one the MBC ancestor and one the head of an apparently unrelated white Byrd family. Several records cited by the petition as pertaining to the MBC ancestor Lemuel Byrd, such as service in the Chunchula Guards (a unit which the petition describes as "made up primarily of established Indian families") during the Civil War (MOWA Pet. Narr. 1988, 92), in fact pertained to the non-MBC Lemuel Byrd, and to other unrelated Byrd men.

Petition claims. The petition states that MBC ancestor Lemuel Byrd was a mixed-blood Cherokee originally from North Carolina who married Anna "Twy" Weaver, a Cherokee woman from Georgia (MOWA Pet. Narr. 1988, 45). The petitioner claims that Lemuel Byrd's father was Captain Redbird, and his mother's name was Smith, both sides mixed Irish and Indian from the Carolinas (MOWA Pet. Narr. 1988, 49). On the 1860 Federal census of Mobile County, Alabama, Lemuel Byrd was recorded as born in North Carolina; his wife was born in Georgia (U.S. Census 1860a, 137). On the 1880 Federal census, Lemuel Byrd's sons, William Thomas Byrd, age 60, and Wash Byrd, age 51, also stated that their father was born in North Carolina and their mother was born in Georgia (U.S. Census 1880a, 19; U.S. Census 1880a, 20A). Connections to other Byrd families suggested by the petitioner (MOWA Pet. Narr. 1988, 49-50) are unverified.

Although the petition states that Lemuel Byrd was a mixed-blood Cherokee, his descendants did not attempt to claim Eastern Cherokee funds in 1908 on the Byrd line (Guion Miller Eastern Cherokee Fund Applications).

⁷⁴ Later associations between MBC families and descendants of Oliver Merida Smith and his wife Barbara Byrd, who moved from North Carolina and South Carolina to Mississippi, suggest a possible connection which should be thoroughly explored. The petition contains information on this couple and their background (MOWA Pet. Narr. 1988, 61-62).

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Military Pension Application. In his War of 1812 pension application, Lemuel Byrd stated that he married Annie Weaver in Greene County, Georgia, on April 19, 1819, and the petition states that the oldest child was born in 1820 in Georgia (MOWA Pet. Narr. 1988, 51). BAR researchers found no record of this marriage in the published index of Greene County marriages (Ingmire 1985), but the index to the 1820 census of Georgia did show several heads of families named "Bird" in Greene and Putnam Counties (Jackson and Teeple 1976). Lemuel Byrd's 1812 pension application stated that he served during 1817/1818 from Putnam County, Georgia. The service record was not contested: the pension claim was rejected only on the grounds that his service took place after the treaty in 1815 which ended the War of 1812. The application states that Lemuel Byrd, during his service, was involved in skirmishes with Indians. It does not, however, provide any confirmation of the oral tradition that he was part-Cherokee, or that his wife was Cherokee.

Lemuel Byrd is documented as having served from Putnam County, Georgia, during the Seminole War in 1817 (MOWA Pet. Narr. 1988, 46-48; copy of Lemuel Byrd's War of 1812 Pension Application, MOWA Pet. 1988, Ex. Byrd File). The pension application, which was rejected only on grounds that his period of service took place after the date of pension eligibility, indicates that he received a bounty land warrant in return for his service, and that he married Anna Weaver in Green County, Georgia, on April 19, 1819 (MOWA Pet. 1988, Ex. Byrd File).

Federal Census Records. The first record locating this Lemuel Byrd in Mobile County, Alabama, was the 1830 Federal census, which indicated that his household contained one white female aged between 30 and 50 years, and six free persons of color, two young adults and four children (U.S. Census 1830a, 11).⁷⁵ In 1840, his household was again mixed between white residents and free persons of color (U.S. Census 1840a, 73).⁷⁶ In 1850, 1860, and 1870, his family was consistently classified as mulatto (U.S. census

⁷⁵ 1830 U.S. Census, Mobile Co., AL, excluding the City of Mobile: Lemuel Bird, 1 white female 30-50; 3 fpc males under 10; 1 fpc male 10-24; 1 fpc male 24-36; 1 fpc female 24-36. Total: 7 (U.S. Census 1830a, 11 line 7).

⁷⁶ 1840 U.S. Census, Mobile Co., AL: Lemuel Bird: 1 wm 20-30; 1 wm 30-40; 1 fpc m under 10; 5 fpc m 10-24; 1 fpc m 24-36; 1 fpc f under 10; 1 fpc f 36-55. Total: 11 (U.S. Census 1840a, 73 line 26).

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1850a, 481; U.S. Census 1860a, 137; U.S. Census 1870a, 344).⁷⁷

According to the 1850 agricultural census of Mobile County, Alabama Lemuel Byrd had 40 acres and livestock with a value of \$1,200.00. His son William owned 64 acres and livestock with a value of \$1,310.00. The family's landholdings expanded significantly in the next decade: by 1860, Lemuel Byrd Sr. held 375 acres; William T. Byrd held 320 acres, G.W. Byrd held 320 acres, and Lemuel Byrd, Jr. held 165 acres (Nordmann 1990, 200-221). Records exist pertaining to the purchase and disposition of Lemuel Byrd's land.⁷⁸

Oral History and Local Tradition. Reports in the published literature concerning the origins of Lemuel Byrd were based upon oral tradition and bear almost no resemblance to the above documentary record. For example, in 1934, speaking to author Carl Carmer, a local resident said that:

"All the real Cajans sprung from the Byrd family," . . .
"Captain Red Byrd was a Mexican Indian and he come to Mobile County along time ago and married a Louisiana Cajan--that's how the name happened. He had a band of wild men with him. They called him 'Daddy Lem' but everybody else called him Captain Red Byrd because he

⁷⁷ 1850 U.S. Census, Mobile Co., AL, #560/560: Lemuel Byrd, 55, m, mu, farmer, b. NC; Ann, 60, f, mu, g. GA; Washington, 21, m, mu, b. AL; Lemuel, 19, m, mu; Martha, 16, f, mu; William, 30, m, mu; Jessie Weaver, 16, m, mu; Joseph, 20, m, mu; Jane, 6, f, mu; George W., 4, m, mu; Edward Tapping, 32, m, white, farmer, b. AL (U.S. Census 1850a, 481).

1860 U.S. Census, Northern Division, Mobile Co., AL, #56/56: Lemuel Byrd, Sr., 65, m, mu, farmer, \$200/\$1000, b. NC; Anne, 69, f, mu, b. Geo; Martha, 20, f, mu, b. AL (U.S. Census 1860a, 137).

1870 U.S. Census, Mobile Co., AL, Beat No. 4, #380/379: Lemuel Bird, 72, m, mu, farmer, \$300/\$900, b. NC; Anna, 79, f, mu, b. GA; Gordis [Gordu?], Patsy, 32, f, mu, b. AL; John, 13, m, mu; Lemuel, 9, m, mu; Nancy, 7, f, mu; Claborn, 4, m, mu; Wilkinson, Daniel, 21, m, W, laborer (U.S. Census 1870a, 344).

⁷⁸ June 13, 1836, Purchase by Lemuel Byrd, Land office at St. Stephens, Alabama, East 1/2 of SE 1/4 of Sec. 2, Township 1, Range 1 West, containing 80 acres; paid \$100.60 cash and signed his mark. U.S. Public Land Certificate No. 7528 (MOWA Pet. Narr. 1988, 53 and 53 note 82).

August 11, 1881, deed: Between William T. Byrd, G. W. Byrd Lemuel Byrd and Martha A. Rivers of the first part of the County of Mobile and State of Alabama and Max Schwarzauer of the aforesaid county. \$200. Signed: W.T. Byrd, Elizabeth Byrd, G.W. "X" Byrd, James D. "X" Rivers, Laura "X" Byrd, Lemuel Byrd, Nancy Byrd, Martha "X" Rivers (MOWA Pet. 1988, 3x. Byrd File).

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and the men stuck red feathers in the little caps they wore. They all dressed in animal skins and carried clubs to hunt with, and after they had killed a beast they ate his meat raw. Captain Red Byrd was eight feet tall and he had hair all over him and he was stronger than anybody" (Carmer 1934, 258-259).

Even within the petitioner's ancestral families, by the mid-20th century, legends were running rampant:

Every Cajan recognized Lem Byrd, also known as "Pappy Byrd", "Captain Red Byrd", and "Daddy Lem", as one of the first of the large family of Byrds who now occupy this woods territory. While there is no written history concerning him, old settlers agree that he came from "the northern part of the country" - probably Canada - and that he was a skilled farmer and brickmason. His wife, whom he brought to the woods from Mobile, was said to be an Acadian. He and his wife opened up the present Byrd Settlement; and they were among the first to be known as "Cajans", according to Cajan tradition (Murphy 1935, 9, citing to oral tradition from Mrs. Mollie Byrd, Shady Grove Settlement).

Was there any possible connection of Lemuel Byrd to a "historical tribe" in the acknowledgment context? As neither Lemuel Byrd nor his wife had any documentable American Indian ancestry, neither can be considered to provide their descendants with a claim to Federal acknowledgment as an Indian tribe under the provisions of CFR 83.7(e).

Marriage Patterns of the Weaver/Rivers/Byrd Children.

The marriage patterns of the children of this family do not indicate a close relationship to families of American Indian origin. Jerome Chastang, son of David Weaver's wife Cecile Weatherford, had children by three women: between 1851 and 1858, by Rhoda Rivers, daughter of Joel T. Rivers and Edy Weaver; at an undetermined date in the 1860's by Mary Rivers, daughter of Joel T. Rivers and Edy Weaver; and between 1865 and 1884 by Cornelia "Mollie" Weaver, daughter of James Weaver and Marguerite Parnell.

The children of David Weaver and Cecile Weatherford married as follows:

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Thomas Weaver to a woman named Mary, surname unknown, who was described on the 1870 census as black, born in Georgia;

Lorinda Weaver to William Reed, son of Daniel and Rose Reed;

Ellen Britinia "Tiny" Weaver to George Reed, son of Daniel and Rose Reed;

Tobie/Eliza Jane Weaver to Jesse Weaver, son of James Weaver and Marguerite Parnell (first cousin);

David Crockett Weaver to (1) Penny Parnell (recorded in the 1870 census as white); (2) Ophelia Evans;

Emeline Weaver to Reuben Reed, son of Daniel and Rose Reed;

Albert "Nin" Weaver to Mary Ann "Polly" Byrd, daughter of William Thomas Byrd and Elizabeth A. Gibson (first cousin once removed);

Alfred "Sancho" Weaver to Rhoda/Rosa E. "Mid" Rivers, supposedly the daughter of Jerome Chastang and Mary Rivers [Jerome was Alfred's half-brother and Mary was Alfred's first cousin, which made Alfred's relationship to his wife quite complicated]."

The children of James and Margaret (Parnell) Weaver married as follows:

Joseph Weaver to Elizabeth Wilkerson (aka Eliza Miller), who was recorded on the census as white;

Jesse Weaver to Tobie/Eliza Jane Weaver, daughter of David Weaver (first cousin);

Robert Weaver to Annette Chastang, a member of the free Creole of color Chastang family;

William Weaver to Nancy Reed, daughter of George Reed by Maria, and granddaughter of Daniel and Rose Reed;

Taylor Weaver to Louisa "Pea" Reed, daughter of George Reed by Maria and granddaughter of Daniel and Rose Reed;

Daniel Weaver to Sarah Jane Taylor, daughter of David and Jane (Byrd) Taylor (first cousin once removed);

" This is the parentage for his wife submitted by the petitioner. However, there were two contemporary women named Rhoda E. or Rosa E. Rivers: one the daughter of Jerome Chastang and Mary Rivers; the other the daughter of James Richard Rivers and Martha Ann Byrd. This second woman supposedly married (1) John Byrd; (2) Jack Loftin; (3) Lemuel "Book" Byrd. James Richard Rivers and Martha Ann Byrd were both first cousins of Alfred Weaver.

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Cornelia "Mollie" Weaver bore children to Powell Bates Johnston (white); married Jerome Chestang (step-cousin).

The known children of Edy Weaver and Joel T. Rivers married as follows:

Nancy Rivers to James Hopkins. He was supposedly from Greene County, Mississippi. According to the petition, he was "said to be Choctaw" (MOWA Pet. "Progenitor Name Lines" List 1988, 4) but no documentation was provided on him. BAR researchers did not locate him on census records. She also had several children who bore the Rivers surname.

Rhoda Rivers bore children to Jerome Chestang (step-first cousin);

Mary Rivers bore children to Jerome Chestang (step-first cousin) and possibly a daughter to George Washington Byrd (first cousin);

James Richard Rivers to Martha Ann "Sis" Byrd, daughter of Lemuel and Anna (Weaver) Byrd (first cousin).

The children of Lemuel and Anna (Weaver) Byrd married as follows:

William Thomas Byrd to Elizabeth A. Gibson, who was born in Georgia and classified as white on census records;

George Washington Byrd to Laura Woodley (aka Laura Parnell), who was classified as white on census records. He was also said to have had children by two second cousins named Bit and Mina Rivers;

Lemuel Byrd, Jr., to Nancy Hopkins, who was classified as white on census records;

Martha "Sis" Byrd to James Richard Rivers, son of Edy Weaver and Joel T. Rivers (first cousin);

James Byrd supposedly married and left two children, but the name of his wife was not known.

This pattern of marriage shows a high level of endogamy within the Weaver/Rivers/Byrd family itself in the mid-nineteenth century. Of those cousins who did not marry one another, the largest group married white spouses; the second largest group married descendants of Daniel and Rose Reed; the third largest group married members of Mobile County free Creole of color families, and only one chose a spouse who was described by a census taker as black. No

descendants of this last marriage are in the petitioning group today.

MBC Associated Families. In the early records of Mobile County, Alabama, and Washington County, Alabama, the Reed family and the Weaver/Rivers/Byrd families do appear in association with certain persons. These include Levin Hainsworth, an early settler, and various members of the Johnston family, also early settlers of the area. Records show that members of the Reed and Weaver families worked for these prominent landowners, who in turn appeared on their behalf as witnesses and securities in legal matters.

Before 1880, the major MBC families of Reed and Weaver/Rivers/Byrd took spouses from families named Chastang, Goodman, Daugherty, Taylor, Sullivan, Lofton, Evans, and Hopkins. Other spouses who entered the community bore the surnames of Logan, Jordan, Parnell, Newbern, and Woodley. BAR researchers surveyed the ethnic identification of these spouses, their parents, and their siblings, whenever these could be identified in the Federal census and published county-level records. With the exception of Chastang, the birth families of spouses of members of MBC core families were uniformly carried upon Federal census records as white during the mid-nineteenth century.

Several families claimed as "Known Indian Ancestors" of the petitioner (Snow, Orso, etc.) were neither Indian in ancestry nor appeared in association with Reed and Weaver descendants until after 1880. None of the demonstrable pre-Civil War and immediate post-Civil War associations of the MBC core families indicate the existence in either Washington County, Alabama, or Mobile County, Alabama, of a distinct American Indian community of which the ancestors of the petitioner were the focus, or even a peripheral part.

Census Categories, 1870-1920. In census records of marital families in the period 1870-1880, it was common that the non-MBC husband or wife would be categorized as white in the census records, while the spouse of Reed or Weaver/Rivers/Byrd descent and the children were sometimes classified as white, but more frequently classified as mulatto. Occasionally, a MBC ancestral family was listed as "Creole." On one census, the ethnic identity of some families was written, and then over-written with a second ethnic title written over the original identity. However, from the microfilm copy, it was impossible to determine which entry, "Ind" or "Mu," was original and which revised (U.S. census 1870a, 340r).

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In 1880, the few known Mississippi Choctaw families residing in Mobile County, Alabama, were classified by the census takers as "Indian," whereas members of the MBC families were classified as "Mulatto" (U.S. Census 1880a). In 1900, the census taker used primarily the categories "Black" and "White," with a few "Mulatto" (U.S. Census 1900a; U.S. Census 1900b).

For the first time in 1910, a Federal census attributed a mixed Indian identity to MBC core families. Those living in Mobile County were normally classified as either "Mulatto" or "Creole," with only the Mississippi Choctaw families listed as "Indian" (U.S. Census 1910a). In Washington County, however, one census taker for Fairford Precinct wrote a note in the margins of the pages to explain the "mixed" category he had applied to the MBC ancestral families: "These people entered as mixed are composed [sic] Indian and Spanish. Some of others mixed french, some with white and some with negro. (The prevailing habits are Indian). Called Cajuns" (U.S. Census 1910b, ED 143, sheet 1). On the next page, he wrote, "Indians, negro, & spanish French & white called Cajuns" (U.S. Census 1910b, ED 143, sheet 1B). On sheet 4, the margin stated, "Indian spanish white and negro called Cajun" (U.S. Census 1910b, ED 143, sheet 4). Similar entries were placed on sheet 5B, and sheet 8 (U.S. Census 1910b, ED 143, sheet 5B, sheet 8). In Malcolm Precinct, the census taker wrote in the margin, "Indian French Spanish, white and Arcadian (these people are called Cajun" (U.S. Census 1910b, ED 142, sheet 8B), while on another sheet his note was "Indian spanish whites and negro called Cajuns" (U.S. census 1910b, ED 142, sheet 12), on a third sheet, "Ot White and Indian" (U.S. Census 1910b, ED 142, sheet 2, sheet 6B), and on a fourth sheet, "OT Indian & Portuguese & White" (U.S. Census 1910b, ED 142, sheet 4).

On the 1920 census, in addition to "B/W/Mu," MBC ancestral families were sometimes classified as "Creole French Mulattoes" (U.S. Census 1920a, ED 77, sheet 8A). Henry Laurendine, a Mississippi Choctaw, was "Ind," but his wife Delphine was "Mu" (U.S. Census 1920a, ED 77, sheet 8A). In Washington County, one sheet noted "French and Indian" in the margin for a few families classified as "Ot" (U.S. Census 1920b, ED 162, sheet 14A), but all others were W, B, or Mu (U.S. Census 1920b). These complex categories were not applied to the white spouses of MBC core family members or to the relatives of white spouses of MBC ancestors: the non-MBC spouses and their relatives were consistently listed as white.

ANALYSIS OF OTHER MOWA BAND OF CHOCTAW PETITION CLAIMS

The existence of partly African ancestry and partly European ancestry within the petitioner's major families--Reed, Weaver, Rivers, and Byrd--would not, in itself, in any way prevent Federal acknowledgment of the petitioner as an Indian tribe. The problem is that the petitioner cannot demonstrate that those ancestors with mixed European and African ancestry, including Daniel and Rose Reed and the four Weaver siblings, were absorbed into a continuously existing American Indian tribe, American Indian entity, or American Indian community.

The petitioner's attempt to demonstrate the existence of a continuing American Indian tribal entity, or community, in southwestern Alabama in the first half of the nineteenth century was not documented. The petitioner's claim that distinct American Indian communities existed at Kun-Shak in Washington County and at Kun-sly in Mobile County (MOWA Pet. Narr. 1988, 15) is not verified by any local documents, county-level documents, state documents, or BIA records. Federal census records of these localities and the land records pertaining to these localities do not in any way confirm the petitioner's contentions.

Almost all of the claims to Indian ancestry made in the petition have been disproven. Most of the families listed by the petition as members of the "Mobile County settlement" in the decade prior to the Civil War (MOWA Pet. Narr. 1988, 74) had either no claim to Indian lineage or no genealogical input into the petitioning group (or neither one).⁶⁰ In addition, the "Washington County settlement" purported by the petitioner to be Indian and claimed during the same time period consisted of Rose Reed, the families of her children, and one Weaver brother, none of whom demonstrated Indian ancestry (MOWA Pet. Narr. 1988, 75).

⁶⁰ Windham, Orso, Moniac, Lewis, Juzan, Trenier, Evans, Sullivan, Wilkerson, Newbern, Hollinger, and Lofton.

The Moniac and Trenier families have not been documented as ancestral to the petitioner, nor are they claimed as ancestral to the petitioner anywhere else in the petition.

The Evans, Sullivan, Wilkerson, Newbern, and Lofton families have not been shown to have any American Indian ancestry.

The Windham, Orso, Lewis, Juzan, and Hollinger families have neither been shown to be ancestral to the petitioner nor to have American Indian ancestry in the branches of those families claimed as ancestral to the petitioner.

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Problems with tribal origins. The major family groups (Reed Weaver/Rivers/Byrd) have been discussed extensively above. The petition also claims many other early ancestors who have not been firmly documented as Choctaw, or even as American Indian.

The list of "Known Indian Ancestors" submitted by the petitioner (see Exhibit A) claimed a mixture of Choctaw, Creek, and Cherokee ancestors, with one each of Houma (MOWA Pet. Narr. 1988, 94), Chickasaw (MOWA Pet. Narr. 1988, 43; see also 62, 62 note 20, 65), and Apache (MOWA Pet. Narr. 1988, 101).²¹ The claim to Houma ancestry was based on oral tradition only, and is contradicted by documentary evidence pertaining to the supposed Houma woman. The surname is not found among the Houma prior to 1900 (see charts in the final section of this Technical Report). The claim to Chickasaw ancestry through the Colbert family is unlikely, as can be seen by reference to the charts in the final section of this Technical Report. The claim of Apache ancestry for one child, which dates to the 1890's (MOWA Pet. Narr. 1988, 101), was also based on oral tradition only, and is denied by those who have studied the imprisonment of Geronimo and his band at Fort Stoddert, Alabama (see charts in the final section of this Technical Report).

