

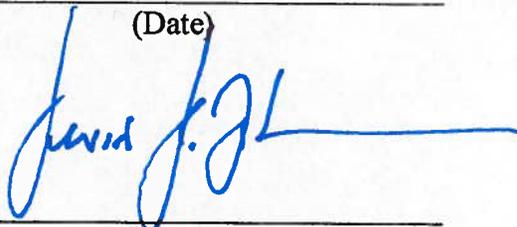
**Proposed Finding**  
**Against Acknowledgment**  
**of the**  
**Meherrin Indian Tribe**  
**(Petitioner #119b)**

**Prepared in Response to the Petition**  
**Submitted to the Assistant Secretary – Indian Affairs**  
**for**  
**Federal Acknowledgment as an Indian Tribe**

**JAN 16 2014**

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(Date)



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**Kevin K. Washburn**  
**Assistant Secretary – Indian Affairs**

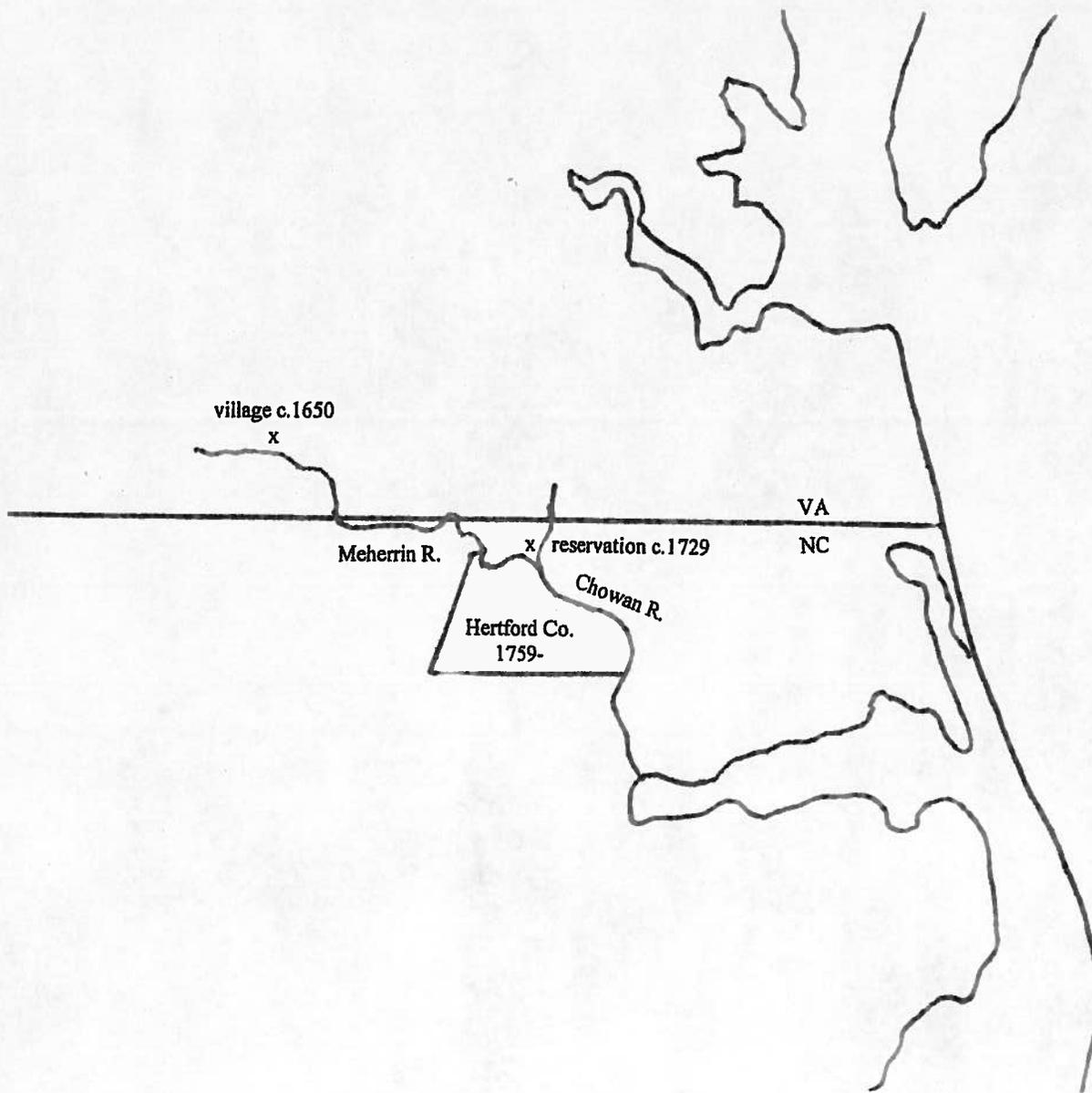


FIGURE 1: AREA MAP

Source: Office of Federal Acknowledgment.

## INTRODUCTION

The Office of the Assistant Secretary – Indian Affairs (AS-IA) within the Department of the Interior (Department) issues this proposed finding (PF) in response to the petition the Department received from the group known as the Meherrin Indian Tribe (MTB), Petitioner #119b, located in Ahoskie, North Carolina. The petitioner seeks Federal acknowledgment as an Indian tribe under Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR Part 83), “Procedures for Establishing that an American Indian Group Exists as an Indian Tribe.”