Undocumented claims of descent from prominent historical Choctaw leaders. The petitioner has attempted to tie their ancestral families to those of well-known Choctaw and Creek leaders of the late eighteenth and early nineteenth centuries. For example, the petition states that two "mixed blood Indian countrymen . . . William Colbert, of the Chickasaws, and Charles Juzan, Choctaw" who witnessed the Treaty of 1805 at Mount Dexter "have descendants among the Mowas" (MOWA Pet. Narr. 1988, 11 note 24). However, the claim that members of the petitioner descend from these two men was not documented in the petition, and the lines claimed to them have been disproved by BAR researchers. The same is true of the assertion made in the petition that many of the men associated with the Choctaw Trading House, 1800-1816, were ancestors of the petitioner (MOWA Pet. Narr. 1988, 12 and 12 note 27).

²¹ For detailed analysis of BAR findings on each of these claims individually, see the charts in the final section of this report.

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Piamingo Hometak.⁸² It is undeniable that Piamingo Hometak, Chief of Hobuckintopa who resided near St. Stephens on the Tombigbee River, sold his land there in 1780 and 1799. Copies of the deeds were included in the MOWA petition documentation. However, the petition's statements that Piamingo Hometak moved to the High Hill area and became one of the MBC ancestors (MOWA Pet. Narr. 1988, 14; 55 note 91) are not documented by the material presented in the petition. An affidavit made in 1974 pertaining to the ancestry of Henry Eaton, born in 1852, (MOWA Pet. Narr. 1988, 14-15; 14 note 32) does not constitute proof of descent.⁸³

Although it may be true (but not documented in the petition) that one of Hometak's daughters married Cornelius Daugherty, Jr., a half-Cherokee countryman (MOWA Pet. Narr. 1988, 14), this does not tie Hometak to the MBC, as Willis Daugherty, the MEC ancestor, was not, as claimed in the petition, the son of Cornelius Daugherty, Jr., and Hometak's daughter (MOWA Pet. Narr. 1988, 14). Willis Daugherty, husband of Emeline Reed, stated on the 1880 census of Washington County, Alabama, that his father was born in Ireland (U.S. Census 1880b, 141A). Daugherty Family Bible records submitted by the petitioner (MOWA Pet. 1988, Ex. Eaton, Henry "Doc" File), in combination with Federal census records (U.S. Census 1850b, 331), indicate that his parents were Peter⁸⁴ and Mary Daugherty.

The petition asserts that another of Hometak's daughters married James Johnston, who purchased land on High Hill in 1836 (MOWA Pet. Narr. 1988, 14, 55 note 91). However, no documentation for this supposed marriage was provided by the petitioner. A typed sheet on the Johnston family submitted

⁸² The petition's list of "Known Indian Ancestors, First Generation" lists: HOME TAK, Choctaw. Concerning him, it states: "grandfather of Henry 'Doc' Eaton - lived on High Hill - oral history from Lee Weaver age 79 as told by father Wade Weaver - John McGrew Deed BK, A Wash. Co. Choctaw" (MOWA Pet. 1988, Appendix A, 7). The same list includes this man's putative grandson, Henry Eaton, in the category of "Known Indian Ancestor, First Generation."

⁸³ The petitioner's list of "Known Indian Ancestors, First Generation" states: HENRY DOC EATON, Choctaw. It describes him as "father of Viney Reed - mother Florence "Liddie" Blackmon - oral history - an affidavit under oath" (MOWA Pet. 1988, Appendix A, 7).

⁸⁴ The apparent 1860 Federal census entry for this family gave the father's name as Patrick Dougherty, born in Ireland, with a wife named Patience (U.S. Census 1860a,b, 1007).

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by the petitioner showed that James Johnston married Elizabeth (Linder) Johnston, widow of his brother Daniel (MOWA Pet. 1988, Ex. Reed File).⁵⁵ The only documentation submitted to tie MBC ancestors directly to Johnston was that in 1824 he manumitted a mulatto slave girl named Peggie/Marguerite Parnell, who became the wife of James Weaver (MOWA Pet. Narr. 1988, 54; no copy of the emancipation document or bond was included in the petition exhibits).

Elah Tubbee (Chief Tom Gibson). Similarly, it is a historical fact that Elah Tubbee, aka Chief Tom Gibson, remained in Mississippi as a settlement leader of one of the Six Towns at the time of removal in the 1830's. The petition's claim that he and his band joined Hometak at High Hill, in Mobile County (MOWA Pet. Narr. 1988, 15), is not documented, nor does it seem likely in view of his later documented residence in Mississippi.

That Chief Tom Gibson was the father of Betsy Gibson, who is claimed as one of the MBC ancestors, is based on oral tradition only. The petition presented no primary source materials to prove that a woman named Elizabeth/Betsy Gibson married William Thomas Byrd, though circumstantial evidence indicates that the marriage is probable.

William Thomas Byrd can be placed in proximity to a woman named Betsy Gibson. The 1850 census of Mobile County, Alabama, shows the following household: Ann Lawrence, 85, female, born in Georgia; Betsy Gibson, 20, female, born in Alabama; William [Gibson?], 2, male, mulatto, born in Alabama; Nancy Hopkins, 20, female, born in Alabama; and Franklin [Hopkins?], 3, male, mulatto, born in Alabama (U.S. Census 1850a, 481).

The above household was preceded by that of Foster and Delphine (Juzan) Chestang (U.S. Census 1850a, 480). Both of these spouses were members of well-known Mobile County Creole of color families. It was succeeded by the households of David Weaver and Lemuel Byrd (U.S. Census 1850a, 481). William Byrd, age 30, was residing in his parents' household. However, the 1850 census indicates that Elizabeth Gibson, neighbor of the Byrd family, was white, and gives no clue as to her parentage (U.S. Census 1850a, 481).

⁵⁵ Daniel Johnston and Elizabeth Linder were married January 30, 1803, in Washington County, Alabama (Waddell and Brown n.d.a, Preface).

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In the 1860 census, the Elizabeth A. Gibson, age 27, who was in the household of William R. Byrd, was described as white, born in Georgia (U.S. Census 1860a, 141); in 1870, Elizabeth in the household of William Bird was age 38, born in Georgia (U.S. Census 1870a, #383/382). On the 1880 census, Elizabeth, wife of William Byrd, age 48, stated that she was born in Georgia, her father was born in North Carolina, and her mother was born in Virginia (U.S. Census 1880a, 19). These birthplaces for her parents make it highly unlikely that she was a daughter of Chief Tom Gibson, who did leave descendants in Mississippi (MOWA Pet. Narr. 1988, 115; citing to Dawes Commission, Mississippi Choctaw Applications, Julia Gibson Davis #1537).

The petition also claimed as a MBC ancestor, Chief Tom Gibson's proven daughter, Julia (Gibson) Davis, Julia (Gibson) Davis was never, in any document, mentioned as even an associate of any MBC family. Julia (Gibson) Davis never appeared in any census record of Mobile County, Alabama, or Washington County, Alabama. The petition's assertion that she was a member of the petitioning community who was identified as a Mississippi Choctaw (MOWA Pet. Narr. 1988, 115) cannot possibly be substantiated.

Neither was the Joseph W. Windham cited at this point in the petition (MOWA Pet. Narr. 1988, 115) ever a member of the petitioner's ancestral community. Joseph W. Windham testified before the Dawes Commission that he was age 32 and had resided all his life at Calvert, Mississippi (Dawes Commission, Mississippi Choctaw Applications MCR 2950, NARS M-1301, Roll 120). (For further discussion of the Windham family, see the charts at the end of this Technical Report.)

Aside from the existence of Elizabeth/Betsy Gibson, the petition presented no evidence whatsoever to indicate that Chief Tom Gibson and his band had any connection to known ancestors of the petitioner. Documents located by BAR researchers indicated that the MBC ancestress Betsy Gibson was white, and was born in Georgia. The known remnant Choctaw groups need to be more fully studied in and of themselves for possible connections to the MBC ancestral settlement before claims that their members were MBC ancestors are asserted as fact. Those claims which are asserted must be documented.

Undocumented Claims to Descent from Signers of the Treaty of Dancing Rabbit Creek, 1830.

By the Treaty of Dancing Rabbit Creek in 1830, the Choctaws ceded the last of their lands east of the Mississippi River. These were located mainly in Mississippi, but extended into a small part of west central Alabama (see Map Supplement). The signers agreed that the tribe would remove to lands they had acquired from the Government in what would become the Indian Territory (see DeRosier 1970, map at p. 29; Royce 1900, plate for Mississippi, cessions #43, 61, 115, 156).

There was one significant concession made by this treaty:

Article XIV. Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue; Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity (Kappler 1904, 2:313).

While the petition submitted to BAR does not emphasize strongly any significant connection to signers of the Treaty of Dancing Rabbit Creek, Senate Report 103-193 (103d Congress, 1st Session) states:

The Mowa [sic] Band of Choctaw Indians represent the descendants of a number of individual Choctaw families, along with at least one Cherokee and one Creek family, who avoided being removed west to Oklahoma in the 1830's. Mowa Choctaw ancestors were signatories to the 1830 Treaty of Dancing Rabbit Creek which expressly provided for non-removal of Indian families, The Mowa Band of Choctaw Indians have established to a high degree

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their lineal descendance [sic] from those who signed the Treaty of Dancing Rabbit Creek as well as various other treaties executed between the United States and the Choctaw Indians (U.S. Senate. Select Committee on Indian Affairs 1993, 2).

BAR research has not been able to verify, in any case, descent of members of the modern petitioner from signers of the Treaty of Dancing Rabbit Creek.

According to the petition, two well-known men of Choctaw descent, Pierre and Charles Juzan [Juzan], held land secured from the Treaty of Dancing Rabbit Creek in the northern portion of Alabama (MOWA Pet. Narr. 1988, 17017); of these, only Pierre was a signer (Kappler 1904, 2:315-316). Charles Juzan was in Mississippi by 1840, and his descendants eventually went to Indian Country (MOWA Pet. 1988, Ex.). The petition in one place states accurately that Mary Josephine Juzan's father was Peter (Pierre) Juzan [Sr.] (MOWA Pet. Narr. 1988, 18), in another it claims that Charles Juzan was the father of Mary Josephine (Juzan) Hollinger, and that the petitioner is descended from a Choctaw family through that line (MOWA Pet. 1988, Ex. Gen. Bk. Hollinger). Neither of these claims is true: Charles Juzan was not the father of Mary (Josephine) Juzan Hollinger. While Pierre Juzan [Sr.] unquestionably left some part-Indian children, the Orso line through which the petitioner is attempting to claim American Indian ancestry goes to Pierre Juzan and his non-Indian first wife, Catherine Parant, daughter of Francois Parant and Marie Arlut (Vidrine 1985, 281). Pierre Juzan's second wife, Pelagie Lawrence or Loriens (see mention in MOWA Pet. Narr. 1988, 17, 18 and 18 note 43) was, like Catherine Parant, of a New Orleans French family, and only four years older than her stepdaughter, Mary Josephine (Juzan) Hollinger. She was born January 11, 1762, and baptized January 20, 1762, in New Orleans, daughter of Jacques Loriens dit Tarascon and Louise Beaudin (Andrews 1992b, 179, citing Sacramental Records of the Archdiocese of New Orleans 1:172 and 2:172).

Two of Pierre Juzan [Sr.]'s well-known Choctaw descendants, Pierre and Charles Juzan, held land secured from the Treaty of Dancing Rabbit Creek in the northern portion of Alabama. There is no indication that either of these Choctaw men, Pierre Juzan or Charles Juzan of northern Alabama, was an ancestor of the petitioner. The petitioner also claims that a man named Daniel Juzan was brother of or half-brother of the Choctaw Charles Juzan and an ancestor of the petitioner

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(MOWA Pet. Narr. 1988, 17; 17 note 40 and note 41). The petition does not document this assertion; neither Pierre Juzan [Jr.] nor Charles Juzan, nor, for that matter, Daniel Juzan nor Francis Juzan has proven descendants among the MBC petitioner.

"Known Indian Ancestors" Claimed by the Petitioner. A extensive chart analyzing, one by one, the "Known Indian Ancestors" claimed by the petitioner (MOWA Pet. 1988, Genealogy 5-7; copy attached as Exhibit A) follows at the end of this technical report. In summary, BAR researchers have reached the following conclusions:

- (1) a number of the persons claimed by the petitioner as "Known Indian Ancestors," or described as Indian ancestors elsewhere in the narrative portion of the petition, were not of American Indian lineage; for example, Mary Josephine (Juzan) Hollinger,⁶⁶ the Chastang family,⁶⁷ and Naze Brue (see below for a more extensive discussion of the Brue lineage);
- (2) others claimed by the petitioner as "Known Indian Ancestors," or described as Indian ancestors elsewhere in the narrative portion of the petition, have not been documented as American Indian (for example, Peter Cole and Melton Snow);

⁶⁶ The claim of the petition that Marie Josephine Juzan, wife of Adam Hollinger, was a daughter of Charles Juzan, Choctaw Indian, and of his wife Phoebe, does not stand up based on the 1840 documentation of Charles Juzan's family presented with the petition itself. All Juzan family documentation submitted by the petitioner indicated that Marie Josephine Juzan was a generation too old to have been this Charles Juzan's child.

The wife of Adam Hollinger, Sr. of Mobile County, Alabama, was born in 1766 and died in 1836. Her father was Pierre Juzan, a French Huguenot. She is described by a local historian as having been the best educated woman in Mobile. Her mother, Catherine Parent, was also French. For records pertaining to the Hollinger family, see the transcripts of early Baldwin County, Alabama, recently published by the Ecor Rouge Chapter, NSDAR (Baldwin County Alabama 1993, 24-25).

⁶⁷ The petition counts Chastang as one of the "Indian" families in the MOWA ancestral settlement at 21-mile Bluff in Mobile County (MOWA Pet. Narr. 1988, 36). The well-documented Chastang family of Mobile County, Alabama, was not Indian. One branch consisted of free Creoles of color (Nordmann 1990; Andrews 1992); the other branch was entirely of French ancestry (Baldwin County Alabama 1993, 31). The petitioner presented only rejected Guion Miller Eastern Cherokee Fund applications as verification for the claim that the maternal ancestry of Jerome "Pic" Chastang was Indian (see discussion on Cecile Weatherford under the Weaver family). On the 1880 Federal census, Jerome "Pic" Chastang's ethnicity was listed as W/Creole (U.S. Census 1880b, 199B).

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- (3) a number of the persons claimed by the petitioner as "Known Indian Ancestors" were not ancestors of members of the petitioning group (the American Indian branches of the Juzan and Hollinger families, the Colbert family, and Nancy, wife of Felix Andry⁸⁸) or have not been documented as ancestors of the petitioning group (Caroline (Weatherford) Killum⁸⁹); and
- (4) only two families claimed as "Known Indian Ancestors" by the petitioner (Brashears and Laurendine) can be documented as of American Indian origin. These two families were not part of the petitioner's founding community. The Smith grandchildren of Alexander Brashears did not marry into the MBC community until after 1880, while only one woman descended from the Laurendine family married into the petitioning group, about 1904. Of the total 3,960 MBC membership, only 40 can claim descent from these two families (MOWA Pet. 1988, Ex. Genealogy and Ex. Membership Rolls; BAR Analysis).

No pre-Civil War documents show members of the Reed or Weaver family associated as colleagues or witnesses with Felix Andry, who was married to a Choctaw woman named Nancy⁹⁰ and submitted claims to the Federal government on

⁸⁸ Onerene Chestang, "Choctaw." The petition stated that she was a granddaughter of Felix S. Andry and Nancy, a Six Towns Choctaw, through their daughter Victoria Andry who married Edward Chestang (MOWA Pet. Narr. 1988, 69; 69 note 42). See Victoria (Andry) Chastang's Mississippi Choctaw Dawes Roll application (rejected) (Dawes Commission MCR No. 2187). Onerene, and her sister Gertrude, were minors in 1901; the couple had older children.

⁸⁹ Listed by the petitioner as Caroline Weaverford (Fields) (MOWA Pet. 1988, Genealogy, 5).

⁹⁰ Felix Andre m. Nancy (NSL), Jul. 28, 1849*, Mobile County, Alabama, Marriages, Book 8, p. 384 (King and Barlow 1985, 3). The petition submitted a copy of his letter to the Office of Indian Affairs pertaining to the payout of Choctaw scrip and copies of the subsequent investigation (MOWA Pet. 1988, Ex.).

The petition includes "Onerene Chestang, Choctaw" in the list of "Known Indian Ancestors, First Generation," stating that she was "daughter of Victoria Andry, granddaughter of Felix Andry and Nancy, a full blood Choctaw - Dawes Roll - Hunt letters to Choctaw Agency" (MOWA Pet. 1988, Appendix A, 6).

Generally speaking, the discussion of Juzan, Laurendine, Chastang, Lorant, and Andry family connections in the petition is very confused, because it does not acknowledge the African component in the ancestry of these free Creole of color families. Same-name individuals are confused with one another and generations are mixed up (see, for example, MOWA Pet. Narr. 1988, 17-18 and 18 note 42).

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behalf of the Choctaw remaining in Alabama during the 1850's (see MOWA Pet. Narr. 1988, 69, 69 note 42; MOWA Pet. 1988, Ex. "1850-51," "1852," "1853," "1854-56"). Several descendants of Nancy Andry submitted applications to the Dawes Commission as Mississippi Choctaw in 1901. In testimony given at Meridian, Mississippi, Victoria (Andry) Chastang,⁹¹ on behalf of herself and two minor daughters, Onorene and Gertrude, stated that she was born in 1853 at Mobile, Alabama, that she was the widow of Edward Chastang, and that she had no knowledge of her ancestors at the time of the Treaty of Dancing Rabbit Creek in 1830. She was able to speak Choctaw, and conversed with the interpreter in Choctaw. The witness on her behalf was William Williams of Creola, Alabama, elsewhere identified by the Dawes Commission as a full-blood Mississippi Choctaw (see below). Related applications were submitted by Oswella Chestang, Felicia Laurent et al., Edward Chestang, and Frances Chestang, Victoria's older children (Dawes Commission Mississippi Choctaw Applications, MCR 2187, 3054, 3055, 3056, 3057, NARS M-1301, Roll 111).⁹² Victoria Chestang's application gave no indication of any connection between her family and any of the MBC ancestral families.

MBC Families with American Indian Lineage. A somewhat more extensive discussion of the two families with demonstrated American Indian ancestry follows.

Smith/Brashears. The petitioner claims that:

Turner Brashears was an interpreter among the Creeks during Benjamin Hawkins' tenure as Agent to the Creeks; he was also a witness and interpreter for the Choctaws. He had mixed blood families among the Creeks and the Choctaws, some of whom

⁹¹ The discussion of Victoria Andry's husband, Edward Chastang, in the petition has the family's generations totally confused (MOWA Pet. Narr. 1988, 17-18).

⁹² In 1900, the Soundex Index to the Alabama Federal census indicated that this family was living at 502 Bloodgood Street in the City of Mobile. Edward Chestang was age 67, having been born in July, 1832, in Alabama; his wife Victoria Chestang was listed as age 65, having been born October, 1834, in Mobile. The children at home were: Edward, born July 1876; Francis, born October 1874; Auzella, born February 1876; Norine [sic], born June 1884; Gertrude, born October 1888; John, born February 1879; and a daughter-in-law named Louisa, born April 1876.

All other documents indicate that Victoria Chestang was age 45, having been born in 1854.

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lived in the forks. Turner ... was the father of Samuel who married Rachel Durant. Rachel's parents were Sophia McGillivray and Benjamin Durant. Samuel and Rachel were the parents of Alexander, born 1790, who married Emeline Wind (Winn), daughter of Sarah Pane (Payne) and William Wind of the Wind Clan of the Creeks (MOWA Pet. Narr. 1988, 20).

For further discussion of these claims pertaining to Alexander Brashears' ancestry, see the charts at the end of this Technical Report. The Guion Miller Eastern Cherokee application of Alexander Brashears' daughter Emmeline Jane (Brashears) Smith, wife of Ira B. Smith, specifically disclaimed Choctaw ancestry and stated that the Brashears' Indian lineage was Cherokee (Guion Miller Eastern Cherokee Fund Applications, #9576).⁹³ She listed the children of

⁹³ Emmaline Jane (Brashears) Smith and some of her children applied for placement on the Guion Miller **Eastern Cherokee** distribution rolls through Alexander Brashears and Emaline (Winn) Brashears, whom they described as born "somewhere in North Carolina." The petition claims that Emaline Wind (Winn) was the daughter of Sarah Pane (Payne) and William Wind of the Wind Clan of the Creeks" (MOWA Pet. Narr. 1988, 20).

On her Guion Miller application, Emeline (Brashears) Smith mentioned a sister Louisa Jane, who was born in 1835 and died in 1900, but did not indicate Louisa Jane's married name. In 1850, Emeline Brashears was enumerated in the household of her father, Alexander Brashears. Nathaniel Smith and Louisa, age 15, were already married at the time of the 1850 Federal census.

By 1900, the descendants did not have a clear recollection of Alexander Brashears' tribal ancestry. A granddaughter of Samuel and Rachel (Durant) Brashears claimed Cherokee and Creek ancestry: not Choctaw. Emeline Jane (Brashears) Smith (widow of Ira Byrd Smith), of Mobile County, Alabama, applied for **Eastern Cherokee** funds in 1908. She stated that she was the daughter of Alexander and Emaline (Winn/Wind) Brashears; granddaughter of Samuel and Rachel (Durant) Brashears and of William and Sarah (Pane) Winn/Wind. She stated at various times that:

- (1) Rachel Durant was half-blooded Cherokee;
- (2) her father resided in 1835 in Sumter County near Demopolis, Marengo County, Alabama;
- (3) her grandmother, nee Rachel Durant, was living in Sumter County, Alabama, in 1835-36 and 1846; and
- (4) her father was living at Mt. Vernon, Mobile County, Alabama, in 1846.

On September 5, 1907, Emaline J. Smith wrote to Mr. Nathan Bickford, Washington, D.C., stating specifically that her children had **made a mistake in filing a Choctaw claim**, and that her family's Indian ancestry was **Cherokee**, but her children didn't know it: "they know the Choctaws for there is some of them here yet." On January 28, 1908, in reference to her Cherokee ancestry, Mrs. Smith wrote, "Neither my parents nor my self were members of no other tribe." The rejection

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Alexander and Emmeline (Winn) Brashears as: Sarahann, born 1825; Henrietta Jane, born 1827; Dennis Payne, born 1829; William Payne, born 1831; Emmeline Jane, born 1833; and Louisa Jane, born 1835 (MOWA Pet. Narr. 1988, 20 note 49).

Alexander Brashears was among the Choctaw petitioners who wished to become citizens according to the 14th article of the 1830 Treaty of Dancing Rabbit Creek (MOWA Pet. Narr. 1988, 60). Although the Indian ancestry of Alexander Brashears is documented, from 1830 onwards, he was counted as white on all Federal census records and was never shown as part of any tribal grouping. The petition states that he moved his family from Sumter County, Alabama, to Mobile County, Alabama, in 1846 (MOWA Pet. Narr. 1988, 60-61). After that date, his family is found on Mobile County Federal census records. This date is well after the Treaty of Dancing Rabbit Creek, which indicates that Alexander Brashears cannot be regarded as part of a "founding" Indian community in Mobile County, Alabama.

Although by 1850 the mixed Creek/Choctaw/Cherokee? family of Alexander Brashears was residing in Mobile County, Alabama, not far from the Weaver family, no documents indicate that there was any direct association between Alexander Brashears' family and the major MBC ancestral families. The descendants of Alexander Brashears, generally, are not identified with the MBC. After 1880, grandchildren of Alexander Brashears--through only one of his daughters--began to intermarry with one branch of Reed descendants. These were the children of his youngest daughter, Louisa, who married Nathaniel J. Smith,³⁴ son of Oliver Merida Smith, who was born in North Carolina, and Barbara (Byrd)

(#9576) stated: "Applicant claims through her father's mother who was 1/2 Cherokee and as applicant was born in 1833 and her father in 1810 her father's mother must have been born about 1770. It does not appear that any ancestor was ever enrolled or that any ancestor was party to the treaties of 1835-36 and 1846. Shows no connection with the Eastern Cherokees" (Cherokee by Blood 1:350).

³⁴ Nathaniel John Smith b. 13 January 1828, Jones Co., MS, later served under Captain White in 1861 in Ordnance Department at Mount Vernon Arsenal, to 1865 (Washington Co., AL 1907 Census of Confederate Soldiers) (MOWA Pet. Narr. 1988, 92).

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Smith.⁹⁵ Louisa (Brashears) Smith left descendants who are members of the petitioner.

None of Louisa's children appear to have completed Guion Miller applications. Louisa (Brashears) Smith was listed on her sister Emmeline (Brashears) Smith's Guion Miller application as "Louisa Jane" (Guion Miller Eastern Cherokee Fund Applications). Her marriage record⁹⁶ and at least one census refer to her as Louiza Z. (U.S. Census 1860a, 142). The will of her brother, Dennis Payne Brashears, did not name her at all (Hartman 1988, 39). The petition gave her name as both Louisa and Luliza, stating that she was born December 26, 1835, and died January 26, 1899, apparently upon the basis of her tombstone at Charity Chapel (Washington County Historical Society 1989, 233). The date of death on Louisa's tombstone at Charity Chapel does not correspond to the date of death for Louisa Jane furnished by Emmeline (Brashears) Smith on her Guion Miller application.⁹⁷

Louisa Brashears was married at the age of 14. She and her husband appear as a married couple on the 1850 Federal census of Mobile County, Alabama (U.S. Census 1850a, #477/51.5). The family did consistently live in the vicinity of other MBC ancestral families for at least two decades before the intermarriage process began. However, Alexander Brashears and his children were never identified as Indian on any Federal census records, but were always classified as

⁹⁵ Per pet. anc. charts, Barbara Ellen Byrd, b. 17 March 1807. S.C.--d. 1898, bur. Smith Cemetery/Charity Chapel, dau. Thomas Byrd b Lenoir Co, N.C. and Elizabeth Williams. m. Oliver M. Smith, b. 1795. NC--d. 1874, bur. Smith Cem.

1850 U.S. Census, Mobile Co., AL, #489/489: Oliver Smith, 55. m. farmer, b. SC; Barbara, 43, f, b. SC; Ira, 23, m; Robert, 19, m; Ebenezer, 16, m; Mary, 13, f; Sarah L., 11, f; Joseph, 8, m; George. 4. m; Carline, 2/12, f; Thomas Byrd, 10, m; Elizabeth, 9, f (U.S. Census 1850a, 475).

⁹⁶ Request dated 1 January 1850, signed A: Brashears: Sir, You may grant License to Nathaniel Smith to marry Louisa Z Brashears. License dated 4 January 1850. No return (Mobile Co., AL, White Marriage License: Book 11, 31).

⁹⁷ Emmeline Jane Brashears had married Ira Byrd Smith, another son of Oliver Merida Smith and Barbara Byrd.

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white."⁹⁸ Nathaniel Smith and his sons seem to have been involved, after 1880, in cooperative enterprises with some of the MBC core families."⁹⁹

Nathaniel J. Smith and Louisa (Brashears) Smith had at least 12, possibly 13 children. Of these, ten grew to adulthood and married. Of those ten, seven married into MBC core ancestral families between 1880 and 1900.¹⁰⁰ While this

⁹⁸ 1850 U.S. Census, Mobile Co., AL, #477/515: Nathaniel Smith, 28; Louisia, 15 (U.S. Census 1850a).

1860 U.S. Census, Northern Division, Mobile Co., AL, #106/106: N.J. Smith, 35, m, farmer, b. MS; Louiza Z, 24, f, b. AL; M.M., 8, m; B.P., 6, f; M.J., 4, m; A.E., 2, m; B.L., 5/12, f (U.S. Census 1860a, 142).

1870 U.S. Census, Mobile Co., AL, #386/385: Smith, Nathaniel, 48, m, W, farmer, \$400, b. MS; Loisa, 34, f, w; Manson, 18, m; Benj, 16, m; Adelia, 12, f; Bramlery, 10, f; John, 8, m; Oliver, 6, m; Barbara, 4, f; George, 2, m; Elizabeth, 5/12, f (U.S. Census 1870a, 346).

1880 U.S. Census, Mobile Co., AL: Smith, Nat, W, m. 57; Lzoiasa, W, f. 47; John, W, m, 18; Oliver, W, m. 16; Ellen, W, f, 14; George, W, m. 12; Emily, W, f. 10; Lawrence, W, m, 9; Ira, W, m. 4 (U.S. Census 1880a).

⁹⁹ "John and Manson Smith founded the Charity Chapel church in 1891. Seaborn [Reed] gave the land for the church and Nathaniel was the first pastor. Barbara Reed Smith became the head of the church after her husband's death, and she also served as the mid-wife for the community. In 1912 a school was established in the church (it had 90 students in 1969, when it was closed). John Everett, Seaborn's nephew, owned a store across from the church" (MOWA Pet. Resp. 1991, 115).

¹⁰⁰ 1. Manson/Manson Marion Smith, b.c. 1852. Pet. gen. bk. says m. Eliza Ann/Helen "Hun" Reed; m.c. 1880, Eliza Reed, dau. of Seaborn Reed and Georgiann Logan. Mobile Co., AL, White Marriage License Book 28, p. 159: bond Manson Smith and Lemuel Harris, 26 May 1879, both sign. Manson Smith m. 31 May 1879, near Citronelle, Eliza Ann Sullivan, over 16. E.H. Kelley, MG.

2. Benj/Ben/Benjamin Pearce Smith, b. May 1852/c. 1854. Listed as female on 1860 census. m. Harriet "Sis" Weaver, dau. Joseph Weaver and Eliza Wilkerson.

3. M.J. Smith (male), b.c. 1856. NOTE BY VED: POSS the Jane said to have died as a child? If gender reversed with Benjamin on 1860 census?

4. Adelia Smith, b.c. 1858. Mobile Co., AL, White Marriage License Book 27, p. 605: Bond Joseph King & Edward D. Teal, 31 May 1878. Joseph King m. Adely Ezetta Smith, over 18, 6 June 1878 at Mt. Vernon. Officiant illegible on copy. The Pet. gen. bk. listed a supposed daughter Katherine/Kate/Keet Smith, b. 7 March 1859--d. 15 February 1923. No Kate was ever listed with this family on the census. Since Kate supposedly married Joseph King, she was possibly the same person as Adelia.

5. Bramlery/Lillian Bromeley Smith, b. c. 1860. According to Pet. gen. bk. she m. Henry _____. Mobile Co., AL, White Marriage License Book 28, p. 14: bond Henry Reffett and Thomas J. Peaples, 26

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phenomenon certainly indicated an incorporation of this branch of Alexander Brashears' descendants into the petitioning group during the last quarter of the nineteenth century, it did not indicate, in the absence of confirming documentation from the period 1830-1850, that Alexander Brashears was part of an American Indian community which

November 1878. Permit for Bromley L. Smith, age 18, from Nathaniel J. Smith. Henry Reffett m. Bromley L. Smith, 16 December 1878, Berry A. Cannon, JP.

6. John Smith, b. c. 1862. m. Barbara Reed, dau. Seaborn Reed and Georgianna Logan [Sullivan]. Mobile Co., AL, White Marriage License Book 30, p. 567: bond John Smith and M.M. Smith, 2 April 1886, John Smith to marry Barbara J. Reid, maiden over 15 years of age. John Smith m. Barbara J. Reid at Gulf City Hotel, Mobile, 2 April 1886, James Flanagan J.P.M.C. Consent to Probate Judge 1 April 1886 by Georgeann and S Reid.

7. Oliver Smith, b.c. 1864. Pet. gen. bk. for Smith says he m. Mary Parker in Mississippi. Pet. gen. bk. for Weaver says he m. a daughter of Joe Weaver and Elizabeth Wilkerson.

8. Barbara Smith, b. c. 1866. m. Frank Cole. Frank/Franklin Cole, b.c. 1858, AL/b. 1859, Washington Co., AL--d. 1927, bur. Charity Chapel. m. Barbara (Dautey) Simth [sic]. Pet. gen. bk. says m. Barbara Ellen Smith, dau. Nathaniel John Smith and Louise Brashears. Barbara Smith, midwife, d. 1941.

9. George "Buddy" Smith, b.c. 1868. m. Frances Weaver. Smith, George W. m. 7 May 1896, Washington Co., AL, Book 4 #301, Frances B. Weaver (Brown and Waddell 1981). NARS T-623, Roll 43, 1900 U.S. Census, Washington Co., AL, Precinct 11 Sims Chapel, #200/200: Smith, George, B, m, b. March 1868, AL, turpentine chipper; Francis, B, f, wife, b. Nov. 1877; James C., son, b. July 1896; Medical, son, b. Mar 1899; Nathan J., father, B, m, b. Jan. 1822, age 78, widower, b. AL, parents b. SC.

10. Elizabeth Smith, b. January 1870, AL, per census. Pet. gen. bk. says Emily/Emmaline Smith, b. c. 1870. "Pitts"/Piccay Smith m. (1) John Cole, son of James Cole and Harriet Wilkerson; no children. NOTE: 1910 census shows John Cole married to Mattie _____, b.c. 1868, AL. m. (2) Robert Lewis. Mobile Co., AL White Marriage License Book 31, p. 215: bond John Cole and Frank W. Cole, 30 Sept. 1887. Both sign. John Cole m. Emma L. Smith over 18, 30 September 1887, at residence of F.W. Cole of Citronelle. Max M. Schwarzauer MG. Mobile Co., AL, White Marriage License Index: Cole, Emeline m. R.H. Lewis, 4 May 1895, Book 33, p. 828.

11. Lawrence Smith, b.c. 1871. Lou/Luddie "Luddy" Smith, b. 1872--d. 1885 (History of Washington County 198?, 2:101) or d. age 10 years (MOWA pet.).

12. Ira Smith, b. c. 1876. m. Mary "Dink" "Woods" Chestang, dau. Jerome "Pic" Chestang and Cornelia/Mollie Weaver. Smith, Ira m. 5 December 1897, Washington Co., AL, Book 4, #371, Mary Chastang (Brown and Waddell 1981). NARS T-623, Roll 43, 1900 U.S. Census, Washington Co., AL, Precinct 11 Sims Chapel, #199/199: Smith, Ira, B, m, b. Sept. 1873, age 26, b. AL, turpentine chipper; Mary, B, f, wife, b. Aug. 1878, AL; Tim, son, B; m, b. May 1899.

13. Jane Smith, d. inf. POSS the same as Mary J., above.

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included the MBC core ancestral families 50 years before the period when these intermarriages were taking place.

Laurendine. The Mississippi Choctaw Laurendine¹⁰¹ family did not apparently, settle in Mobile County until after the Civil War. There appears to be no justification for the petition's statement that the Laurendines represented "a group of fugitive Choctaws from Mississippi" who "took refuge in the Kun-sly area" [Mobile County] (MOWA Pet. Narr. 1988, 58). They settled among well-known Creole of color families, such as the Lorants, the Dubrocas, the Mobile County Laurendines, and the Brues, and they maintained ties to relatives in Mississippi who appeared before the Dawes Commission with them (Dawes Commission Mississippi Choctaw Applications, MCR 2193).

No Laurendine descendant married into the petitioning group until after 1900, nor were any members of the major MBC ancestral families called as witnesses when the Laurendine's gave testimony before the Dawes Commission in 1901. The witness for Donise Laurendine was Isham Johnston, age 44, a Mississippi Choctaw full-blood from Newton County, Mississippi (Dawes Commission, Mississippi Choctaw Applications, MCR 2193). Witnesses for Henry Laurendine were Geo. Brue and Edd Julious, neither of whom were MBC ancestors (Dawes Commission, Mississippi Choctaw Applications, MCR 2190).

The petition's claims about the marriage of James Laurendine are not consistent with the census record¹⁰² nor with Dawes Roll testimony, nor internally within the petition itself. One ancestry chart submitted by the petitioner says that James Laurendine married Polly. Another ancestry chart says that he married Emma Alabama Jones, b. 29 November 1850, Ten Islands--d. 29 November 1948, Mobile, AL, buried in Magnolia Cemetery, daughter of Louisa "Achia" Jones, who was born in 1810, while the narrative petition states that Emma was the

¹⁰¹ According to the petitioner, this was not the original family name, but was borrowed from a local planter for whom the family worked (MOWA Pet. Narr. 1988, 58).

¹⁰² 1880 U.S. census, Mobile Co., AL, Seals Precinct, #45/51. Rondine, James, In, m, 46, b. MS, parents b. MS; Lucy, In, 50, b. MS, parents b. MS; Margaret, In, 22, b. MS; Henry, In, 19, b. AL; Estelle, In, 18; Phie(?) [Alice?], In, 12, dau, b. AL; Donas/Donat, In, 10, b. AL; Kate, In, 26; sister, b. AL, father b. AL, mother b. MS; Sallie, In, 70, mother, b. MS, parents b. MS; Thomas, George, In, m, 26, b. MS, parents b. MS (U.S. Census 1880a, 43r).

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daughter "of Louisa 'Lucy' and James Laurendine" (MOWA Pet. Narr. 1988, 67).¹⁰³ Elsewhere, the narrative petition claimed that he married "Lucy (Louisa), half blood. Louisa was the daughter of Louisa Durant and William Jones," and that he had a second marriage to a full blood Choctaw named Julie, by whom he had a daughter Alice, born in 1885 (MOWA Pet. Narr. 1988, 59; MOWA Pet. Narr. 1988, 19). For further analysis of the Jones ancestry claims, see the charts at the end of this Technical Report.

The petition also claims that the Choctaw James Laurendine was the father of a man named Robert Laurendine. Dawes Commission testimony by sons of the James Laurendine of Creola, Mobile County, Alabama, does not list a Robert among his children (Dawes Commission, Mississippi Choctaw Applications, MCR 2190 and MCR 2193, NARS M-1301, Roll 111). Of the proven descendants of James and Lucy Laurendine, Mississippi Choctaws, only Nellie Brue, a granddaughter through their daughter Margaret, has been proven as a MBC ancestor. Her marriage to a Lofton did not take place until December 30, 1903 (Mobile County, Alabama, Colored Marriage License Record Book 16, 433).

James Laurendine, born about 1834 in Mississippi, was still alive in 1901. He was the son of a Choctaw woman named Sallie, who was born about 1810 in Mississippi. The mother of his children was Lucy, a Choctaw woman born about 1830 in Mississippi.¹⁰⁴ Both Laurendine sons who testified before

¹⁰³ For details on the claimed Jones ancestry, see the charts at the end of this technical report. According to oral history as reported in the petition, "Grandma Emma" was recalled by descendants as having been a "chumpa girl," or Choctaw Indian woman who came into Mobile to sell berries and pine. A local historian, writing in the early 1880's about events which took place in the 1840's, mentioned these Choctaws but indicated specifically that they came into Mobile from the settlements on the Pearl and Pascagoula Rivers in Mississippi (Ball 1882, 95-97).

¹⁰⁴ Dawes Commission testimony did not provide sufficient information to indicate the origins of the following man whom the petitioner claims was the same man as the Choctaw James Laurendine of Mobile County, Alabama. The testimony before the Dawes Commission was given by the wife, Julie Londine: her husband did not appear. Julie Londine was age 52, P.O. Avera, Mississippi, and had lived all her life in Greene County, Mississippi. Her mother was named Polly; her husband was aged about 67, and she did not give the names of either of his parents. She did not speak English, and was examined in Choctaw through an interpreter (Dawes Commission MCR 2556, NARS M-1301, Roll 116).

1900 U.S. Census, Greene Co., MS: Jim Larindean, 74, m, In. b. MS, parents b. MS, farmer; wife Julia, 67, f, In, wife, b. MS, parents

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the Dawes Commission and their witness agreed that their mother, Lucy, was a full-blood Mississippi Choctaw (Dawes Commission Mississippi Choctaw Applications 1901, MCR 2193 Donise Laurendine; MCR 2190, Henry Laurendine). The older son, Henry, spoke the Choctaw language; the younger, Donise, said that he could understand it somewhat (Dawes Commission Mississippi Choctaw Applications, MCR 2190, MCR 2193).

James Laurendine did not himself make an application to the Dawes Commission. One son told the Dawes Commission that James Laurendine was a full-blood Choctaw (Dawes Commission MCR 2193, Donise Laurendine); the other, older, son said that he "has been passing for" a full-blood Choctaw, but was probably about half, the other half being French (Dawes Commission MCR 2190, Henry Laurendine). Their witness was even less certain: William Williams, age 64, of Creola, Alabama, told the Dawes Commission that, "Jim Laurendine held himself a Choctaw, but I really couldn't tell you" (Dawes Commission Mississippi Choctaw Applications MCR 2193). Williams was himself a full-blood Mississippi Choctaw; had been born in Jasper County, Mississippi; spoke the language; and grew up with Jim and Lucy Laurendine. However, he had no documents indicating that his ancestors had attempted to comply with the conditions of the Treaty of Dancing Rabbit Creek in 1830 (Dawes Commission MCR 2191).

Margaret Laurendine, born about 1858 in Mississippi, daughter of James and Lucy Laurendine, died about 1889. She had married Nesin Brue (aka Zane, Naz, and Maze Brue) and had, apparently, only one daughter by this marriage. In 1901, Henry Laurendine said this niece, Margaret "Nellie" Brue, was a member of his household (Dawes Commission MCR 2190); this was confirmed by the 1900 census (U.S. Census 1900a, Precinct 5 Creola, #88/90).

The MOWA petition notebook containing family group sheets on the Brue family makes the claim that Maze Brue and Marguerite Laurendine were both Choctaw full bloods. However, in 1901, Henry Laurendine testified that Maze Brue was alive, was a Frenchman, and had no Choctaw blood (Dawes Commission MCR 2190). Henry Laurendine's statement is confirmed by other information available on the ancestry of

b. MS.

There is no firm data to link the James Laurendine who was living in Mobile County, Alabama, with his wife Lucy, in 1880, with this James Larindean/Londine who was married to Julie in Greene County, Mississippi, in 1900.