Evidence the MTB petitioner submitted and the Department staff obtained through its review suggests that the MTB petitioner does not meet the mandatory criteria for Federal acknowledgment. Pursuant to guidance issued in 2008, this proposed finding is issued on the basis of Petitioner’s failure to satisfy 83.7(e). See 73 Fed. Reg. 30146, 30148 (May 23, 2008). If following an evaluation of the evidence and argument submitted during the comment period it is determined that the petitioner meets the criterion, then the Assistant Secretary will issue an amended proposed finding evaluating all seven criteria. An explanation of the Department’s evaluation of the petition under 83.7(e) is presented in full in sections following this introduction. In accordance with the regulations set forth in 25 CFR 83.10(m), the failure to meet all seven criteria requires a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. Therefore, the Department proposes to decline to acknowledge the MTB petitioner.

### Regulatory Procedures

The acknowledgment regulations under 25 CFR Part 83 establish the procedures by which a non-federally recognized group may seek Federal acknowledgment as an Indian tribe with a government-to-government relationship with the United States. To be entitled to such a political relationship with the United States, the petitioner must submit evidence documenting that the group meets the seven mandatory criteria set forth in section 83.7 of the regulations. Failure to meet any one of the mandatory criteria will result in a determination that the group is not an Indian tribe within the meaning of Federal law.

The time periods for processing documented petitions are set forth in the acknowledgment regulations in section 83.10. Publication of the notice of the PF in the *Federal Register* (FR) initiates a 180-day comment period during which the petitioner and any individual or organization may submit arguments and evidence to support or rebut the evidence used in the PF. Such comments should be submitted in writing to the Office of the AS-IA; Attention: Office of Federal Acknowledgment (OFA); 1951 Constitution Avenue, NW; Mail Stop 34B-SIB; Washington, DC 20240. Interested and informed parties must provide copies of their submissions to the petitioner.

The regulations at 25 CFR 83.10(k) provide petitioners a minimum of 60 days to respond to any comments on the PF submitted during the comment period. At the end of the 60-day response period for the PF, the OFA shall consult with the petitioner and interested and informed parties to determine an equitable time frame for consideration of written arguments and evidence that are submitted during the comment and response periods. The OFA shall notify the petitioner and interested and informed parties of the date such consideration begins.

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

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

### **The Petitioner**

The Meherrin Indian Tribe, Petitioner #119b, with 203 current members, claims descent from the historical Meherrin Indian Tribe, an Iroquoian-speaking group once resident near the modern inland border of Virginia and North Carolina. Petitioner #119b is one of two Meherrin petitioners for Federal acknowledgment from Hertford County, North Carolina. The Department designated the other petitioner, also known as the Meherrin Indian Tribe, as Petitioner #119a for administrative tracking purposes.

Petitioner #119b's decision to petition separately from #119a was based on its claim that the group is a continuation of the historical Meherrin Indian tribe that once resided on land the colony reserved for them in the early 1700s north of the Meherrin River in present-day Hertford County, North Carolina. The Indians on the reservation, the petitioner now asserts, moved from this colonial reservation between 1759 and 1770 to Potecasi Creek in the same county, and the group's current members descend from the Indians who moved to Potecasi Creek (Dawdy 1994, 113, 116). The petitioner claims descent from Sallie M. Lewis (b. "ca. 1838" d. 1904) demonstrates Meherrin ancestry.

According to a former MTB elected leader, "[i]n the year of 1977 Sallie's [g]randson chief Ru[.]ben R. Lewis called for a meeting for Sallie M. Lewis descendant[s] to meet at his house, to be reorganized as a Meherrin Indian Tribe" (P. Brown 4/2/1997). Meeting minutes in the petition state that the group first met earlier than that, on October 2, 1976, at the Pleasant Plains Baptist Church and elected Rev. Ruben Lewis "chief" (MIT 10/2/1976). The "Meherrin Indian Tribe" incorporated as a non-profit corporation in the state of North Carolina on February 15, 1977 (NC Secretary of State 1977). The incorporation papers identified seven directors, including Ruben R. Lewis and the current elected leader of Petitioner #119b, Wayne Brown.

The 1977 corporation mailing address is currently used by Petitioner #119a.<sup>1</sup> Both Petitioner #119a and #119b use the name “Meherrin Indian Tribe.”

### **Administrative History**

The Department received on August 2, 1990, a letter of intent to petition for Federal acknowledgment as an Indian tribe from a group identifying itself as the “Meherrin Indian Tribe” of Winton, Hertford County, North Carolina (55 FR 47032). The *Federal Register* published a November 8, 1990, notice identifying this new petitioning group as the “Meherrin Indian Tribe,” c/o Patrick Riddick, P. O. Box 508, Winton, North Carolina 27986. The group was designated as Petitioner #119 for administrative tracking purposes.

In 1995, Patrina Brown (submitted a separate letter of intent, and a partial petition. The Department received these documents on June 27, 1995 (MTB 6/19/1995).

Patrina Brown signed the submission as the leader of this group. An “assistant chief” and seven “tribal council members” also signed it. They submitted additional petition materials that the Department received on September 11, 1995 (OFA 10/4/1995). On May 1, 1996, the Department published a notice in the *Federal Register* identifying this new petitioning group also as the “Meherrin Indian Tribe,” c/o Patrina Brown, Route 1, Box 7, Winton, North Carolina 27986 (61 FR 19314). The Department designated this group as Petitioner #119b for administrative tracking purposes. The original petitioner, whose designation was changed to Petitioner #119a, has not submitted a documented petition to date.