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Nesin Brue: He was the son of Benoy Brue and Matilda Lorant, who were married in Mobile County, Alabama, and who were both members of well-known free Creole of color families, with no American Indian lineage.¹⁰⁵ Although the petitioner elsewhere specifically describes the Juzan, Chastang, and Trenier Creole of color families as "Indian" (MOWA Pet. Narr. 1988, 36), documentation indicates otherwise.

The MOWA petition claims that Naze Brue was the son of Simon Brue and his Choctaw wife, Sally Williams,¹⁰⁶ who was the mother of William Williams and Josephine Williams (MOWA Pet. Narr. 1988, 59). The documentary records, however, indicate that Simon Brue was Nesin Brue's uncle, while Simon's wife Sally or Polly Williams¹⁰⁷ was not his blood relative.¹⁰⁸

¹⁰⁵ Mobile Co., AL, White Marriage License Book 14, p. 177: bond Benoy Brue and Joseph Lorant. Both sign. License issued 19 June 1855. Benoy Brue m. 20 June 1855 Matilda Lorant, by G. Chalon.

1850 U.S. Census, Mobile Co., AL, #528/528: Neison Dubrica, 39, m, mu, farmer, b. AL; Mary, 31, f, mu, b. AL; Benjamin Breir (Brew), laborer, b. AL; Raine? Chestang, 27, m, mu, b. AL (Moffett 1986, 85).

1850 U.S. Census, #67: B. Brew, 27, m, overseer, b. AL; M., 26, f, b. AL; C, 4, f, b. AL; J.B., 1, m, b. AL [following #66, household of W.J. Buck, 31, farmer, b. AL] (Andrews 1974, 7).

1870 U.S. Census, Mobile Co., AL, #275/274: Breu [Brue?Bren?], Benoy, 38, m, M, Carpenter, ---/\$400, b.AL; Matilda, 37, f, M, House Wife, b. AL; Chotilda, 14, f, M, b. AL; Benj., 12, m, M, b.AL; Theoples, 8, m, M, b. AL; Nisan, 5, m, M, b. AL; Poline, 3, f, M, b. AL; Maximilian, 6/12, m, M, b. AL; Breu, Adel, 14, f, B, b. AL (U.S. Census 1870a, 340r).

1880 U.S. Census, Mobile Co., AL, Seals Precinct, #47/53: Brou, Matilda, mu, f, 48, getting logs & timber, b. AL, parents b. AL; Clotilda, mu, f, 22, dau; Theophilas, mu, m, 18, son; Nesin, mu, m, 15, son; Maximilan, mu, m, 10, son; Mary, mu, f, 8, dau (U.S. Census 1880a, 43r).

¹⁰⁶ He purchased an interest purchased in the Innerarity tract about 1882/1883, together with John Smith and Henry T. Davis. The 1902 court case testimony says his wife was Polly Bruie (Mobile County 1902).

The marriage record is as follows: Bond, Simon Brue and John Smith, October 1886. Simon Brue m. Polly Williams (over 18 years of age), October 23, 1886, with Victor Jouannet S.J. as officiant (Mobile Co., AL, White Marriage License Book 30, 688).

¹⁰⁷ The petition claims that Simon Brue's documented wife, Polly Williams, was a sister of Sallie, and that he married her "on his deathbed in 1886" (MOWA Pet. Narr. 1988, 59).

¹⁰⁸ There were several other members of the Williams family in Mobile County, Alabama. It does not, however, appear that any of them were ancestors of the petitioner.

(1) Josephine Williams, b.c. 1864, AL.

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1900 U.S. Census, Mobile Co., AL, Precinct 5 Creola, #91/93: Williams, Josephine, In, f, b. Mar 1859, b. AL, parents b. AL; Smith, George, son, B, m, b. May 1886, AL; Chestang, Edd, boarder, B, m, b. July 1877; Chestang, John, board, B, m, b. Jan 1879 (U.S. Census 1900a).

John Smith was married to Josephine Williams, dau. of Sally Williams Bruie, by whom he had a son, George Smith (MOWA Pet. Narr. 1988, 70). Henry T. Davis vs. George Bruie, et al, June 1903, Mobile County Circuit Court Records, University of South Alabama Archives (MOWA Pet. 1988, Ex. . . .

Deposition of Cyrus Lawrence says John Smith, deceased, was married in Mobile, is dead, his wife was Mrs. Shultz, a widow, now living, no children. The deposition calls Ira Andre's mother-in-law Polly Bruie. "Mr. John Smith was a white man, Mr. Henry T. Davis wa white man, Ira Andre is a Creole, I am a colored man, Alex Chastang colored man, most of the people who live up in that neighborhood are colored or Creole" (Mobile County 1902).

Deposition of Henry T. Davis says: ". . . since John Smith's death I have heard of no one making a claim to the land; Bruie died before Smith. Since Simeon Bruie's death no one has ever claimed any interest in the land. I know George Smith who was reputed to be the son of John Smith, His mother is Josephine Williams; John Smith was never married" (Mobile County 1902). Testimony of Henry T. Davis: "I believe that . . . that Indian woman that claims to be George Smith's mother . . . The woman's name is Josephine Williams" (Mobile County 1902).

There is no indication of Josephine Williams' mother in this court case testimony.

Dawes Roll 1947, Identified Jan. 3, 1904, Application Refused Apr. 23, 1904; On Id'd MS Choc Card 658: Williams, Josephine, P.O. Creola, AL, age 40, f, full, father Williams, dead, Choctaw; mother Sallie Williams, dead, Choctaw. Smith, George, son, 15, m, 1/2, father John Smith, non-citizen. [NOTE BY VED: None of the numbers supplied by the petitioner lead to Josephine Williams on the Dawes Roll: NARS M-118 reel 59, Card 658, not her; Reel 60, card 1947 is for Josephine AMOS TRY FIELD NO. R2258, listed in MOWA Pet. 1988, Ex. Choctaw.]

(2) William Williams. b.c. 1833, MS.

1900 U.S. Census, Mobile Co., AL, Precinct 5 Creola, #93/95: Williams, William, In, m, b. Dec 1833, b. MS, parents b. MS; Churchman, Georgia, B, f, b. July 1875, single, borne 2 children/2 living, housekeeper, b. AL, father b. AL, mother b. MS; Williams, William, son, B, m, b. June 1891; Williams, Corbert, son, B, m, b. Apr. 1895 (U.S. Census 1900a).

Dawes Roll 1982 [NOTE BY VED: M-1186, card 1982 is for Amanda Brooks], P.O. Creola, AL; William Williams, 65, m, full, father Williams Choctaw; mother Sallie, Choctaw. Son William, 9, m, 1/2; mother Georgiana Williams, negro; son Colbert, 7, 1/2, mother Georgiana Williams, Negro. Identified but did not remove. See testimony of May 14, 1901.

NARS M-1301, Roll 111, Mississippi Choctaw Applications, Choctaw MCR 2191, William Williams, testimony taken 14 May 1901, Meridian, MS. William Williams, age about 64, PO Creola, AL. b. Jasper Co., MS; lived there until about 15; to Alabama; lived for about 10 years in New Orleans, LA; then came back to AL. Can't tell father's name, dec'd full-blood. Mother's name Sallie, full blood, dead long ago. Speaks Choctaw; speaks English sufficiently well for the examination to be conducted in it. Identified March 12, 1904; rejected on review September 13, 1904.

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Simon Brue and Sally or Polly Williams had only three known children, though census records indicate that one or the other spouse had older children who lived in the household for a time.¹⁰⁹ The daughters of Simon Brue and Sallie [sic] Williams did complete Dawes Commission applications as Mississippi Choctaw: Mary (Brue) Andre, wife of Silvester Andre (Dawes Commission MCR 2195) and Josephine Brue (Dawes Commission MCR 2189). Mary submitted an affidavit of George Brue and Edward Lewis (Dawes Commission MCR 2195). Their son was named George, not Naze.

Passing Claims to Indian Lineage in Associated Families.

The petitioner makes numerous undocumented claims that some of the families associated with or intermarried with the MBC core families were Indian--that, for example, Levin Hainsworth's second wife was Martha Cole, who was a sister of Peter Cole (MOWA Pet. Narr. 1988, 84 note 31; 110 note 8); that George Lofton's wife was Mary Lewis, sister of Indian John Lewis (MOWA Pet. 1988, Appendix A, 3; MOWA Pet. Narr. 1988, 70); or that the Sullivans were descended from Mark and Jeremia [sic] (Tedder) Sullivan, and that oral history said that Mark Sullivan's mother was Creek (MOWA Pet. 1988, Appendix A, 3).

Many of these claims--for example that a James Gibson mentioned in Choctaw correspondence was a brother of the Betsy Gibson who married William Thomas Byrd--appear to be

(3) Unidentified Williams girl, b.c. 1860, AL.

1870 U.S. Census, Mobile Co., AL, p. 340r, #281/280: in Black household headed by Isabella Finley, "Williams Girl", 10, f, Ind., At Home, b. AL (U.S. Census 1870a, 340r).

¹⁰⁹ Deposition of Henry T. Davis. "There are two girls who are supposed to be Simeon Bruie's daughters, one of them is named Mary and is the wife of Ira Andre, and I am not sure about the name of the other, she is a sister of Ira Andre's wife. Andre's wife is over twenty years old, the other sister is over 18. Andre's wife is the oldest. I hereto attach as a part of my testimony a certified copy of a marriage license issued to Simon Bruie and Polly Williams, and marked Exhibit A" (Mobile County 1902).

1870 U.S. Census, Mobile Co., AL, #277/277: Brew, Simon, 48, m, M, Carpenter, b. AL; Bolly [Rolly?], 40, f, Inc [something else was written, scratched out, replaced by "Ind"], Housewife, b. AL; Frozene, 14, f, M, At Home, b. AL; Thama, 17, f, M, At Home, b. AL (U.S. Census 1870a, 340r).

1880 U.S. Census, Mobile Co., AL, Seals Precinct, #48/54: Simon Brou, mu, m, 55, b. AL, parents b. AL; Sallie, In, f, 40, wife, b. AL, father b. AL, mother b. MS; George, mu, 7, son; Mary, f, 5, dau; Josephine, f, 5/12, b. Sept. 17, dau. For the children, either "Mu" was written with "In" over it, or vice versa (U.S. Census 1880a, 43r).

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asserted only upon the basis of two persons' having the same surname (MOWA Pet. Narr. 1988, 70). The statement that Glovine Reed's husband Tom "Hadjo" Smith was "a Choctaw who took the name Smith" (MOWA Pet. Narr. 1988, 97) was not documented at all.

There was a John Lewis to whose wife Choctaw scrip was paid; there was a John Lewis described as an "old Indian man" who at some time between 1880 and 1903 lived on land claimed by Simon Brue, Henry Davis, and John Smith.¹¹⁰ There was a Major John Lewis, a Civil War veteran, buried in the Orso cemetery. The petitioner presented no evidence whatsoever that these three were the same individual, or that the Mary Lewis who married George Lofton was the sister of any one of them (MOWA Pet. Narr. 1988, 70). The 1850 U.S. census of Mobile County, Alabama, indicated that Mary, wife of George Lofton, was age 35, born in Alabama, and white (U.S. Census 1850a, 477).

Discussion of many of these claims will not be made here in narrative form. Consult the section of charts at the end of this Technical Report.

Conclusions. In order to meet criterion 83.7(e), the petitioner must demonstrate Indian ancestry in descent from a historical tribe, or from tribes which combined and functioned as a single entity. In each case--not just for the examples cited in this report--the petitioner must document that:

(1) the person of this name was, in fact, of Indian descent from a particular tribe; and

(2) the Indian person of this name was identical to the ancestor claimed by the petitioner.

In preparing such analyses, the petitioner needs to pay particular attention to the chronology of development of its ancestral community. It is not feasible to claim that one individual is the child of another person if the alleged parent is shown by records to have been younger than the supposed child.

¹¹⁰ This land, the so-called Innerarity Tract, was in possession of a free Creole of color family as early as 1816 and 1819 (Baldwin County Alabama 1993, 24, 39, 55).

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In general, in preparing analysis of the demography of any small population group, it is beneficial for the researcher to place the individuals being studied on a time-line/location grid. This enables the researcher to see at glance which individuals were, in fact, contemporaries of one another. If the individuals were contemporaries, such a grid also charts clearly whether they lived in locations which would have made it feasible for them to be associates.

In summary, the petitioner has not documented unambiguous Indian ancestry for its core families from any of the tribes claimed in the petition. Neither has the petitioner documented the continuing existence of a tribal entity in Washington and Mobile Counties, Alabama, after 1830.

MOWA BAND OF CHOCTAWS

**PERSONS CLAIMED BY MOWA AS
"KNOWN INDIAN ANCESTORS, FIRST GENERATION"
(MOWA Petition Narrative 1988, Appendix A, 5-7)**

The following persons on the MOWA "Known Indian Ancestors, First Generation" list are omitted from the following charts: #24, Onerene Chestang; #25, Henry Doc Eaton; #26, Home Tak; #28, James Campbell, Jr.; #29, John Lewis, Mary F. Lewis.

- #24, Onorene Chestang was a granddaughter of Felix and Nancy Andry, who are discussed in the narrative. Onorene's grandparents were not married until 1849, so Onorene cannot have been a part of the first-generation removal-era founding community claimed by the petitioner.
- #25, Henry Eaton, who was not born until 1852, is claimed to be the grandson of #26, Piamingo Hometak, so he cannot have been a part of the first-generation, removal era founding community claimed by the petitioner.
- #26, Piamingo Hometak is discussed more fully above in the body of the narrative.
- #28, James Campbell, Jr., and Susie Byrd were not married until after 1900.¹ They cannot be considered as first generation in the founding community.
- #29, the Lewis family, which has not been documented as ancestral to the MBC, is discussed above in the body of the report, in connection with the Lofton family.

It should be noted that these charts address one particular list in the MOWA Petition. The claims to Indian ancestry made on this list were not necessarily consistent with those made in the narrative portion of the petition, with those in the genealogical books of family group sheets which accompanied the petition, with those on the ancestry charts which accompanied the petition, or with those contained in the "Progenitor Name Lines" list (MOWA Pet. Narr. 1988, Appendix A, 3-4). The findings on these charts, therefore, do not constitute a fully comprehensive analysis of MOWA genealogical claims.

¹ Susie Byrd, b. January 1894. m. Jim Camel/James Cabell Jr./James T. Campbell, Jr., b. 14 February 1885--d. 13 April 1939/59, bur. Reed's Chapel, son of James Campbell/James T. Camel, Sr. & Eliza Juzan.

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PERSONS CLAIMED BY MOWA AS
FIRST GENERATION ANCESTORS
(see Appendix A)

MOWA PETITION CLAIM
FINDINGS

MOWA EXPLANATION

EAR

<p>DAVID TAYLOR Cherokee "-son of David and Mary Taylor 1851 Chapman Roll"</p>	<p>MOWA claims that David Taylor was the -son of David Taylor who was listed on the Chapman Roll in 1851. The Chapman roll is a listing of Cherokees who received payment based on a previously taken roll.</p>	<p>David Taylor and David, Jr. were listed on the Chapman Roll of 1852. It also listed them as living in Indian Territory (Oklahoma). The Chapman Roll listed heads of families only.</p> <p>The David Taylor claimed by the MBC was on the 1860 U.S. Census of Mobile County, AL as husband of Jane Byrd. He was listed as age 28, born in Virginia. The MBC have not documented a family tie between their ancestor, David Taylor and the David Taylor who was on the Chapman roll in Oklahoma in 1852.</p> <p>All Taylors listed on the MBC ancestry charts are descended from David and Jane (Byrd) Taylor.</p>
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<p>DAVE WEAVER JIM WEAVER ANNA WEAVER BYRD EDY WEAVER BYRD Cherokee "-children of Dave Weaver -1835 Henderson Roll -all born in Cherokee Nation -G.M. Roll #17392"</p>	<p>MOWA claims their ancestors, Dave, Jim, Anna, and Edy were -children of the Dave Weaver who is listed on the 1835 Henderson Roll. The Henderson Roll was a census of the over 16,000 Cherokees taken before removal of the Cherokees to Oklahoma. MOWA further claims that the Weavers -were all born in Cherokee Nation, which would have had to have been prior to removal. They further claim that -the Guion Miller Roll# 17392 is proof of that claim.</p>	<p>The Henderson Roll of 1835 made prior to removal listed heads of households only. A Dave Weaver was listed on it, in Sharp Mountain Creek, GA. There are 7 fullbloods included in his household with two farms and two farmers, not listed by name. However, the MBC Dave Weaver was from Greene and Putnam counties, GA. on the opposite side of the state from Sharp Mountain Creek. Early tax records of Greene and Putnam counties, Georgia, listed only non- Indian Weaver families. The 1850 and 1860 census returns of Washington County list the MBC ancestor, Dave Weaver, Jim Weaver and Ann Weaver Byrd as born in Georgia. In all other places in the petition, the second sister is listed as Edy Weaver Rivers.</p>
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<p>[WEAVER, continued]</p>	<p>The Guion Miller Roll was compiled in 1907, of all Eastern Cherokee for the purpose of receipt of a judgment payment.</p>	<p>Guion Miller Applications #17392 through #17395 which were submitted to the Guion Miller Committee by the descendants of the MBC Dave Weaver, did not apply through Dave Weaver, but rather through the Fishers and Weatherfords. Their claims were rejected.</p> <p>In application #17394, the Weaver descendant said, "My Grandmother on Father's side was Lenny Weaver a white woman born Georgia. I don't know who my grandfather was." In fact, his paternal grandfather would have been Dave Weaver. The MBC descendants of MBC Dave Weaver in 1907 did not know that they were descended from Dave Weaver, and further, the present-day petitioners have provided no documentation that the MBC Dave Weaver is in any way related to the Cherokee Dave Weaver.</p>
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<p>KULIHOKA Choctaw "-mother of Rose Reed -Oral History -newspaper article"</p>	<p>MOWA claims that -Kulihoka was Rose Reed's mother -that she was a Choctaw. They use -oral history and a -newspaper article as documentation.</p>	<p>The Oral History provided as evidence was taken in 1978 in preparation for the acknowledgment procedure and was an extracted copy so is not really oral history. In that extracted "oral history", Rose's mother is said to be half-Indian. In several court cases provided by the petitioner, Rose Reed's maternal ancestry was questioned. Testimony was equal for and against the fact that the slave woman who raised her may or may not have been her mother. Her father was generally agreed to be a white slave owner, although the testimony of his name is different than the name claimed by the petition. No documentation seems to be available to prove her maternal ancestry. The newspaper article said to be used as documentation was not included in the petition. BAR could not verify by whom it was written, nor when it was published; therefore, it can not be considered as proof.</p>
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<p>SNOW Creek "-father of Melton Snow -1832 Census of Creeks"</p>	<p>MOWA claims that -the father of MOWA ancestor, Melton Snow, was a Creek Indian Documentation for this data is that -his father is listed on the 1832 Census of Creeks, The 1832 list was taken before removal and lists heads of families only. MOWA claims that because a man named "Snow" is listed on the 1832 census of Creeks taken before removal as head of a family that he is the father of their ancestor, Melton Snow.</p>	<p>The 1832 Census of Creeks by towns lists a one-name person "Snow" who lived in Tuckabothcha Town, on p. 100 of John J. Abbot's roll. "Snow" listed one male and 2 females in the household. Melton Snow, who was born in 1837, five years after the 1832 Census, could not be linked to the Creek, "Snow." Melton Snow's children marry several of the MBC ancestry group around 1900, some 65-70 years after the 1832 Census.</p>
<p>CAROLINE WEAVERFORD (FIELDS) Creek "-mother of Henry Killiam -granddaughter of Charles and Sehoj Weatherford, family history -census"</p>	<p>MOWA claims that -Henry Killiam's mother was Caroline Weatherford. MOWA also claims that -Caroline's parents were John Weatherford and Elizabeth -her grandparents were Charles and Sehoj Weatherford. Documentation for this information includes -family history and -census.</p>	<p>The Creek Weatherfords are well documented. Caroline Weatherford was found in Monroe County, AL, as daughter of John Weatherford, and as wife of Essor Killiam. There is no documentation that her grandparents were Charles and Sehoj Weatherford, but she was a member of the Creek family. Henry Killiam was born in 1844 in Monroe County, AL. MOWA petition charts claim that MBC ancestor George Fields was the son of Henry Killiam and Amanda Fields. George Fields married a MBC ancestor, Daisy Reed, in about 1900.</p>

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		<p>The Censuses used as documentation are extracts from the 1850, 1860, and 1870 Censuses of Monroe County, AL. They listed Edward Henry Killiam in the household of Caroline and Essor Killiam. Essor Killiam was still in Monroe County, AL with his younger children in 1870. Though the family is listed on three Monroe County Censuses that enumerated color as white, black, mulatto and Indian, Caroline Killiam and her children were always listed as white. George Fields, who is the MBC ancestor, has not been proven to be the child of Henry Killiam.</p>
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<p>CECILE WEATHERFORD Creek "-daughter of William Red Eable [sic] Weatherford and Nancy Fisher, Creek G.M. Roll #17392 -Oral history"</p>	<p>MOWA claims that -Cecile Weatherford was a daughter of William Weatherford, a famous Creek leader, and Nancy Fisher. Documentation for this was -Roll #17392 of the Guion Miller Roll. Documentation was also from -Oral History. The Guion Miller Roll was to establish Cherokee ancestry. Some people applied as Cherokee and some as Creek. The Miller Committee placed those who applied as Creek in a "Creek" file, along with those who were rejected as Cherokee who had similar surnames to famous Creeks for convenience sake. The Miller Committee then selected cases to insure that they were not Cherokee. It did not prove one way or the other that Creek ancestry existed. The - "oral history" was taken in 1978 and again in 1983 in preparation for Petition Submission</p>	<p>Guion Miller Application #17392 claims Cherokee ancestry. It was rejected and placed in the "Creek" files. The test Creek case in which it was placed did not prove Creek ancestry, but did prove that they had not demonstrated Cherokee ancestry to the satisfaction of the commission. When MBC members applied to the Muskogee Area office in 1972 as Creeks, the reply states, "You have not proven that William Weatherford or Josiah Fisher is your lineal ancestor, nor have you proven that you, or any other ancestor through whom eligibility may be claimed, are Creek Indian by blood." The MBC members were thus rejected as Creeks. The extracts from oral interviews were based only on hearsay, and are not supported by other documentation.</p>
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<p>CAROLINE HOLLINGER (ORSO) Choctaw "-daughter of Adam Hollinger and Marie Josephine Juzan, -Zeno Orso estate papers"</p>	<p>MOWA claims that Caroline Hollinger -married an Orso. -that Caroline Hollinger was a Choctaw. Orso descendants are in the present-day MOWA group. MOWA also claims that Caroline Hollinger was the -daughter of a Choctaw named Adam Hollinger and his wife, Marie Josephine Juzan. Documentation was to be from the -Zeno Orso estate papers.</p>	<p>The Zenon Orso estate paper only stated, "Caroline Orzo, late Caroline Hollinger." It is dated 20 Oct 1813. Adam Hollinger's deed of gift in 1808 in Washington Co., AL lists his children, of which there is no Caroline. Caroline has been identified as a Hollinger, however, and is the daughter of Adam and Marie. Adam Hollinger was not Indian, nor was Marie Josephine Juzan. Caroline also was not the mother of Gilbert Orso from whom the MBC descend, and she was not Indian, because her parents were not Indian. (see Marie Josephine Juzan)</p>
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<p>WILLIAM AND LOUISA DURANT JONES Choctaw "-great grandparents of Josephine de Carrunsajie Rivers and Camilla De Choctaw Trading House Rec -1815 Petition for Redress of grievances -Choctaw Land Claims"</p>	<p>MOWA claims that -William and Louisa Durant Jones are Choctaw, and that -William and Louisa Durant are the great grandparents of Josephine Rivers and Camilla Snow. Josephine Rivers and Camilla Snow ancestry charts claim that their grandparents are James Laurendine and Emma Jones, and that their parents are Robert Laurendine and Florence Carrunsajie. For documentation MOWA cited -Choctaw Trading House Records -the 1815 Petition for Redress of grievances -Choctaw Land Claims.</p>	<p>The Choctaw Trading House records listed the Durants, but never listed spouses, children, grandchildren, or great grandchildren. The 1815 petition for redress of grievances also listed only the male Durants, sometimes as Choctaw or sometimes as Creek. The Choctaw Land Claims also listed the same Durants. There was no evidence that Robert Laurendine was the son of James Laurendine, who was born about 1830 and was Indian. Emma Jones, named by the petitioner as James Laurendine's wife, has not been documented to be the grandchild of William and Louise Durant Jones. Therefore, Josephine and Camilla have no basis for the claim of Indian ancestry. (see Louisa Jones below)</p>
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<p>LOUISA JONES Creek "-Wife of James Laurendine, -Dawes Roll -Family history -Mobile Co. Circuit Court Case:"</p>	<p>MOWA claims that -Louisa Jones was the wife of James Laurendine, an ancestor of MOWA. MOWA claims -Louisa Jones was on the Dawes Roll. The Dawes Roll was a list of the Five Civilized Tribes, and was taken in 1907. MOWA claims documentation as -family history "Family history" , or "oral history" was completed in 1978 or 1983 in preparation for acknowledgment. Documentation was also listed as -Mobile County Circuit Court Case This "Mobile County Court Case" could not be identified by BAR researchers among the cases submitted by the petitioner: none appeared to pertain to Louisa Jones. -According to ancestry charts submitted by the petitioner, James Laurendine married Emma Jones about 1880. Louisa Jones was listed as her mother, born about 1810.</p>	<p>The Louisa Jones on the Dawes Roll of Creeks at the date of enrollment in the Creek Nation, was age 15 years in 1902/3, and was a full blood, not half as reported by the MOWA petition. Because of the birth date she could not be the Louisa Jones, mother of Emma who married in 1880, as claimed by the MOWA petition. In addition, the Dawes Applications show that James Laurendine's sons identify their mother as <u>Lucy</u> with no surname. The 1880 Census also lists James Rondine [sic] with his wife, Lucy. The court cases mention a Durant, who, according to the MOWA petition claims, was Emma's grandmother, but does not name Durant's wife. Thus, the connection of any Jones to James Laurendine is highly unlikely.</p>
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Technical Report - MOWA Band of Choctaws

<p>SUSY 'OKANUBBE' MCKEE Choctaw "-daughter of John McKee -Choctaw Trading House Records, wife of Issac Seals and mother of Ellen Seals Snow and Emma Seals Snow -oral history, -Court Case, Wash. Co. stating Beanie Snow's ancestry"</p>	<p>MOWA claims that -Susy "Okanubee" McKee was Choctaw. They further claim that she was the -daughter of John McKee. They claim that she was -the wife of Isaac Seals and -mother to MOWA ancestors, Emma and Ellen Seals Snow. Documentation includes -oral history and a -Washington County Court Case which states the ancestry of Beanie Snow, MOWA ancestor.</p>	<p>John McKee was in the War of 1812, and on one document, was the paymaster to some Indians who served in that war. He was not listed on any Choctaw Roll. The MOWA petition did not provide any other document on John McKee. He is not identified as Indian. The MOWA petition's own submissions conflict on the name of Ellen's father. Isaac Seals is listed on one ancestry chart, and James on another as her father, and still another lists him as "James Benjamin Isaac Seals." Susie died in Mississippi in 1857. Ellen was born in 1856. According to MOWA petition records, this would make her 9 years old at marriage. On the 1880 Washington County, Alabama, census she is married, age 20 years, and states that she and both her parents were born in Alabama. Thus, because of the age and parentage discrepancies, the Ellen Seals from MS seems unlikely to be the Ellen Seals of the MBC ancestry. The Court Case could not be verified.</p>
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Technical Report -- MOWA Band of Choctaws

<p>DAN WILKERSON HARRIET WILKERSON ELIZABETH WILKERSON Choctaw "-children of Drury Wilkerson -oral history They lived at 'Old Drury Place' on the Level Choctaw Trading House"</p>	<p>MOWA claims that -the Wilkersons were Choctaw, that -they were the children of Drury Wilkerson and -lived at the Old Drury Place on the level at the Choctaw Trading House. Documentation was -oral history.</p>	<p>The "oral history" provided is really an extracted typed portion of an interview that mentions that the Wilkersons lived at the old Drury place.</p> <p>The interview was taken in 1978 in preparation for acknowledgment. That is the only documentation available, and Wilkersons were not on the Dawes Roll as Choctaw. Harriet Wilkerson, born 1845, married a Reed descendant before 1869.</p> <p>In her marriage record in Mobile County, Alabama, as well as on the 1880 Federal Census, Harriet was listed as white. Dan Wilkerson's daughter married a Byrd about 1900. There is no documentation that the Wilkersons were Indian.</p>
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Technical Report -- MOWA Band of Choctaws

<p>"RYE" APACHE HELD AT MT. VERNON -father of Lizzie Sullivan - (mother was Caroline Sullivan) as stated by Lizzie's sister Ruth Sullivan Reed and granddaughter Ann Orsc</p>	<p>MOWA claims that -Lizzie Sullivan's father was an Apache that was imprisoned at Mt. Vernon Barracks in Washington County during their stay prior to removal to Oklahoma. The Apaches were at Mt. Vernon Barracks from 1887 until 1894. Evidence for this is -a statement of Lizzie's sister, as recorded in an -extract of an oral interview.</p>	<p>Though the Apaches had interacted with the local population, there is no documentation to support the theory that any child was born of Apache parentage other than between the Apaches themselves. The interpreter, who married an Apache woman and removed to Oklahoma had the only recorded Apache birth. The oral interview extract cited stated that the person had heard from Lizzie's sister that Lizzie's father was an Apache named "Rye", but that he didn't know for sure. This was hearsay and not supported by any documentation. Several in-depth studies of this theory all have concluded that no Apache offspring could be found remaining in the Washington County, AL. Thus, it is highly improbable that Indian ancestry could be claimed through any of the Apache who had been at Mt. Vernon.</p>
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Technical Report -- MOWA Band of Choctaws

<p>WILLIAM WILLIAMS & WIFE SALLY "-Dawes Roll"</p>	<p>MOWA Claims that -William Williams was on the Dawes Roll (see explanation of Dawes Roll above), taken in 1902 for the Choctaws.</p> <p>According to MOWA Ancestry Charts William Williams was the father of Sally Williams who married Simon Brue. The MOWA petition claims that Simon and Sally had a granddaughter, Margarete, born in 1886, whose daughter is a present-day MBC member.</p>	<p>William Williams, Mississippi Choctaw, was a resident at Cre la, Mobile county, Al. He testified before the Dawes Commission in 1901 that he had a wife named Sally and a mother named Sallie. His wife, Georgia, was a non- Indian. He had two sons, but not a daughter, Sally. None of the present-day MBC descend from either of Henry Williams' sons. Compared with the Dawes Application testimony used for documentation, this claim is impossible. Henry Laurendine testified that his sister Margaret had married Naze Brue, non-Choctaw, and that Margaret's daughter, Nellie, b. 1886, was a member of his household. Naze Brue was not Simon Brue's son.</p>
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Technical Report -- MOWA Band of Choctaws

<p>WILLIAM WINDHAM Choctaw "-grandfather of Mary Cupp, wife of Zeno Orso, Jr. -1831 Armstrong Roll -William Windham's estate papers"</p>	<p>MOWA claims that -William Windham was the grandfather of Mary Cupp -Mary Cupp married Zeno Orso, Jr. MOWA further claims that -William Windham was on the 1831 Armstrong Roll. The Armstrong Roll listed individual Indians by name owning farms, the number of acres cultivated, number of males over 16, number of males and females under 10, location of farm, etc. Documentation for these claims also included the -William Windham estate papers.</p>	<p>William Windham was not found on the Armstrong Rolls. A Willis Windham is found on the 1830 Washington County Census as a white person with slaves. In 1850, Mobile County Census Willis Windham, age 96, born in Virginia, was with his wife, Patsy, while some 100 households away was William Windham, age 38, born in Mississippi, with his wife Sarah and his children. They were listed as white. In the 1860 Mobile County census Zeno Orso was listed with Mary, his wife, age 44, b. AL, who, the MOWA petition claims, was the granddaughter of William Windham. This relationship is not possible. Her mother, Mary L. Windham, according to MOWA ancestry charts, was born about 1852, making Mary Orso about 36 years old when her "mother" was born. If census records are correct, Mary the supposed granddaughter of William Windham, was 4 years younger than her "grandfather." The Windham estate papers listed Zeno Orso as executor. It seems that there was some link between Mary Cupp and Willis Windham.</p>
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Technical Report - MOWA Band of Choctaws

<p>JIM LAURENDINE Choctaw "-Dawes Roll -1880 Mobile Co. Census</p>	<p>MOWA claims that -Jim Laurendine is Choctaw Documentation for this is that Jim is on the -Dawes Roll (see explanation above), and that -the 1880 Census lists him as Indian.</p>	<p>Two sons of James Laurendine, a MBC ancestor, did apply as Mississippi Choctaw to the Dawes Commission. Although their applications were rejected, testimony identified James Laurendine as at least half Choctaw. James Laurendine of Mobile County, Alabama, was not on the final Dawes Roll. Under the name James Rondine, he was on the 1880 census of Mobile County, AL, as Indian, b. in MS, as well as his wife, Lucy, and first child who is Margaret, age 22 years. The other children were born in AL. This is the only Indian family on the 1880 Census. Margaret, the daughter of James Rondine was the Margurite who married Zane "Naz" Brue as claimed by MOWA ancestry charts. Though the MOWA petition provided no documentation to the effect, BAR found that their daughter married into the MBC group in 1904. A few descendants of "Naz" and Margurite are in today's MBC. The Londine family, of Mississippi, were on the Dawes Roll and were Choctaw Indian.</p>
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Technical Report -- MOWA Band of Choctaws

<p>DANIEL REED Creek "-son of Hardy Reed and Eliza Tarvin -Woodwards Remin. -oral history"</p>	<p>MOWA claims that their ancestor, -Daniel Reed is the son of Hardy Reed and Eliza Tarvin, -was a Creek Indian. Documentation provided by MOWA was from -Woodward's Reminiscences, written in 1859, and -Oral History.</p>	<p>Thomas S. Woodward's <u>Woodward's</u> <u>Reminiscences</u> does not mention anything about Daniel or Hardy Reed. The oral history was an extract of an oral interview taken in 1978 just prior to petitioning for acknowledgment. In those histories, no one mentioned that Hardy Reed was the father of Daniel. Documents provided by MOWA as part of their petition put Daniel's origins in doubt. Some histories stated he was from Texas, some from Jamaica, and some just did not know. There was no documentation nor reason to believe that Daniel Reed was the son of Hardy Reed, nor that he was an Indian. Many documents show otherwise.</p>
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Technical Report -- MOWA Band of Choctaws

<p>GEORGE REED Creek "-son of Hardy Reed and Eliza Tarvin -Woodwards Remin. -War of 1812 Military records application for pension"</p>	<p>MOWA claims that -George Reed is a -Creek Indian, the -son of Hardy Reed and Eliza Tarvin. -Woodward's Reminiscences is cited as documentation. MOWA cited the -military pension application of George Reed.</p>	<p><u>Woodward's Reminiscences</u> provided as an exhibit by the MOWA petition did not mention a Hardy Reed as parent to George Reed. George Reid, a Creek Indian was in the Seminole War in 1818. According to his pension record, he died in the Winter of 1850-1 in "Indian Territory West of Arkansas." His widow, Arpockyea, was the mother of a minor child, Tumsey, at the time of his death. He left no other minor children. Tumsey applied for land in Indian Territory in 1858, age 15. The MOWA Petition Narrative said that John Dixon Reed, b. 1860 was the son of Thomas J. Reed and grandson of George W. Reed. (See John Dixon Reed) No further documentation was offered to support this claim. It is unlikely that the Creek George Reid who died in 1850-51 and whose pension record is used as documentation of Indian descent is the same George W. Reed claimed by the MOWA petition.</p>
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Technical Report -- MOWA Band of Choctaws

<p>JOHN DIXON REED Creek "-son of Thomas Jefferson Reed -G.M. Roll 17416 Roll 158 -grandson of George Reed"</p>	<p>MOWA claims that John Dixon Reed was -Creek Indian. Documentation for the claim is from -Guion Miller Roll #17416 (see above for explanation) They also claim that John Dixon Reed is the -grandson of George Reed.</p>	<p>Guion Miller Application #17416 was submitted by George W. Clifford of Biloxi, MS. He stated that his parents were Goodridle Clarence Clifford and Peggy Delilah Reed. She was born in Pensacola, FL and died in 1871. She was daughter of Thomas Jefferson Reed, born in Hall County, GA. In the application, George W. Clifford applied for Indian heritage through his grandmother, Cinthy Roberson, wife of Thomas Jefferson Reed, who was born in Monroe County, AL. On the Guion Miller Application, there is no John Dixon Reed as son of Thomas Jefferson Reed. A John Dixon is on the 1900 Washington County Census (no Reed surname) who appears to be the ancestor of present- day MBC. There was no documentation that John Dixon was the son of Thomas Jefferson Reed, nor that Thomas Jefferson Reed was the son of Creek George Reid [sic].</p>
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Technical Report -- MOWA Band of Choctaws

<p>PATRICK LANE Choctaw "-father of Pate Lane whose mother was Nancy 'Nakilumna' Reed -Choctaw Trading House Records"</p>	<p>MOWA claims that Patrick Lane was a -Choctaw Indian and Patrick Lane was the father of Pate Lane. MOWA claims that Pate Lane's mother was -Nancy "Nakilumna" Reed. Documentation for this is from the -Choctaw Trading House records.</p>	<p>Choctaw Trading House Records discussed a Patrick Lane dating around 1803-1815. We have no other Lane or Patrick until a Nancy Patrick, age 28, appeared in the 1870 Washington County, AL, Census from whom the present-day MBC members descend. She was living in a Reed household. Thus, the assumption that Nancy Patrick is somehow related to the Patrick Lane in the Choctaw Trading House records is not documented. Thus, descendency from Patrick Lane through a Nancy Reed seems unlikely.</p>
<p>MOLLY STARLAND Houma "-oral history"</p>	<p>MOWA claims that Molly Starland, b. 1849 was the -daughter of Jesse Starland, who was -Houma from LA. Documentation comes from -"oral history."</p>	<p>The "oral history" was an extract of an interview. Starland was not a Houma surname, never appearing in documented Houma genealogical material. Molly married a Byrd in the 1890's. On the 1900 Census, Mollie (Stallings) Byrd said she was born in July, 1855 in Alabama; her father born in GA; her mother in FL. From this assorted data, it seems highly unlikely that Molly was of Indian extraction.</p>

Technical Report -- MOWA Band of Choctaws

<p>NANCY FISHER Cherokee -Mother of Cecile Weatherford -full blood Cherokee -G.M.Roll #17392</p>	<p>MOWA claims that Nancy Fisher was a -Cherokee Indian (full-blood). MOWA also claims Nancy was the -mother of Cecile Weatherford. Proof of this claim is documented by -Guion Miller Roll #17392.</p>	<p>Guion Miller Application #17392 of Mrs. Lorinda Reed of Fairfax, AL, was taken when she was age 75. She stated her father was a Weaver, b. Georgia, and mother Seceil [sic] Weatherford b. Tennessee; that her father died in 1889 and mother in 1858. [Other applications state that both Nancy and Cecile died in 1849/50.] She stated that Cecile's father was Wm. Weatherford and mother was Nancy Fisher. She stated that she was descended from Cherokee Indians because her mother Tiney Cesile and grandmother, Nancy (Fisher) Weatherford told her so. Her application was rejected because she was not Cherokee, but it was placed in the Creek file because of the Weatherford name. There was no documentation that Nancy Fisher was Cherokee, or that Cecile was a Weatherford. There is also no documented connections to David Weaver and Cecile. <i>Many present-day MBC descend from this family.</i></p>
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Technical Report -- MOWA Band of Choctaws

<p>ALEXANDER BRASHEARS Choctaw "-son of Samuel and Racheal Durant Brashears -Alex married Emiline Jane Wind daughter of William Wind and Sarah Pane -These are parents of Louisa Jane who married Nathaniel John Smith progenitors of MOWA Smith Line -G.M. Roll -Armstrong Roll -American State Papers"</p>	<p>MOWA claims that Alexander Brashears was the -son of Samuel and Racheal Durant Brashears. MOWA also claims that Alexander married -Emiline Jane Wind, who was the daughter of William Wind and Sarah Pane. MOWA further claims that Alexander and Emiline Brashear's daughter is -Louisa Jane Brashears who married Nathaniel John Smith, from whom present-day MOWA descend. Proof for these claims are the -Guion Miller Rolls [see explanation above]; -the Armstrong Rolls [see explanation above]; and the -<u>American State Papers</u> which listed land disputes confirmed or denied by Congressional action.</p>	<p>Alexander Brashears was listed on several Choctaw documents, including a Register of Choctaw names in 1831 who wished to become citizens. He was listed as a half- breed man with his family of 7 children. The Guion Miller Application of his daughter, Emeline J. (Brashears) Smith, listed her sister as Louisa Jane. Louisa Z. Brashears, who married Nathaniel Smith in Jan. of 1850 was the daughter of Alexander Brashears. Though the MOWA petition did not provide conclusive information, BAR found that Alexander signed his consent for Louisa Z. to marry. Samuel Brashears was listed on the Armstrong Rolls and in <u>American State Papers</u>, but no documentation connects Alexander to Samuel. Alexander Brashears was part Indian and lived in Washington County, AL. He has few descendants in the present-day MBC group.</p>
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Technical Report -- MOWA Band of Choctaws

<p>ELIZABETH 'SIPSEY' GIBSON Choctaw "-daughter of Chief Tom Gibson -wife of William Thomas Byrd and sister of James Gibson -oral history -newspaper article -Hunt letters to Choctaw Agency"</p>	<p>MOWA claims that Elizabeth Gibson was -Choctaw Indian. MOWA further claims Elizabeth was the -daughter of Chief Tom Gibson. They also claim that she was the -wife of William Thomas Byrd, and -the sister of James Gibson. Documentation for this is from oral history, a newspaper article, and the Hunt letters to the Choctaw Agency written in 1852 concerning Choctaw scrip.</p>	<p>The oral history was an oral interview taken in 1982 in preparation for the acknowledgment process, and was based on hearsay. The 1962 newspaper article used as documentation stated Chief Tom Gibson's Indian band had "remained some years, finally being driven away..." The Hunt letters mentioned an Indian named James Gibson. Elizabeth Gibson, wife of William Thomas Byrd, was listed on the 1850, 1860, 1870 and 1880 census of Mobile County, AL. She was always listed as white, born about 1830. In 1880 she listed her birthplace as Georgia, her father's as NC and her mother's as VA. It would seem highly unlikely that Elizabeth Gibson was the daughter of Tom Gibson, or that she was of Choctaw descent.</p>
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Technical Report - MOWA Band of Choctaws

<p>MARIA COLBERT Chickasaw Creek "-wife of George Reed (son of Daniel) -clau. Thomas Stewart Colbert and Viola Vann -great granddaughter of Gen. William Colbert and Jessie Moniac -Colbert family history -oral history -records of Creek descendant at Freeport, Fla."</p>	<p>MOWA claims that Maria Colbert was -either a Chickasaw or Creek Indian. They also claim that Maria is the -wife of George Reed, who was the son of Daniel Reed. MOWA further claim that she was the -daughter of Stewart Colbert and Viola Vann and -the great granddaughter of Gen. William Colbert and Jessie Moniac. Documentation for these are taken from the -Colbert family history -oral history -records of a Creek descendant at Freeport, Fla.</p>	<p>According to the Colbert family history supplied in the MOWA petition, the only Mariah Colbert listed was the daughter of Levi Colbert. This Mariah Colbert married a man named Kemp, removed to Oklahoma and died there. Prior to 1870, Maria Reed was not listed on the U.S. Census. George Reed, his wife Ellen Brittaniana "Tiny" Weaver, and their children are. In 1870, the MBC ancestor Maria Reed lived next door to George and his family. The MOWA petition exhibits included documents showing Maria's children contested the will of George Reed at the time of probate, but they were denied any inheritance. No documents, including those of the Creek descendant in Florida, show Maria as the wife of George Reed from whom many MBC descend.</p>
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Technical Report -- MOWA Band of Choctaws

<p>MARIE JOSEPHINE JUZAN Choctaw "-wife of Adam Hollinger -dau. of Charles and Pheobe Juzan -Hollinger family history -Mobile Co. Marriage Records"</p>	<p>MOWA claims that Marie Josephine Juzan was the -wife of Adam Hollinger. They further claim that Marie was the - daughter of Charles and Pheobe Juzan. Documentation for these claims are the -Hollinger family history -Mobile Co. Marriage records.</p>	<p>Marie Josephine Juzon was the wife of Adam Hollinger as proven in the Marriage Records of Mobile County provided by the MOWA petition. However, Marie Josephine Juzan was born in 1766 to a French man, Pierre Juzan and his French wife, Catherine Parant. Marie was educated in France, and her family is highly documented. Moreover, Marie has no documented descendants in the modern-day MBC community. (see Caroline Hollinger)</p>
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Exhibit A.