The BIA issued to Petitioner #119b a technical assistance (TA) review letter, outlining the obvious deficiencies and significant omissions in the partial petition (OFA 3/15/1996). The partial petition lacked evidence under all seven of the mandatory criteria. Petitioner #119b responded to its TA review letter by submitting additional petition documentation received on August 22, 1997 (OFA 10/10/1997).

Telephone conversations and correspondence with Ms. Brown emphasized that the continued lack of documentation demonstrating descent from the historical Indian tribe—criterion 83.7(e)—meant that the Department could proceed to conduct an expedited review under the provision of 25 CFR 83.10(e) that would result in a finding against Federal acknowledgment (OFA 10/10/1997). Nevertheless, Petitioner #119b’s governing body submitted a July 24, 1997, letter advising the OFA that its petition was ready for active consideration (MTB 7/24/1997). Therefore, Petition #119b was placed on the “ready, waiting for active consideration” list on October 6, 1997 (OFA 10/10/1997).

One of the Department’s genealogical researchers conducted a field visit February 20-21, 1998, gathering documentation from the North Carolina State Archives, the Hertford County Public Library, and the Ahoskie Public Library. The researcher also met with Patrina Brown, two of

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<sup>1</sup> Post Office Box 508, Winton, NC.

her siblings, and her grandmother. Petitioner #119b submitted additional petition documentation received on October 1, 1998,<sup>2</sup> after which the OFA requested the group hold any additional submission of materials until the OFA notified the petitioner of its placement on active consideration (OFA 3/22/1999). The OFA conducted an informal TA meeting with representatives of Petitioner #119b on February 19, 2008 (OFA 6/17/2008).

On November 1, 2010, the OFA placed Petitioner #119b on active consideration, and advised the group of its 60-day period in which to submit an updated membership list as well as records created since its last submission, such as meeting minutes, any updated governing document, or newsletters (OFA 11/3/2010). Due to miscommunication, the OFA extended the close of the 60-day period to February 14, 2011 (OFA 12/9/2010).

On February 11, 2011, Petitioner #119b hand-delivered to the OFA about 2,521 additional pages of data, certified by its governing body as petition documentation. The submission included, among other items, a certification of Dawdy's master's thesis as the group's "official history"; an updated and separately certified membership list; current and previous governing documents; maps; letters of support; published histories of the colonial Meherrin Indian Tribe; modern articles on the petitioner; documentation of modern group activities; and application forms completed by its 203 members. The Department did not receive any third party comments for consideration in the proposed finding.

On June 21, 2013, the AS-IA announced a "preliminary discussion draft of potential revisions to Part 83." By letter dated May 31, 2013, the Department provided the petitioner the option to request a suspension of consideration of its petition during the process of revising the regulations or to continue under the existing Part 83 regulations. By letter dated July 13, 2013, received at OFA on July 22, Petitioner #119b requested to proceed with a FD under the existing regulations.

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<sup>2</sup> In addition, the group sent a separate letter of intent and partial petition claiming Cherokee ancestry, received on December 7, 1998 (MTB 11/9/1998). It enclosed a November 12, 1998, list of bylaws stating that "only the direct descendants of Richard P. Melton petition for Federal acknowledgment as an American Indian Tribe" (MTB 11/12/1998). Richard P. Melton (b.ca.1870) was not a descendant of Sallie M. (Smith) Lewis, but his son Clinton married one of her granddaughters (Nollie Reid). In a much earlier, single-sentence letter to the Department, Ms. Brown stated, "I Patrina Franzine Brown hereby acknowledge that Clinton Melton and his descendants are Cherokee Indian and White, to be recognized by United States Department of the Interior, Bureau of Indian Affairs" (P. Brown 12/19/1995). Around that same time, at least one other individual sent a similarly worded letter to the NC Commission (James 11/27/1995).

### **The Historical Indian Tribe**

The petitioner requests in its letter of intent to be acknowledged as the “Meherrin Tribe” (MTB 6/19/1995). A second letter of intent from the group requesting to be acknowledged as the “Cherokee Tribe” was interpreted by the Department as a request to include “Cherokee ancestry to your family tree in the already existing petition” (MTB 11/9/1998; OFA 3/22/1999). The petitioner’s original submission includes a three-page historical summary by Patrina Brown entitled “Flight of the Meherrin Indians” that states the Meherrin previously were called Susquehanna Indians and that key ancestor Sallie M. Lewis was a Susquehanna woman who fled from Pennsylvania and settled on the Meherrin River in North Carolina (P. Brown 1997; see also N. Melton 6/17/1986).<sup>3</sup> However, the petitioner’s supplemental submission in 2011 includes a resolution that designates the master’s thesis of scholar Shannon Lee Dawdy as the “official history of the Meherrin Tribe” (MTB 2/7/2011). Dawdy rejects the theory of Susquehanna origins (Dawdy 1994, 100).