Reproduced Exactly from the MOWA Band of Choctaw Petition.

MOWA BAND OF CHOCTAWS
Known Indian Ancestors

FIRST GENERATION

1. DAVID TAYLOR
Cherokee - son of David and Mary Taylor
1851 Chapman Roll
2. DAVE WEAVER
JIM WEAVER
ANNA WEAVER BYRD
EDY WEAVER BYRD
Cherokee - children of Dave Weaver
1835 Henderson Roll - all born
in Cherokee Nation - G.M. Roll #17392
3. KULIHOKA
Choctaw - mother of Rose Reed - Oral History -
newspaper article
4. SNOW
Creek - father of Melton Snow - 1832 Census
of Creeks
5. CAROLINE WEAVERFORD (FIELDS)
Creek - mother of Henry Killiam
granddaughter of Charles and Sehoy
Weatherford, family history - census
6. CECILE WEATHERFORD
Creek - daughter of William Red Eable Weatherford
and Nancy Fisher, Creek G.M. Roll #17392 -
oral history
7. CAROLINE HOLLINGER (ORSO)
Choctaw - daughter of Adam Hollinger and Marie
Josephine Juzan, Zeno Orso estate papers
8. WILLIAM & LOUISA DURANT JONES
Choctaw - great grandparents of Josephine De
Carunsajie Rivers and Camilla De Carunsajie
Snow, Choctaw Trading House Rec. - 1815
Petition for Redress of grievances -
Choctaw Land Claims
9. LOUISA JONES
Creek - wife of James Laurendine, Dawes Roll -
family history - Mobile Co. Circuit
Court Case
10. SUSY 'OKANUBBE' MCKEE
Choctaw - daughter of John McKee - Choctaw Trading
House Records, wife of Issac Seals and
mother of Ellen Seales Snow and Emma Seals
Snow - oral history, Court Case, Wash. Co.
stating Beanie Snow's ancestry.
11. DAN WILKERSON
HARRIET WILKERSON
ELIZABETH WILKERSON
Choctaw - children of Drury Wilkerson - oral history
They lived at "Old Drury Place" on the
Level - Choctaw Trading House

Exhibit A.

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MOWA BAND OF CHOCTAWS
Known Indian Ancestors

FIRST GENERATION

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Cherokee - son of David and Mary Taylor
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EDY WEAVER BYRD
Cherokee - children of Dave Weaver
1835 Henderson Roll - all born
in Cherokee Nation - G.M. Roll #17392
3. KULIHOKA
Choctaw - mother of Rose Reed - Oral History -
newspaper article
4. SNOW
Creek - father of Melton Snow - 1832 Census
of Creeks
5. CAROLINE WEAVERFORD (FIELDS)
Creek - mother of Henry Killiam
granddaughter of Charles and Sehoy
Weatherford, family history - census
6. CECILE WEATHERFORD
Creek - daughter of William Red Eable Weatherford
and Nancy Fisher, Creek G.M. Roll #17392 -
oral history
7. CAROLINE HOLLINGER (ORSO)
Choctaw - daughter of Adam Hollinger and Marie
Josephine Juzan, Zeno Orso estate papers
8. WILLIAM & LOUISA DURANT JONES
Choctaw - great grandparents of Josephine De
Carunsajie Rivers and Camilla De Carunsajie
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Creek - wife of James Laurendine, Dawes Roll -
family history - Mobile Co. Circuit
Court Case
10. SUSY 'OKANUBBE' MCKEE
Choctaw - daughter of John McKee - Choctaw Trading
House Records, wife of Issac Seals and
mother of Ellen Seales Snow and Emma Seals
Snow - oral history, Court Case, Wash. Co.
stating Beanie Snow's ancestry.
11. DAN WILKERSON
HARRIET WILKERSON
ELIZABETH WILKERSON
Choctaw - children of Drury Wilkerson - oral history
They lived at "Old Drury Place" on the
Level - Choctaw Trading House

Exhibit A, continued.

12. "RYE" APACHE HELD AT
MT. VERNON - father of Lizzie Sullivan - (mother was
Caroline Sullivan) as stated by Lizzie's
sister Ruth Sullivan Reed and granddaughter
Ann Orso
13. WILLIAM WILLIAMS &
WIFE SALLY - Dawes Roll
Choctaw
14. WILLIAM WINDHAM - grandfather of Mary Cupp - wife of Zeno
Choctaw Orso, Jr. - 1831 Armstrong Roll - William
Windham's estate papers
15. JIM LAURENDINE - Dawes Roll - 1880 Mobile Co.
Choctaw Census
16. DANIEL REED - son of Hardy Reed and Eliza Tarvin - Wood-
Creek wards Remin. - oral history
17. GEORGE REED - son of Hardy Reed and Eliza Tarvin - Wood-
Creek wards Remin. - War of 1812 Military records
application for pension.
18. JOHN DIXON REED - son of Thomas Jefferson Reed - G.M. Roll
Creek #17416 Roll 158 grandson of George Reed
19. PATRICK LANE - father of Pate Lane whose mother was
Choctaw Nancy "Nakilumna" Reed - Choctaw Trading
House Records
20. MOLLY STARLAND - oral history
Houma
21. NANCY FISHER - Mother of Cecile Weatherford - full blood
Cherokee Cherokee - G.M. Roll #17392
22. ALEXANDER BRASHEARS - son of Samuel and Racheal Durant Brashears-
Choctaw Alex married Emeline Jane Wind daughter of
William Wind and Sara Pane - These are
parents of Louisa Jane who married Nathaniel
John Smith progenitors of MOWA Smith Line
G.M. Roll - Armstrong Roll - Armstrong Roll
American State Papers.
23. ELIZABETH "SIPSEY" GIBSON - daughter of Chief Tom Gibson wife of William
Choctaw Thomas Byrd and sister of James Gibson -
oral history - newspaper article - Hunt
letters to Choctaw Agency
24. ONERENE CHESTANG - daughter of Victoria Andry, granddaughter
Choctaw of Felix Andry and Nancy, a full blood Choc-
taw - Dawes Roll - Hunt letters to Choctaw
Agency

Exhibit A, continued.

25. HENRY DOC EATON
Choctaw - father of Viney Reed - mother Florence "Liddie" Blackmon - oral history - an affidavit under oath
26. HOME TAK
Choctaw - grandfather of Henry "Doc" Eaton - lived on High Hill - oral history from Lee Weaver age 79 as told by father Wade Weaver - John McGrew will - Deed BK, A Wash. Co. Choctaw
27. MARIA COLBERT
Chickasaw
Creek - wife of George Reed (son of Daniel) dau. Thomas Stewart Colbert and Viola Vann - great granddaughter of Gen. William Colbert and Jessie Moniac - Colbert family history - oral history - records of Creek descendant at Freeport, Fla.
28. JAMES CAMPBELL, JR.
Choctaw - son of James Campbell (Camel) and husband of Susie Byrd - oral history - Choctaw - Chickasaw Deeds and allotments
29. JOHN LEWIS
MARY F. LEWIS
Choctaw - Old Indian Lewis - Hunt letters to Choctaw Agency Mobile Co. Circuit Court Case
30. MARIE JOSEPHINE JUZAN
Choctaw - wife of Adam Hollinger - dau. of Charles and Pheobe Juzan - Hollinger family history Mobile Co. Marriage Records

Exhibit B.

Reproduced Exactly from the MOWA Band of Choctaw Petition.

PROGENITOR NAME LINES

- ALL REEDS - descended from Daniel and Rose Gaines Reed with the exception of the John Dixon Reed line - son of Thomas J. Reed - grandson of George Reed, brother of Daniel.
- ALL WEAVERS - descended from Dave and Cecile Weatherford Weaver and Jim and Margarite 'Peggy' Parnell Weaver.
- ALL BYRDS - descended from Lemuel 'Pappy' and Anna Weaver Byrd.
- ALL RIVERS - descended from Joel and Edy Weaver Rivers
- ALL CHESTANGS - descended from Jerome 'Pic' Chestang and Cornelia Mollie Weaver - Rhoda Rivers and Mary 'Big Sis' Rivers with the exception of Anne T. Chestang - she was a cousin of Jerome.
- ALL TAYLORS - descended from Dave and Jane Byrd Taylor.
- ALL ORSOS - descended from Zeno and Caroline Hollinger Orso.
- ALL SNOWS - descended from Melton and Ellen Seales Snow son of Creek Snow and Dinah.
- ALL WILKERSONS - descended from Drury Wilkerson.
- ALL SMITHS - descended from Louisa Jane Brashears and Nathaniel John Smith - except those descending from Tom 'Hadjo' and Glovine Reed Smith.
- ALL JOHNSTONS - descended from Cornelia 'Molly' Weaver and Powell Bates Johnston; Powell B. Johnston descends from pioneer settlers of Tombigbee area Washington Co.
- ALL COLES - descended from Peter and Eliza Reed Cole.
- ALL SULLIVANS - descended from Mark Sullivan and wife Jeremia Tedder - oral history says that Mark's mother was Creek. Sullivans are early settlers at Tombigbee area - Washington Co.
- ALL FIELDS - descended from Amanda Fields and Henry Killam.
- ALL LOFTONS - descended from George Lofton and Mary F. Lewis sister of Indian John Lewis.
- ALL EVANS - descended from Jesse J. and Mahala Hopkins Evans - some female Evans (possibly descendants of Larkin Evans - early settler) married into the group - Jesse is son of Jehu who came as one of first Missionaries to Choctaws.

Exhibit B, continued.

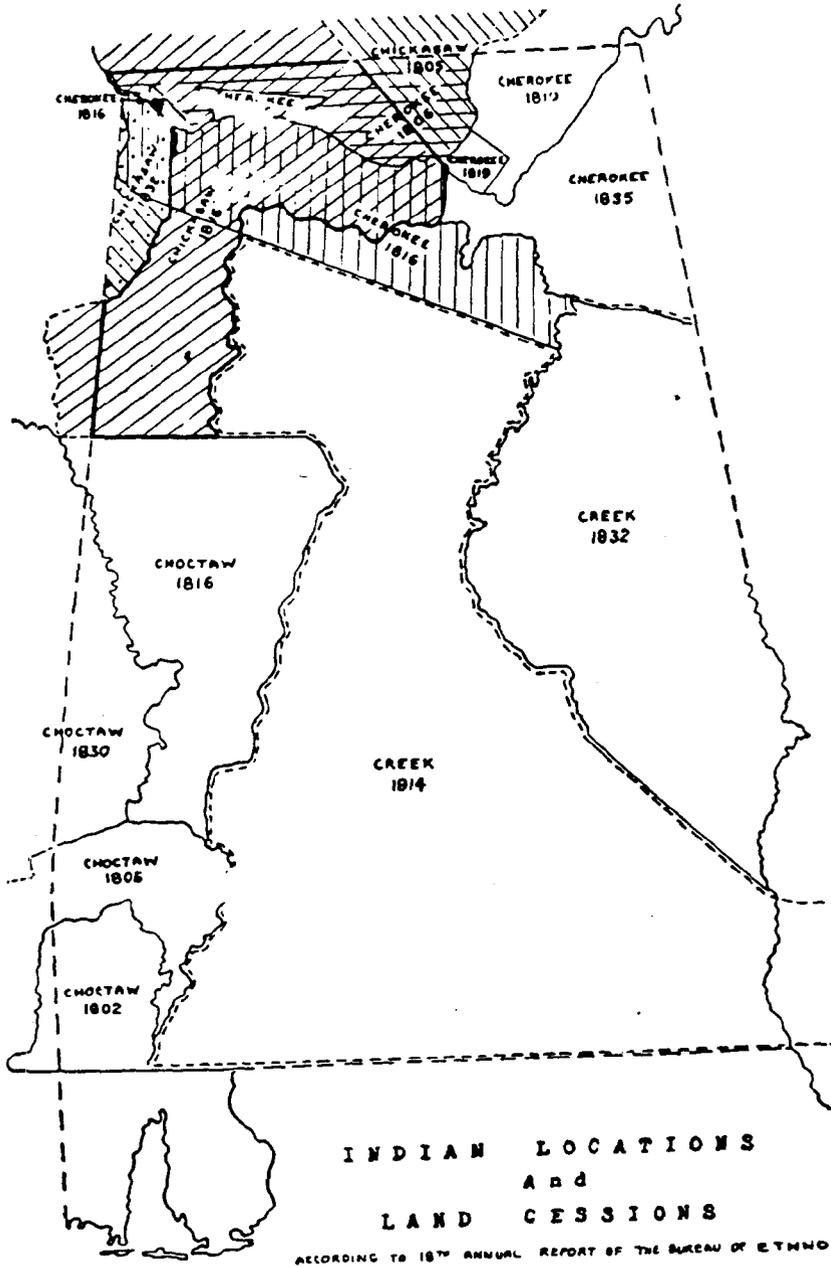
ALI. HOPKINS

- descended from James and Nancy Rivers Hopkins.
James Hopkins was born in Green Co., Mississippi.
and is said to be Choctaw.

Technical Report
MOWA Land of Choctaw

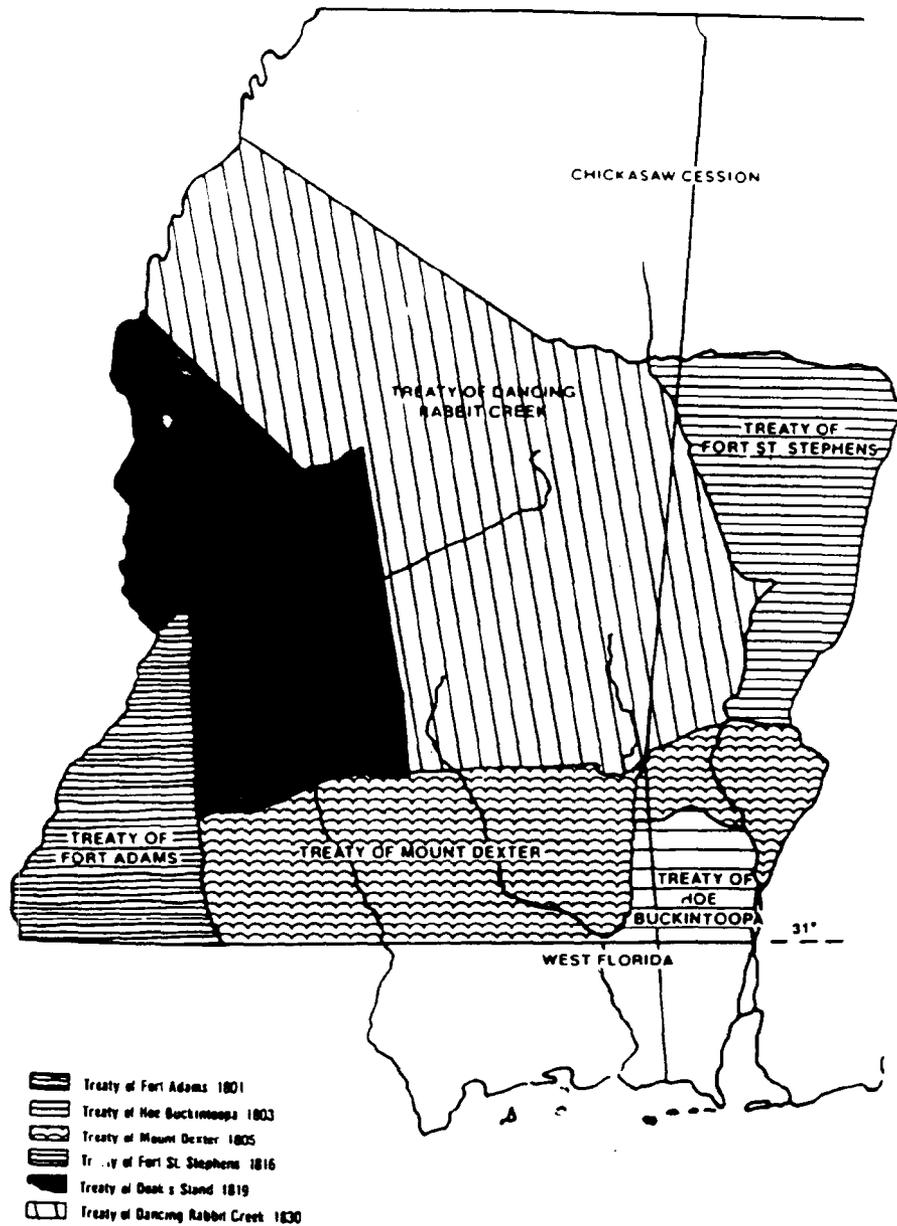
Map Supplement

- Map 1. Indian Locations and Land Cessions in Alabama
- Map 2. Choctaw Cessions, 1801-1830
- Map 3. Primary Areas of Choctaw Settlement before Removal
- Map 4. Primary Areas of Choctaw Settlement Shown in Relation to Modern Mississippi Counties
- Map 5. Colonial Settlement Areas, Southwest Alabama
- Map 6. The Original Extent of Washington County, Mississippi Territory
- Map 7. Boundary Changes, Alabama Counties, 1808-1815
- Map 8. Map of Alabama, 1818
- Map 9. Alabama County Boundary Changes, 1819-1832
- Map 10. Alabama County Boundary Changes, 1834-1852
- Map 11. Alabama County Boundaries, 1860
- Map 12. Outline Map, Modern Washington County, Alabama
- Map 13. Detailed Map, Washington County Districts, 1890
NOTE: Settlement area for the petitioner was almost entirely within District 1, with a few families in the southeastern portion of District 4.
- Map 14. Primary Settlement Area of the Petitioner, Washington and Mobile Counties, Alabama



INDIAN LOCATIONS
AND
LAND CESSIONS
ACCORDING TO 18TH ANNUAL REPORT OF THE BUREAU OF ETHNOLOGY

Map. No. 1 (Reeves 1955)



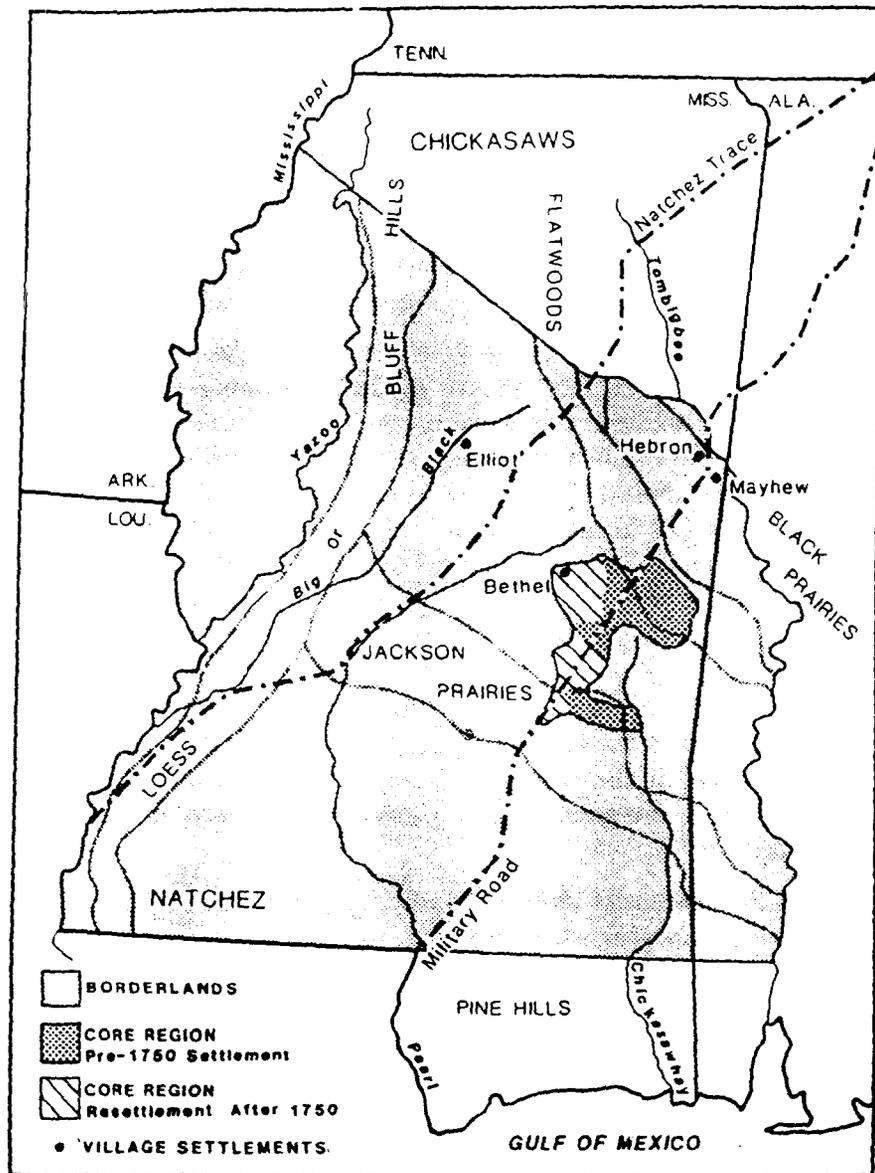
Map 1. Choctaw Cessions, 1801-1830.

(Map courtesy of Samuel J. Wells)

166

Map No. 2.

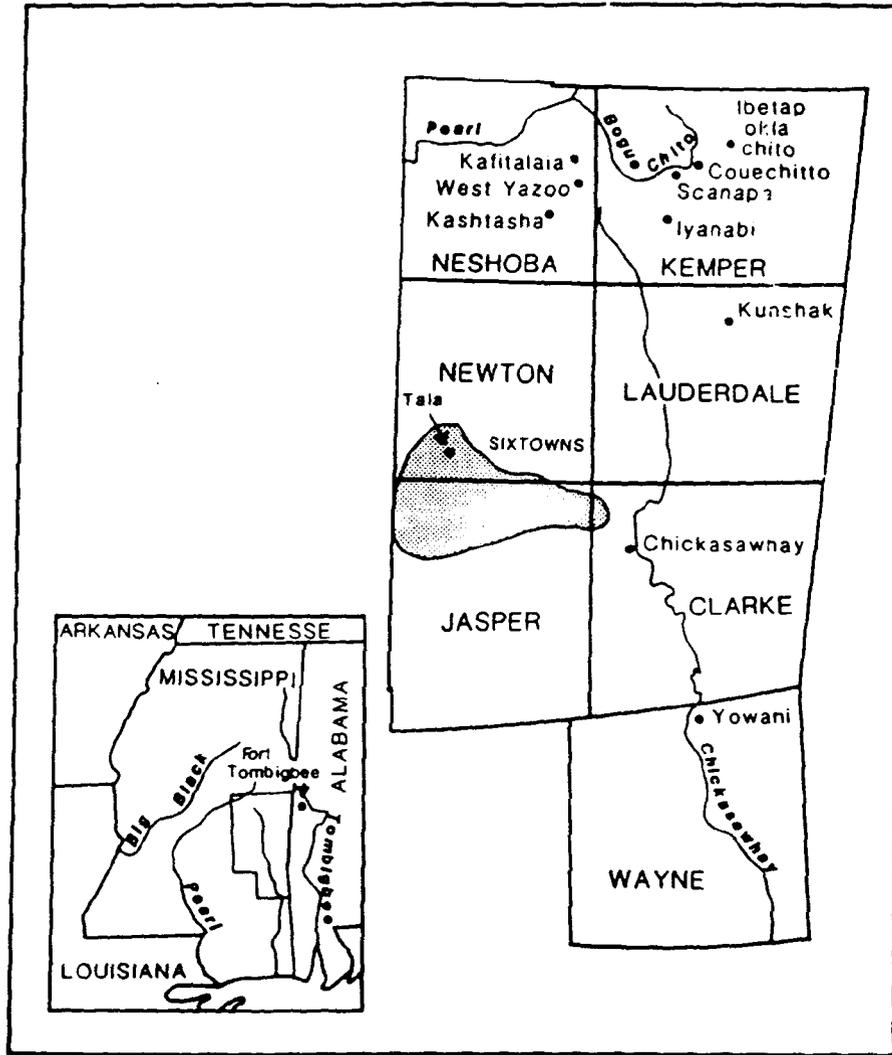
(Reeves 1985)



3. Choctaw Country

Map No. 3.

(White 1983)



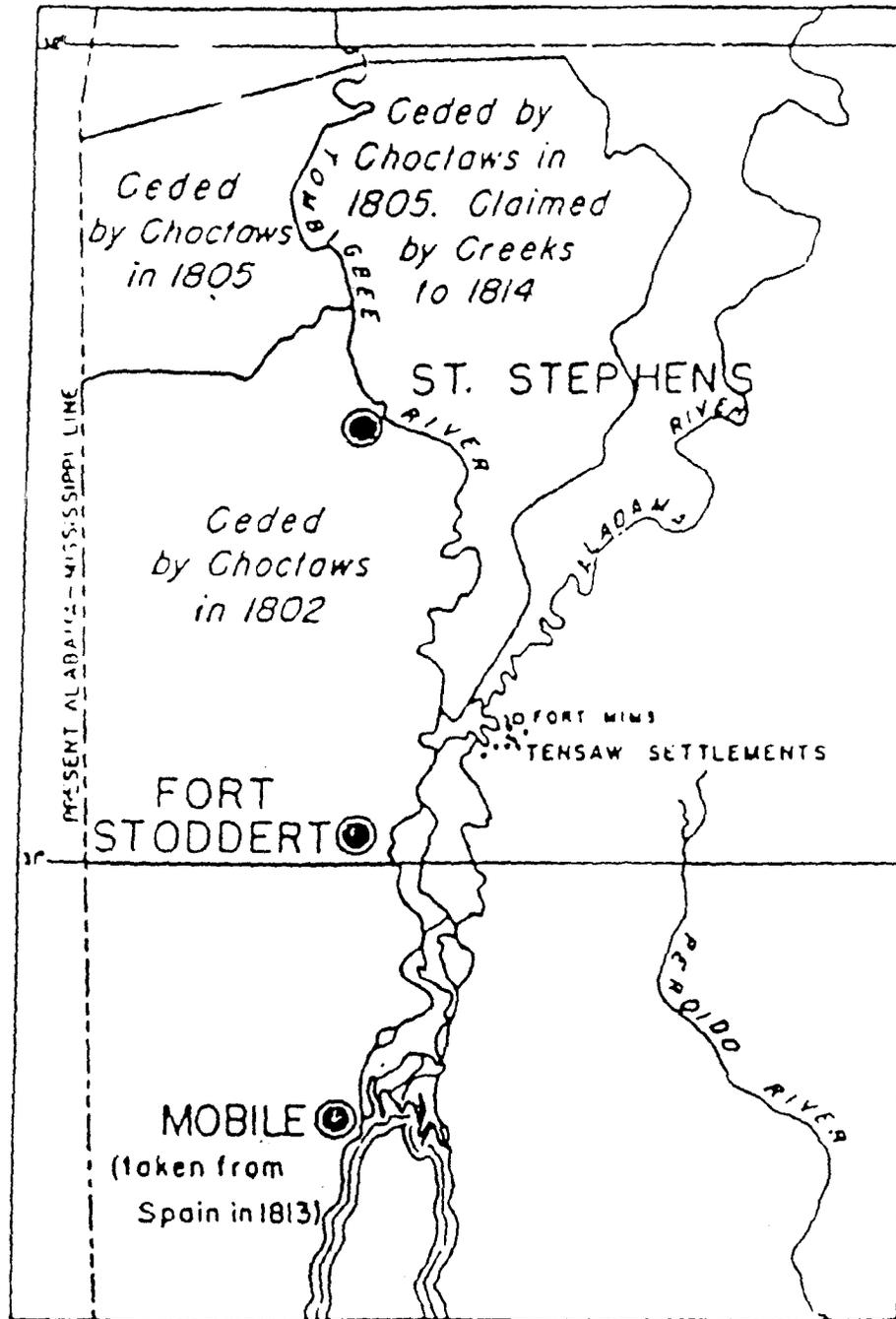
2. Choctaw Towns and Districts

Map No. 4.

(White 1983)

Early Settlements on the Tombigbee and Tensaw Rivers

By JAMES F. DOSTER

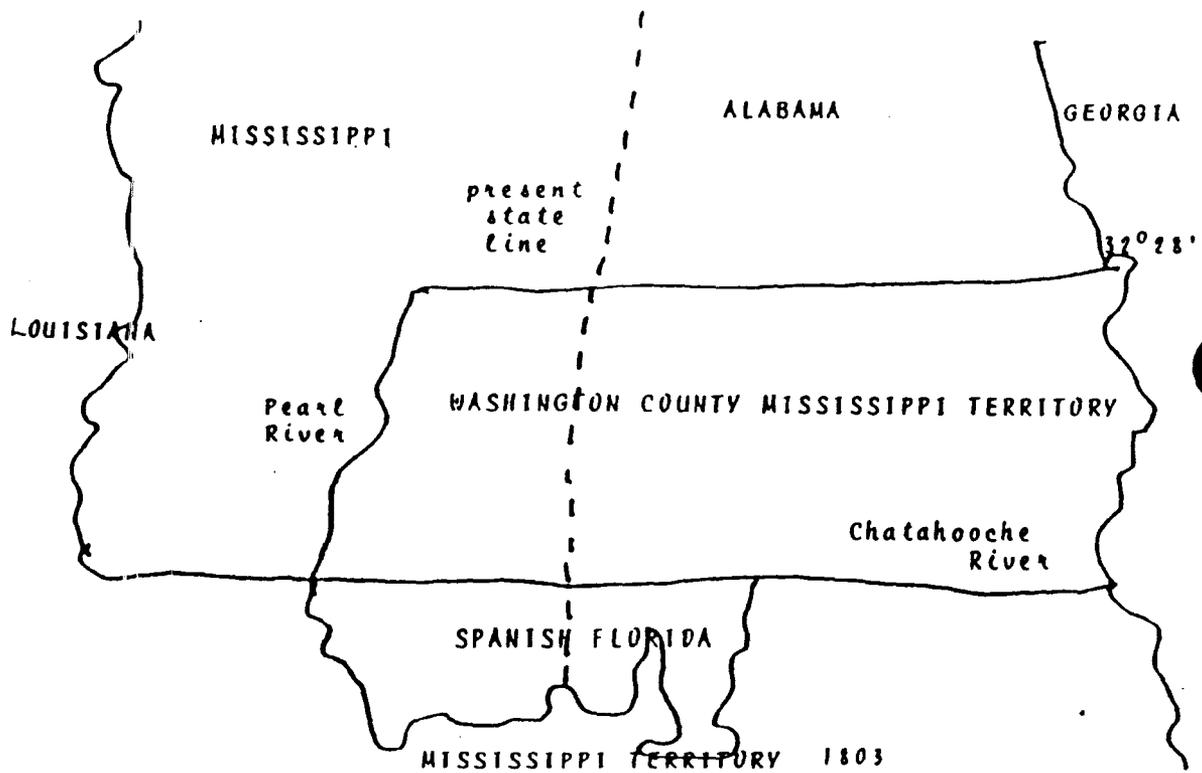


(MOWA Retention)

Map No. 5.

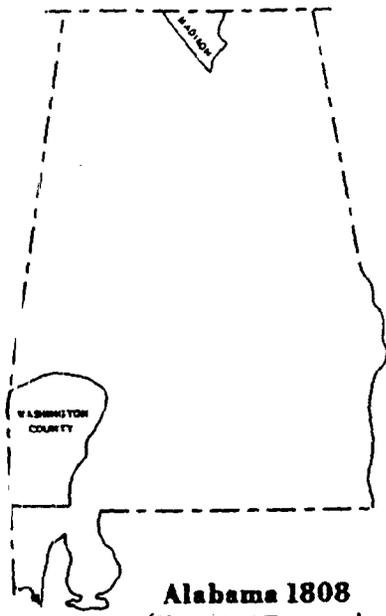
24A
SOUTHWEST ALABAMA
1800 1814

Washington County, in the Tombigbee District, was created by proclamation of Governor Winthrop Sargent of the Mississippi Territory on June 4, 1800. The county was named in honor of General George Washington. Its original boundaries extended from the Pearl River eastward to the Chattahoochee River and from latitude $32^{\circ}28'$ on the north to the latitude 31° on the south. The county measured 300 miles east to west and 88 miles from north to south. Out of the area between these original boundaries sixteen counties in Mississippi and twenty-nine counties in Alabama have since been formed in whole or in part. Now located in the southwestern part of the state, Washington County is bounded by Choctaw County to the north, the Tombigbee River to the east (across which lie Clarke and Baldwin Counties), by Mobile County to the south, and by the state of Mississippi to the west.



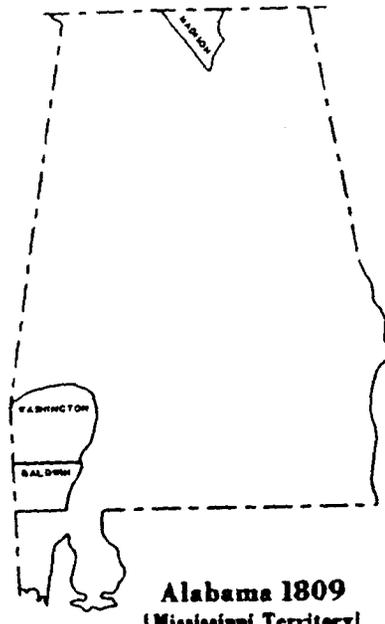
Map No. 6.

(Brown and Waddell 1989)



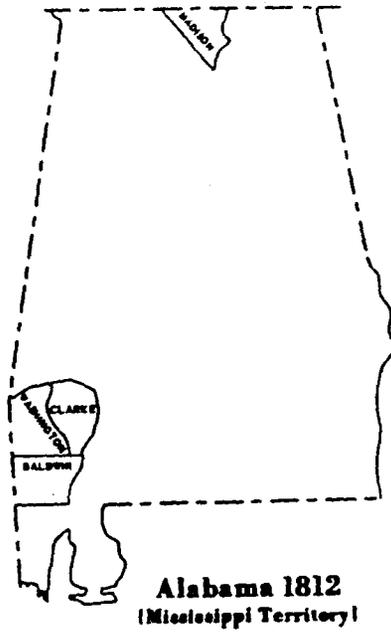
Alabama 1808
(Mississippi Territory)

xix



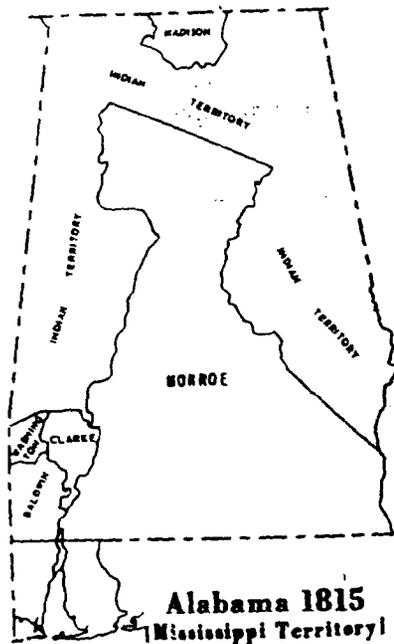
Alabama 1809
(Mississippi Territory)

xx



Alabama 1812
(Mississippi Territory)

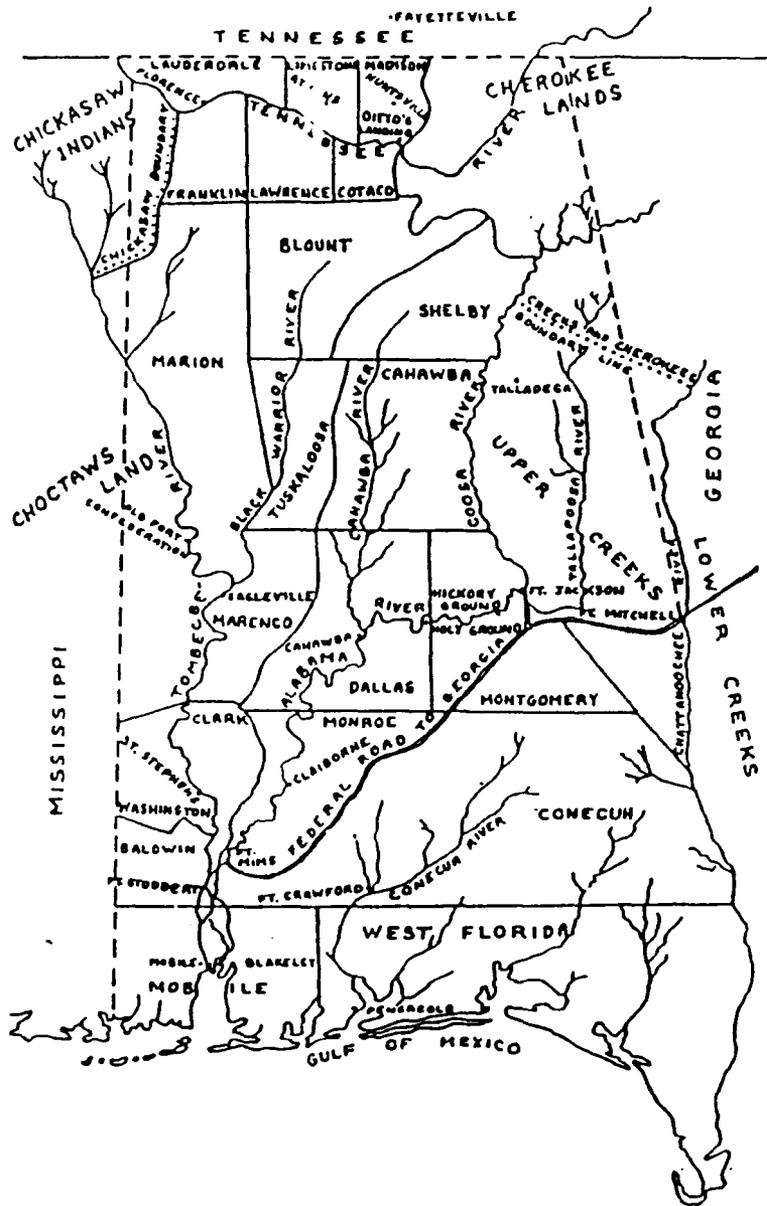
xxi



Alabama 1815
(Mississippi Territory)

xxii

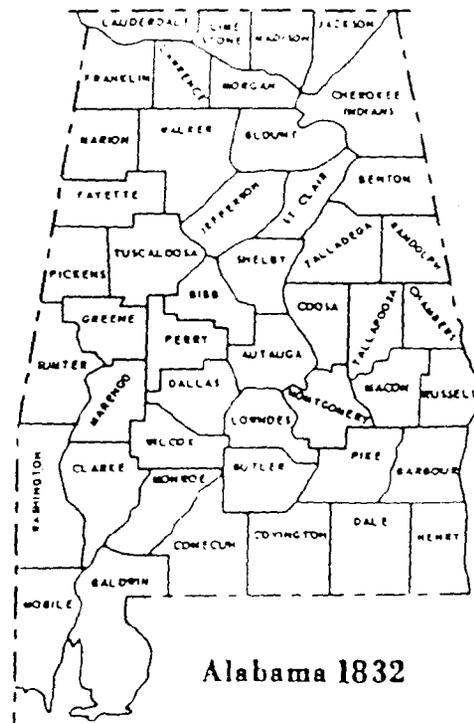
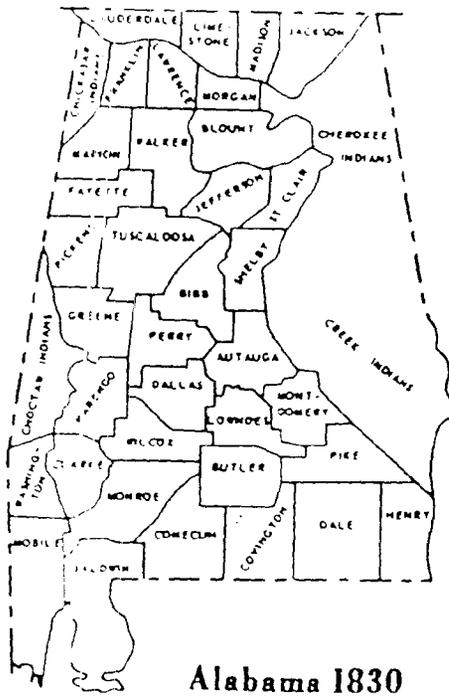
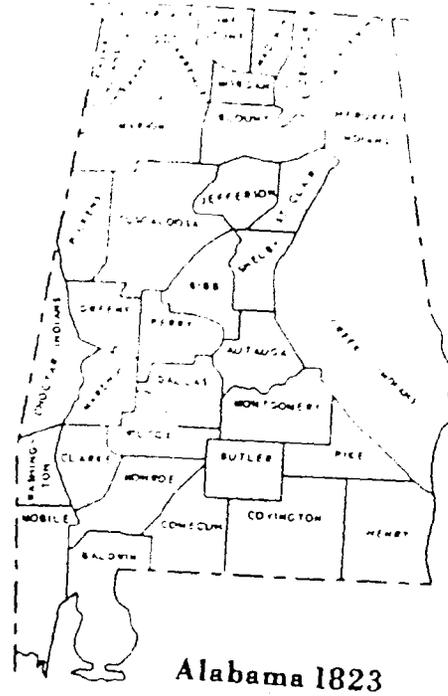
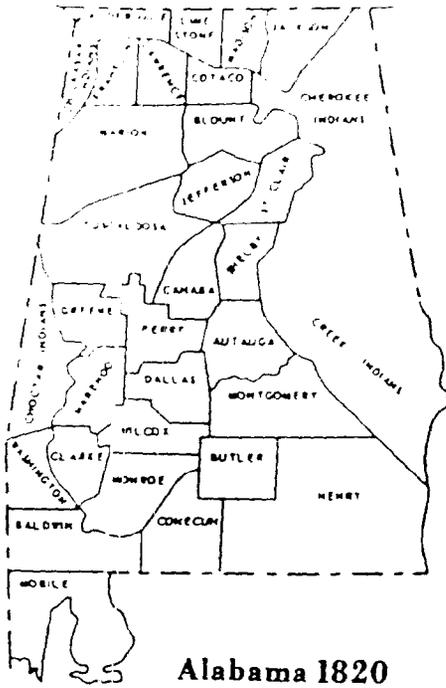
Map No. 7.