Dawdy contends a modern Meherrin group, not necessarily equivalent to the current petitioner, continues the existence of the historical Meherrin Indian tribe. Her master’s thesis discusses in detail only archaeological evidence and historical documents of the colonial period, but Dawdy also briefly presents a theoretical framework for a proposed demonstration of the persistence of a Meherrin community after 1770, when references to a Meherrin Indian tribe disappeared from historical records. Dawdy mentions some records after 1770, claims they document activities of people with alleged “Meherrin surnames,” and suggests that such activities would be able to demonstrate the existence at those times of a community of individuals with those “Meherrin surnames” in Hertford County, North Carolina (Dawdy 1994, 111-122). Dawdy’s proposed demonstration assumes that the surnames of recent generations of a Meherrin group must have been the surnames of descendants of the historical Meherrin Indian tribe in past centuries.

In the case of this Meherrin petition (#119b), the evidence submitted by the petitioner and additional evidence reviewed by OFA researchers does not show that a historical Meherrin Indian tribe existed in 1789 (AS-IA 5/23/2008). European settlers observed a historical Meherrin Indian tribe as early as 1650, and historical records indicate that the colonial governments of both Virginia and North Carolina dealt with a historical Meherrin tribe until about 1763. The latest references to a Meherrin settlement appear on maps that were published in London in 1770 and 1775, but were based on data collected during the decade prior to 1766. The evidence in the record for this petition shows that scholars have not described a historical Meherrin Indian tribe as existing after the 1760s (see the following section entitled “Historical Background: The Meherrin Indian Tribe”).

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<sup>3</sup> Sallie M. (Smith) Lewis was born about 1844 and testified she had always resided near the town of Union, North Carolina, a place previously known as the location of Union Church (S.M. Lewis 7/18/1894, 10/23/1899; Cassell 1863 map including a designation of the home of her father “J.Smith”; Johnson 1958). Given her birth date, she would not have been part of the circa 1675 movement of the Susquehanna into Virginia and North Carolina mentioned by historians.

The evidence in the record for this petition—including the material submitted by the petitioner and historical documentation acquired by OFA researchers—does not include any historical list of members of the historical Meherrin Indian tribe. The record also does not contain historical documents that describe any known ancestor of the petitioner’s members as a Meherrin Indian, or as an Indian of any particular tribe. Historical documents mentioned several individual Meherrin Indians at various times prior to 1728. OFA researchers compiled a list of these historical individuals, and noted the date and source of the documents that named these individuals (see Appendix A). The genealogical evidence in the record does not demonstrate that the petitioner’s members descend from any of these historical Meherrin Indians.

In order to demonstrate descent from a historical Meherrin Indian tribe, the petitioner will need to document the descent of its members from individuals on a historical list of Meherrin Indians that is not now in the petition record, from individuals documented as Meherrin Indians by evidence not now in the record, or from historical Meherrin Indians listed in Appendix A. The petitioner will need to submit such a historical list or such documentation that demonstrates the descent of its current members from a historical Indian tribe.

In this circumstance of the lack of evidence of a historical Meherrin Indian tribe in 1789, the petitioner will need to show it has evolved as a group from the Meherrin Indian tribe whose existence was last noted about 1763. Alternatively, the petitioner may provide evidence that a historical Meherrin Indian tribe, or another historical Indian tribe, existed in 1789, and that since 1789 the petitioner has continued the existence of that historical Indian tribe or has evolved as a group from that historical Indian tribe.

### **Historical Background: The Meherrin Indian Tribe**

A historical Meherrin Indian tribe, scholars have concluded, existed at the time of the first European settlement of North America, but disappeared from the historical record by the 1770s (Hodge 1907; Swanton 1946; Binford 1967; Boyce 1978; Dawdy 1995, 394, 415). According to scholars, the historical Meherrin Indians were an Iroquoian-speaking group that resided between two other Iroquoian tribes, the Nottoway and Tuscarora, to the west of the Algonquian-speaking tribes along the Atlantic coast. The first Meherrin village known to non-Indians was on the Meherrin River in current Virginia (see Figure 1). Later the Meherrin moved downriver and had a settlement within a colonial reserve at the junction of the Meherrin River and Chowan River in current North Carolina. Some scholars have suggested the Meherrin later moved among the Tuscarora and then joined the Tuscarora in their removal from North Carolina. The master’s thesis endorsed by the petitioner as its official history contends a Meherrin community persisted in the Hertford County, North Carolina, area without attracting public notice (Dawdy 1994, 5, 9, 21).

### **Historical Background: The Primary Historical Sources**

The first recorded observation of the Meherrin Indians by non-Indians was the account of Edward Bland, the leader of an expedition that passed through the Meherrin village in 1650. Bland referred to this settlement as “Maharineck” and described it as located two miles upstream

of a ford on the “Maharineck River,” a river he called the most southern tributary of the Chowan River. Bland provided only a very brief description of the village and its leaders, and did not name this group other than as the residents of the settlement of “Maharineck” (Bland 1651, 4-7). Scholars have treated Bland’s “Maharineck” as the Meherrin (Swanton 1946, 62; Binford 1967, 130-133; Boyce 1978, 283-286). Scholar Lewis Binford concluded this Meherrin town in 1650 was located on the north bank of the Meherrin River, along Virginia’s “fall line” escarpment, about two miles west of the present town of Emporia, Virginia, and just north of the current state boundary line (Binford 1967, 132). During the period from the 1650s to 1680s, contemporaries also observed several Meherrin villages along the Meherrin River and its tributaries downstream (Thweat 1707; Wynne 1707; Bolling 1707).

The colony of Virginia noted the existence of a Meherrin Indian tribe and dealt with it as one of its “tributary” tribes from 1669 until 1728. Virginia expressed its relationship with the Meherrin in several ways: it counted the Meherrin Indians in a census, included them in a treaty, defined boundaries for their land, and attempted to protect their settlement by writing letters on their behalf to the colony of North Carolina. In a 1669 census, Virginia included the “Menheyrics” with 50 “bowmen” (Neill 1886, 325-326). Scholars have accepted this tribal name as a reference to the Meherrin (Hodge 1907, 839; Swanton 1946, 62; Binford 1967, 155; Boyce 1978, 286). This census did not name individual Indians or count an entire population. The Smithsonian Institutions’ 1907 *Handbook of American Indians North of Mexico* estimated the Meherrin population as approximately 180 individuals at the time of this census, but Binford concluded this census suggested a total population of about 160 persons (Hodge 1907, 839; Binford 1967, 155). The colony of Virginia treated the “Men-Heyrics” as one of its “Indian tributaries” in a colonial law passed in 1669 (Virginia 10/20/1669).

A treaty between the colony of Virginia and its Indian tribes in 1677 has been reprinted both with and without Meherrin signatures. The text of the treaty does not mention the Meherrin or any tribe other than the “Pomunky.” The original treaty document is held by a college library in Cambridge, England. The *Virginia Magazine of History and Biography* in 1907 reprinted the treaty from manuscripts in the Library of Congress that had been part of Thomas Jefferson’s library. This reprint shows the Treaty of 1677, formally entitled “Articles of Peace,” was approved by the signs of the “chiefe man” and “next chiefe man” of the “Maherians” (Stanard ed. 1907, 289-297). However, a bibliography of English colonial treaties published in 1917 lists the tribes signing this treaty without including the Meherrin (De Puy 1917, 1). A scholarly reprint of Virginia colonial treaties also does not contain any Meherrin signers of this treaty (Vaughan ed. 1979, 4:82-87). Dawdy contends, without citing her sources, that the Meherrin signed a later version of the treaty in 1680 (Dawdy 1994, 73; 1995, 394).

The colony of Virginia enacted a law in 1705 that defined “the bounds for the Meheren Indians lands.” The law described a triangular tract of land along the north bank of the Meherrin River starting at its mouth and running upstream far enough to include a quantity of land that would be the equivalent of “a circle three miles round their Town” (Virginia 5/12/1705). This law also reveals that by 1705 the Meherrin had relocated downriver from the site of their village in 1650 to the mouth of the Meherrin River. The relocation of the Meherrin village during the 1680s was noted by contemporaries (Virginia 4/29/1687; Wynne 1707). Binford concluded that the Meherrin settlement at the time of the 1705 law was located on the north side of the Meherrin

River about one half mile west of the river's junction with the Chowan River (Binford 1967, 180). The boundaries defined by the law of 1705 included this location.

Virginia sought to protect the land it reserved in 1705, even though this land was within the area involved in a boundary dispute between Virginia and North Carolina. In 1706, the Virginia council ordered that a letter be sent to warn North Carolina that the "Maherine Indians" not be disturbed until the boundary between the colonies was settled (Virginia 6/22/1706). The council repeated this warning in 1707, noting that the "Maherine Indians" were "under the protection" of the government of Virginia (Virginia 9/2/1707). In 1711, after considering complaints from North Carolina about the Meherrin, the council concluded that "this Government are obliged . . . to protect the Indians in the possession of those lands to which they are entitled by the Articles of Peace [1677]" (Virginia 2/6/1711). Virginia also resisted attempts by North Carolina to assert jurisdiction over the Meherrin in 1713 on issues not related to land (Virginia 10/16/1713; Spotswood 12/16/1713). In response to a petition from the "[M]ehren" Indians in 1723 complaining that land was being taken from them, the Virginia council asked the governor to warn North Carolina to stop encroachments by its people who "disturb the Indians in the possession of the lands they enjoy" by treaty (Meherrin Indians 9/9/1723; Virginia 10/24/1723).

In addition to Virginia policies that demonstrated its relationship with the Meherrin, the colony also dealt with the Meherrin between 1687 and 1720 in a number of isolated incidents. The Virginia council in 1687 required Meherrin leaders to explain why they had come too near colonial settlements (Virginia 4/29/1687). In 1700 and 1704 the council asserted its role in approving Meherrin participation in intertribal peace negotiations (Virginia 2/22/1700, 8/9/1704). The council sought to end the "clandestine practice" of trading with the Tuscarora through the Meherrin in 1708, and in 1713 required the Meherrin to deliver one of their members for examination for allegedly "corresponding" with the warring Tuscarora (Virginia 10/26/1708, 10/16/1713). In 1715, the council proposed to remove the Meherrin to Fort Christanna because of their "frequent disobedience" (Virginia 2/23/1715). The council required the attendance of the "great men" of the "Maherine" Indians in 1719 to resolve differences among the colony's "tributary" tribes, and in 1720 noted that "Maherine" delegates had attended a council meeting and agreed to make peace with Indians of Pennsylvania (Virginia 11/3/1719, 11/12/1720).