Map of Alabama, 1818, according to John Melish. Courtesy of Alabama Department of Archives and History.

5

Map No 8.



Map No. 9.

145

xxviii

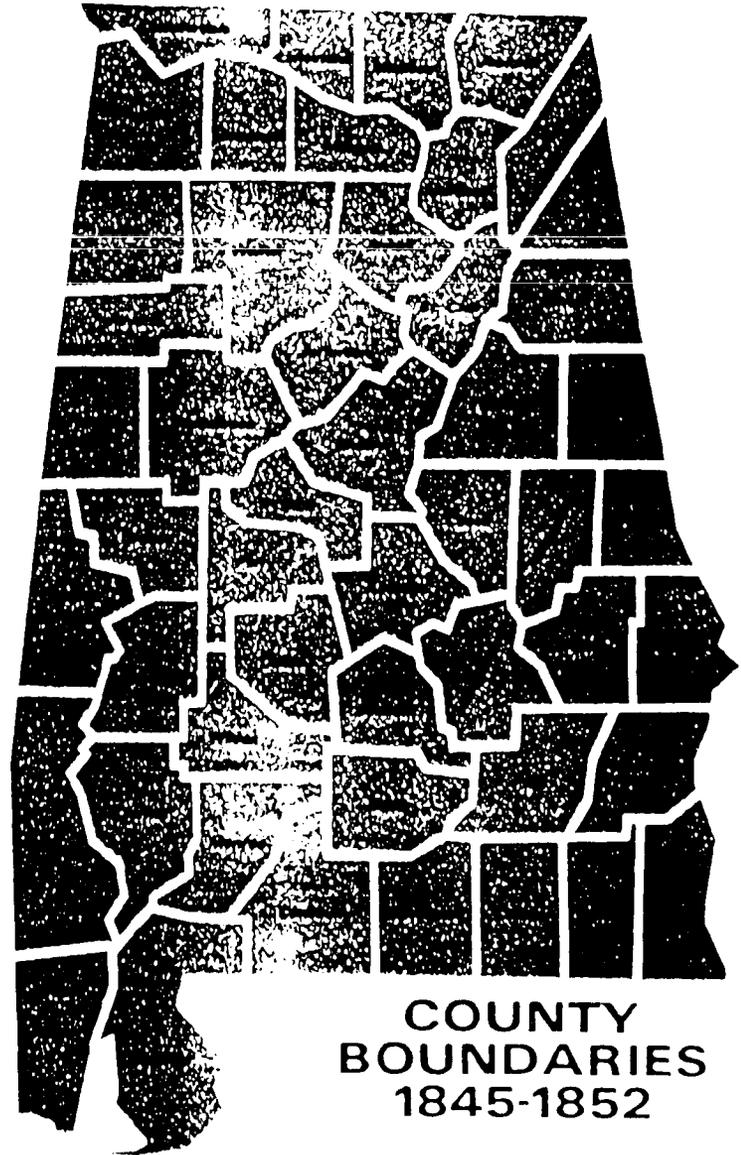
xxix



**COUNTY
BOUNDARIES
1834-1845**

0 25 50
MILES

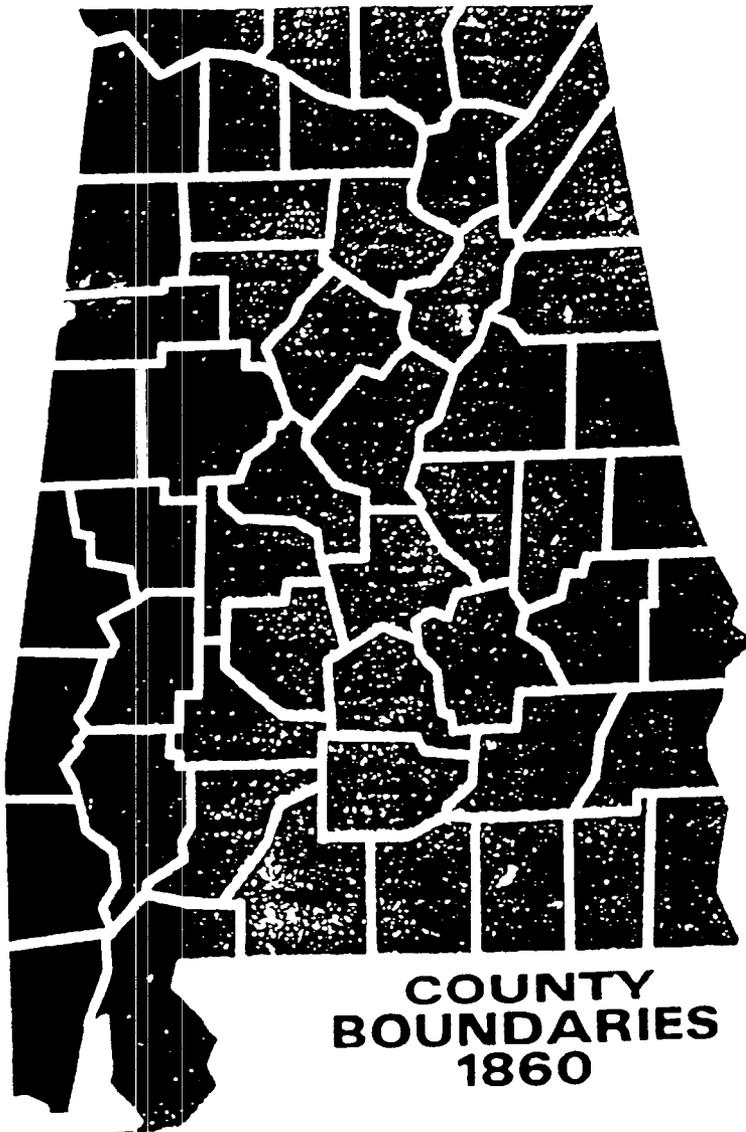
Map No. 10.



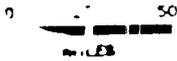
**COUNTY
BOUNDARIES
1845-1852**

0 25 60
MILES

(Dodd 1974)



**COUNTY
BOUNDARIES
1860**

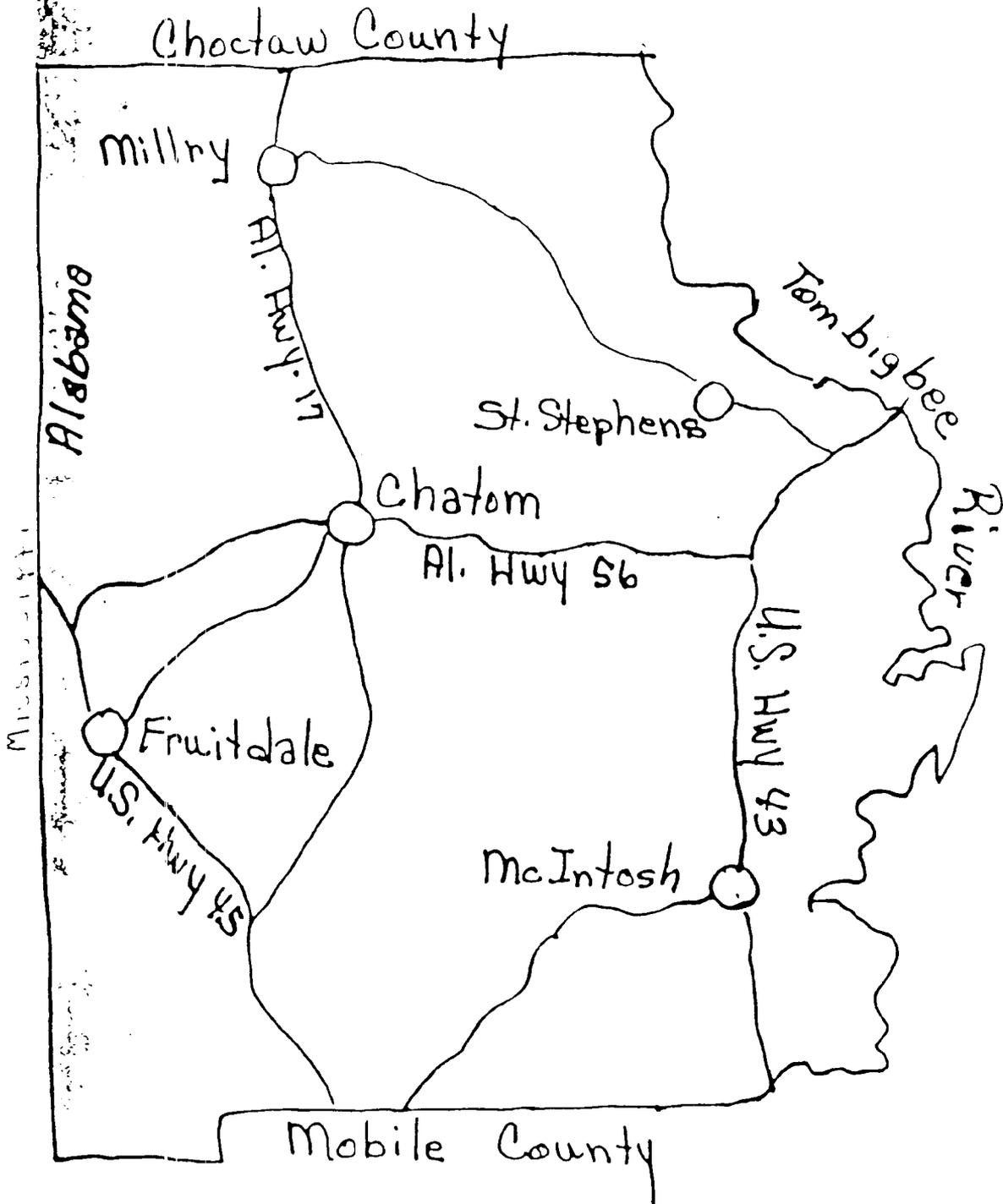


Map No. 11.

(Dodd 1974).

District Location Map

Washington County, Alabama.



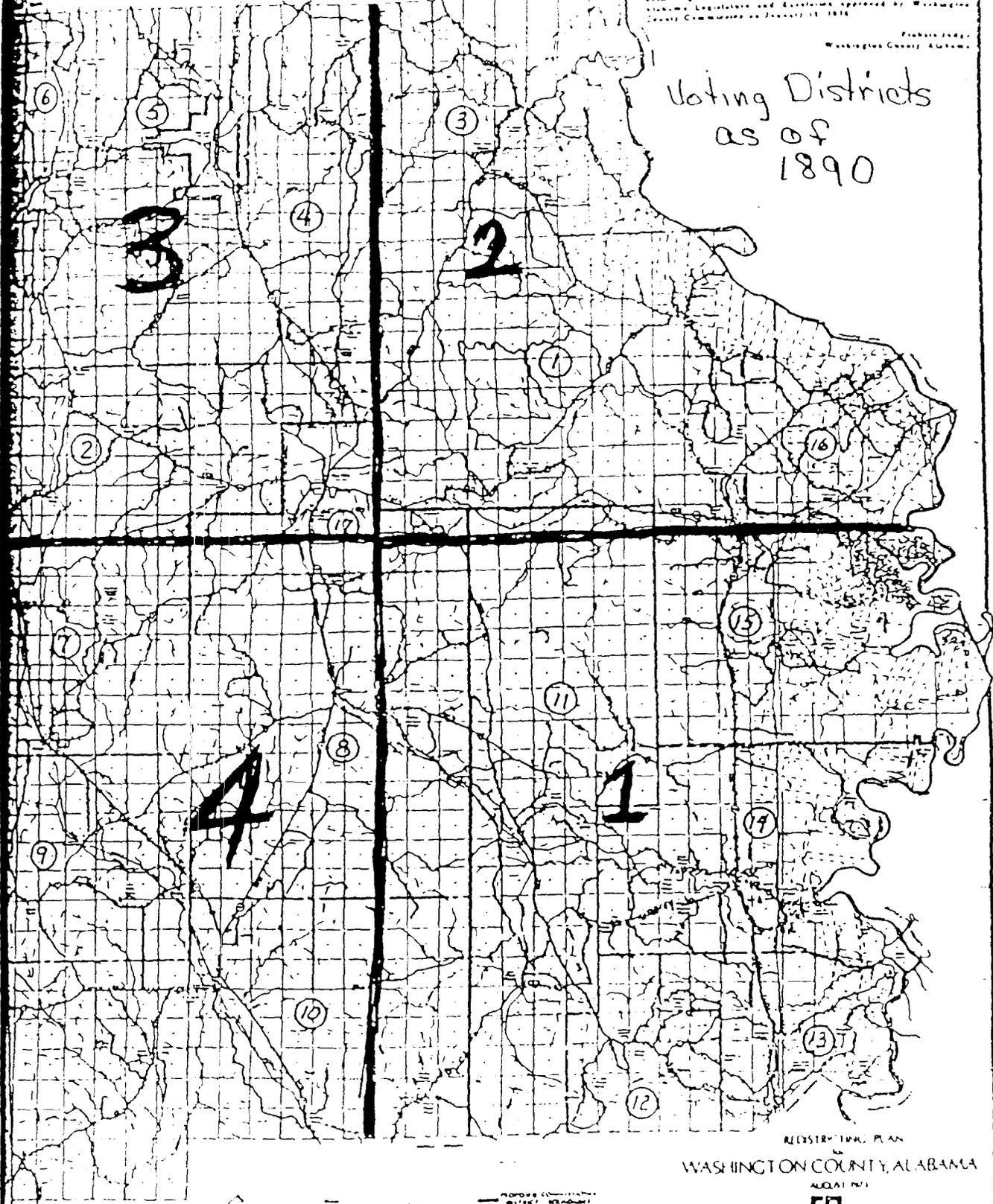
Map No. 12.

(Brown and Waddell 1989)

NOTICE
 This map is published to give notice of certain changes in voting
 precincts and communities within the State of Alabama. The
 State Board of Registrars has determined that the boundaries of precincts and
 communities shown on this map are correct. These changes of the
 boundaries of precincts and communities are given effect by the
 act of the Legislature approved by the Governor on January 11, 1890.

Frederic J. ...
 Washington County, Alabama

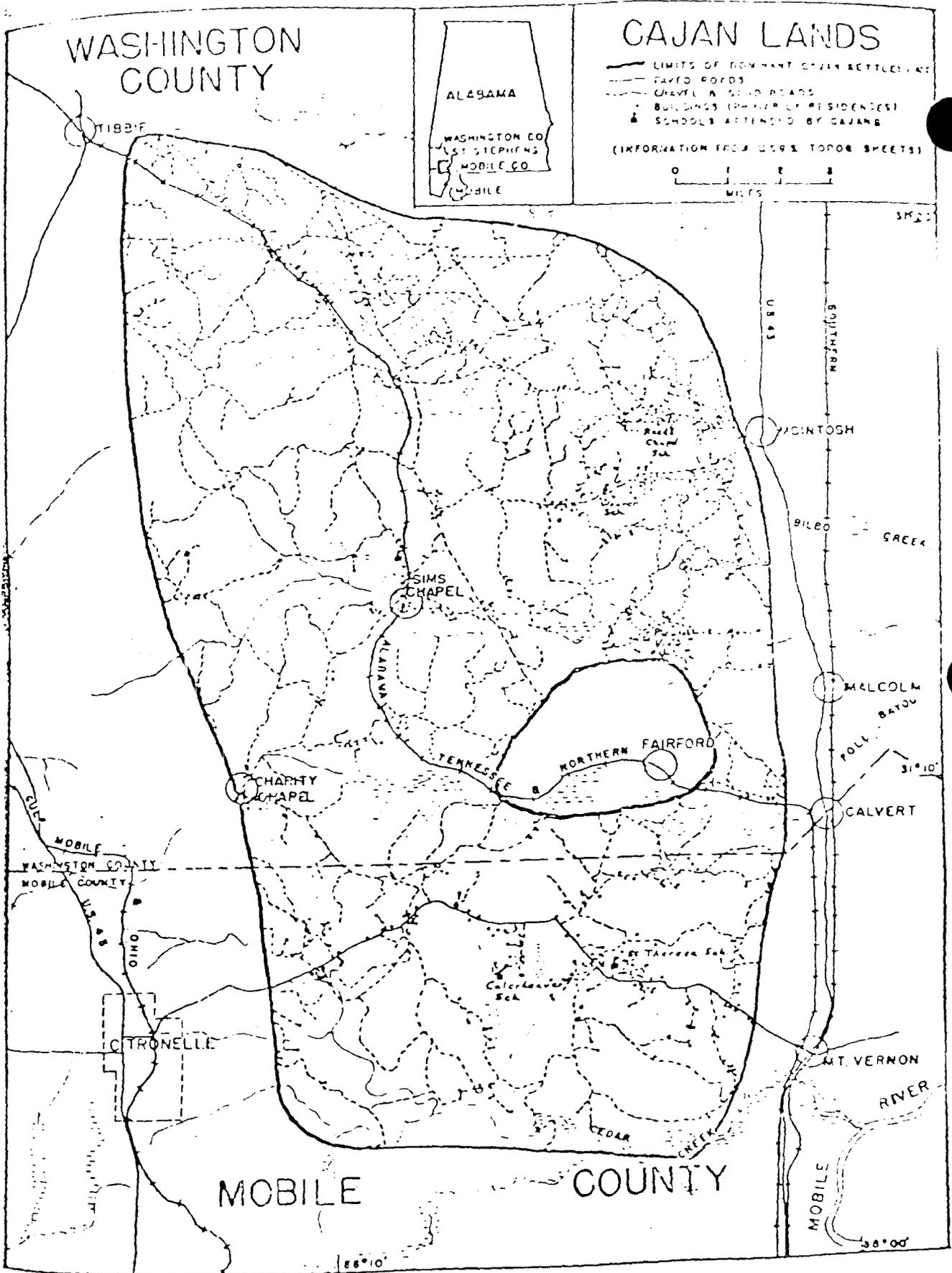
Voting Districts as of 1890



REGISTERING PLAN
 WASHINGTON COUNTY, ALABAMA

REGISTRY PLAN
 WASHINGTON COUNTY, ALABAMA
 (Brown and Waddell 1989)

Map No. 13.



Map No. 14

Fig. 1.

(Price 1950)

SOURCE MATERIALS

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