References to a historical Meherrin Indian tribe were provided by non-Indian observers as well as by colonial governments. Depositions of non-Indians taken in 1707 and 1711 included contemporaneous references to the "Maherine Indians towns" and the "town . . . where they now live," and retrospective information about several prior Meherrin villages during the previous half century (Booth 1707, Bolling 1707; Thweat 1707; Wynne 1707; Briggs 1711). Books published by Robert Beverley in 1705 about Virginia and John Lawson in 1709 and 1714 about North Carolina listed the "Menheering" or "Maherring Indians" (Beverley 1705, 232; Lawson 1709, 234; 1714, 383). The journal of Philip Ludwell, a member of a boundary survey party in 1710, mentioned visiting the "Maherine Indian Town" (Ludwell 1710, 740). Those surveyors took depositions of several "Maherin" men at that time (Meherrin Indians 9/23/1710, 5/22/1711). During the boundary survey of 1728, William Byrd noted that his party was visited by three "Meherin Indians," and added that "[t]hey are now reduced to a small number" (Byrd 1728). Maps published in 1733 and 1747 indicated a general location of "Meherrin" Indians at the junction of the Meherrin and Chowan Rivers (Moseley 1733; Bowen 1747).

The colony of North Carolina took notice of the Meherrin beginning with a letter to Virginia in 1703. Although North Carolina claimed the Meherrin were residents of its colony, it also acknowledged Virginia's claims of responsibility for the Meherrin by protesting to Virginia that those Indians were destroying the property of settlers in Carolina (noted in Virginia 4/24/1703). North Carolina contended in 1707 that lands south of the Meherrin River were not Meherrin territory and sought to remove "straggling" Meherrin north of that river (North Carolina 6/17/1707). North Carolina's governors again complained to Virginia about the Meherrin in 1711 and 1712 (Hyde 1/29/1711; Pollock 12/23/1712). In 1713, however, North Carolina adopted a more assertive position. The North Carolina council authorized its president "to treat" with the "Meherrin Indians" and to enter into an agreement with them (North Carolina 8/7/1713). Later that year, the governor of North Carolina contested Virginia's claim that the Meherrin were subject to its government. Since the "Meherrin" lived in the "controverted" area between the colonies, he argued, they "are as much in our government as in yours" (Pollack 11/16/1713).

In 1726, the North Carolina council received contending petitions from the Meherrin and from settlers, and ordered both parties to appear before the council. The "Meherron" or "Meherrin" Indians complained that surveyors had "intruded upon" their town and that settlers were "taking up their lands," and the settlers complained that the Meherrin had encroached on their lands (North Carolina 8/3/1726, 10/28/1726). The council ordered the colony's surveyor to "lay out unto the said Indians" a parcel of land between the Meherrin River and the Blackwater [Chowan] River. It also ordered that the "Indians shall quietly hold the said lands without any molestation or disturbance" by any persons claiming that land (North Carolina 10/28/1726). The tract began at the mouth of the Meherrin River and ran two miles up the Meherrin and three miles up the Blackwater. North Carolina thus reserved land for the Meherrin in 1726 in the same location reserved for them by Virginia in 1705, although with somewhat different boundaries.

In 1729, North Carolina passed an Act for "settling the bounds of the Meherrin Indian lands." The Act "extended" the "Indian bounds and limits" previously set for the Meherrin, and vacated the previous council order of 1726 (see Figure 2). The Act presented the new boundaries as a "remedy" for the "complaint . . . made by the Meherrin Indians" that "the English people disturb them in their settlements" and that the boundaries of the 1726 order "did not extend high enough up from the fork of Meherrin Neck."<sup>4</sup> The Act expressly stated that it did "not invest the fee-simple of the said lands in the Indians," and prohibited them from renting, selling, or disposing

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<sup>4</sup> Dawdy presents a map that purports to represent the boundaries of these Meherrin reservations of 1705, 1726, and 1729 at the junction of the Meherrin and Chowan Rivers (Dawdy 1994, 107; 1995, 411). Only her map of the 1726 reserve accurately represents boundaries as stated in colonial acts. Dawdy presents the reservation defined by the 1729 Act as bound on the west by a creek that runs almost straight north to south, but no such creek is shown on modern quadrangle maps (U.S. Geological Survey 1973, 1982). The Horse Pasture Creek, formerly Indian Creek, of the Act appears most likely to be modern Liverman Creek. It enters the Meherrin River from the northwest. Dawdy presents the 1729 reservation as bound on the north by a line almost equivalent to the North Carolina-Virginia boundary line. The source of the northeast branch of Horse Pasture Creek determined the northern boundary of the reserve according to the Act, but this branch does not run almost to the State line, as shown on Dawdy's map. These errors are repeated by local historian E. Frank Stephenson (Stephenson 1995, 80).

of the lands. The Act provided that non-Indians “shall move off” the defined tract and appointed a “commissioner for the . . . Indians” to enforce the Act’s provisions. The Act provided that “no persons but the said Indians shall inhabit or cultivate any lands within the limits” of the tract, but added that this provision remained in force “while the said Indians remain a nation, and live” on the tract (North Carolina 11/27/1729; see also, Pomeroy 1964, 66, 340).

A survey in 1728 settled the boundary line between Virginia and North Carolina. Virginia’s lieutenant governor then acknowledged that “the remains of the Maherin” Indians had “fallen within the limits of North Carolina” by the running of the boundary line (Gooch c. 9/-/1730). After 1728, therefore, it was the colonial government of North Carolina that dealt with the Meherrin. In a report to the British colonial office in 1731, the governor of North Carolina listed the “Meherrins” as one of the tribes of North Carolina, and as a tribe that did not exceed 20 families (Burrington 7/2/1731). In 1742, the North Carolina council modified the terms of the Act of 1729 that reserved land for the Meherrin Indians by ordering that the Indians could use the land within those boundaries “not seated by . . . white persons” and by allowing settlers “in possession of lands within” those boundaries to hold those lands “upon payment to the . . . Indians” (North Carolina 5/5/1742). In 1746, the colonial assembly passed another act “for quieting the possession of the Meherin Indians” (North Carolina 6/18/1746, 6/20/1746).<sup>5</sup>

Reports of the strength of the militia in each county of North Carolina in 1748 and 1754 included notes on the number of Indians available for military service. The report in 1748 for Northampton County (including a portion of modern Hertford County) noted, under “Indian Nations,” the presence of “only one, called the Meherrins, and that consisting of very few in number” (Dawson [1748]). The report for 1754 stated the county had “[n]o Indians but the Meharins, about 7 or 8 fighting men” (Dawson [1754]). The governor repeated this total in a report to the colonial Board of Trade in 1755 (Dobbs 1/4/1755). In 1757, the colony of Virginia recruited Indians, including “seven Meherrins,” to join British forces in the war (French and Indian War) against France (Virginia 4/4/1757). North Carolina then passed a resolution to provide funds to purchase provisions “for the wives and children of the Tuscarora and Meherrin Indians” who had joined the Virginia militia (North Carolina 5/26/1757).

In 1758, the North Carolina council, in response to a “complaint of the Meherrin Indians,” ordered the colonial attorney general to prosecute all persons who disturbed the Meherrin “in their possessions” in violation of the Act of 1729 (North Carolina 11/29/1758). According to the available evidence, this was the last action of the government of North Carolina relating to the Meherrin. The colonial government mentioned the Meherrin in reports to the Board of Trade in 1761, stating they had about 20 fighting men, and in 1763, stating that the “Meherrens” were “reduced” in number (North Carolina [1761]; Dobbs 6/17/1763). These reports in the 1760s, however, did not expressly reflect actual contact with the Meherrin at that time. A review of relevant scholarly publications and documents in the petition record does not reveal any references to a contemporaneous Meherrin Indian tribe in records of colonial or state governments after this colonial report in 1763.

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<sup>5</sup> The text of this Act of 1746 has not been found. Dawdy says “no record of its content has survived” (Dawdy 1995, 413).

Maps published in London in 1770 and 1775 show a “Meherrin Indians town” south of the Meherrin River on one of its tributary creeks, labeled “Meherrin Creek” on the map and now known as Potecasi Creek. No other documents from the colonial period in the petition record refer to a Meherrin settlement in such a location. The 1775 map by Henry Mouzon obviously copied this information from the 1770 map by John Collet (Collet 1770; Mouzon 1775; see also, Dawdy 1994, 129 n.9). A 1781 map by Thomas Kitchin appears to have copied this location from these two earlier maps (Kitchin 1781; see also, Lewis n.d.). Collet’s map published in 1770 was based on a draft map completed in 1766 by surveyor William Churton, who died in 1767 (Cumming 1966, 18-21; Powell 1979, 1:371, 402-403; Ristow 1985, 53). Churton had been working on his map of North Carolina for at least a decade prior to his death. According to a scholar who has compared Collet’s published map with Churton’s draft map, the details added by Collet were in areas well removed from a Meherrin settlement (Cumming 1966, 19; 1974, 15-17). It is reasonable to conclude that the Collet map that was based on data gathered by Churton, and the later maps that copied the Collet map, provide evidence of a Meherrin settlement only up to 1766.

#### Historical Background: The Secondary Historical Literature

Thomas Jefferson, in his *Notes on the State of Virginia*, which he wrote in 1781 and published in 1787, described the Meherrin as a tribe that had left the area, not as a tribe still living in Virginia or Carolina. After noting that the Five Nations received the Tuscaroras into their confederacy in 1712, Jefferson said that, at an unspecified date, the “Meherrins and Tuteloes” were also taken “into their protection” and then “retired westwardly” (Jefferson 1801 ed., 142). In 1822, Jedidiah Morse prepared a report on the Indian tribes of the United States for the Secretary of War, who at that time had responsibility for Indian affairs. Morse’s table “of all the Indian Tribes within the limits of the United States” did not include the Meherrin (Morse 1822, 364). Albert Gallatin published *A Synopsis of the Indian Tribes within the United States* in 1836. Following Jefferson, Gallatin appeared to treat the Meherrin and Tutelo as indistinguishable, and said the “Tuteloes” migrated north in 1758 to join the Six Nations. Claiming that the Tuteloes and Meherrins had been taken under the protection of the Six Nations, Gallatin concluded, “[w]e have . . . no knowledge that they still exist under that name” (Gallatin 1836, 81). The data compiled on Indian tribes by Henry Schoolcraft in the 1850s included Jefferson’s *Notes*, but no more recent source, for information about the Meherrin (Schoolcraft 1851-1857, 5:36).

The Secretary of the Interior in 1867 provided Congress a report from the Commissioner of Indian Affairs on the Indian tribes of the United States. A table attached to the report that listed “the approximate number of persons belonging to each tribe of Indians in the United States” contained no entry for the Meherrin (U.S. Senate 1867, 25-28). The Secretary of the Interior transmitted a draft bill to Congress in 1876 to transfer the Indians of North Carolina from Federal to State control. The bill did not refer to the Meherrin; it neither identified the Meherrin as Indians “fitted to . . . exercise the duties of citizenship” nor as a tribe needing Federal guardianship and an exemption from the proposed transfer of jurisdiction (U.S. House 1876). The petition record contains no evidence the Federal Government ever took any notice of a Meherrin Indian tribe or population of descendants at any time after 1776. An absence of any Federal dealings with or awareness of a Meherrin tribe or group is illustrated by the lack of any

entry relating to the Meherrin in the historical “tribal index” included in Felix Cohen’s *Handbook of Federal Indian Law* (Cohen 1942).

In a *History of North Carolina* published in 1880, John W. Moore ended his account of the Meherrin in 1759 with the comment that the “Meherrins . . . passed from all subsequent scrutiny in their journeyings toward the west” (Moore 1880, 1:77). Other histories of North Carolina published during the 19th century included accounts of the Meherrin tribe during the colonial period without expressly considering any history of the tribe after that time.<sup>6</sup> Maps of North Carolina published during the 19th century did not show any Meherrin settlement or territory.<sup>7</sup> This lack of local notice was reflected in a lack of notice in national publications. In a book entitled *The American Indian* published in 1888, Elijah Haines quoted Jefferson to provide information on the Meherrin. Haines then added a general comment, not limited to the Meherrin, that “most of the names which [Jefferson] gives as the names of tribes have long since disappeared in our enumeration of the Indian tribes of the continent” (Haines 1888, 124). The U.S. Census Office in 1894 published a special report on Indians derived from the results of the 1890 Federal census. Neither the book’s table of Indian “stocks” nor its chapter on North Carolina included any mention of the Meherrin (U.S. Census Office 1894, 37-39, 499).

In 1894, James Mooney of the Bureau of American Ethnology referred to the Meherrin as having been “a remnant of the Susquehanna or Conestoga, who had fled from the north . . . about 1675” (Mooney 1894, 7-8).<sup>8</sup> Cyrus Thomas repeated this conclusion in 1903 and characterized the Meherrin as “late comers into this region” (Thomas 1903, 83). Mooney revised this theory in 1907 in the Smithsonian’s *Handbook of American Indians North of Mexico*. Concluding the Meherrin were listed on a 1669 census, he now suggested that an “influx of refugee Conestoga . . . overwhelmed” the Meherrin and thus created the impression they were “a remnant of the Conestoga” (Hodge 1907, 1:839). Later writers repeated this theory, with slight variations. A 1916 history dated the arrival of “a branch” of the Susquehanna as after 1665, rather than 1675, and a 1933 publication said “remnants of the Conestoga, or Susquehanna . . . settled among” the Meherrin (Sams 1916, 379; Douglas 1933, 28). In 1946, John Swanton wrote that the Meherrin had “adopted a body of Conestoga or Susquehanna” who fled from Pennsylvania about 1675 (Swanton 1946, 62). However, local historian F. Roy Johnson in 1958 said the Meherrin were originally Susquehanna (Johnson 1958). This theory of Meherrin origins was not questioned until Lewis Binford published an article on the Meherrin in 1967 (Binford 1967, 108).

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<sup>6</sup> Martin 1829, 1:236; Hawks 1858, 2:52, 124-126, 399-400, 436-437, 519, 522, 527-528; Campbell 1860, 267-268, 391-392. See also: Ashe 1908, 86, 116, 162, 291, 304.

<sup>7</sup> Price-Strother 1808; Mac Rae 1833; Colton 1861; U.S. Coast Survey 1865; Kerr 1882; U.S. Postmaster General 1896. The name “Meherrin Creek” disappeared from these maps as early as 1808 and “Meherrin Neck” was designated as “Manneys Neck” in a map published in 1833.

<sup>8</sup> The earliest presentation of this theory that the Meherrin were merely relocated Susquehanna Indians appears to have been made in 1726 by settlers complaining that Indians known as the Meherrin were encroaching on their land (North Carolina 10/28/1726).

Scholarly publications during the 20th century dealt with the Meherrin as a tribe of the colonial period, not as a contemporaneous Indian tribe or group (see also the discussion in criterion 83.7(a)). The Smithsonian *Handbook* of 1907 referred to the Meherrin in the past tense, for example describing them as “formerly residing” on the Meherrin River, and cited no contemporary record that referred to the Meherrin after 1728 (Hodge 1907, 1:839). In a 1946 publication of the Bureau of American Ethnology, *The Indians of the Southeastern United States*, John Swanton also described the Meherrin in the past tense, saying they “belonged to the Iroquoian linguistic family” and were located along the Meherrin River. Swanton wrote that the Meherrin were living with the Tuscarora by 1761 and concluded they “probably went north in the last Tuscarora removal in 1802” (Swanton 1946, 62-63). The first published work to suggest that Meherrin descendants remained in North Carolina, it appears, was a newspaper article by local historian F. Roy Johnson in 1958. Johnson estimated that perhaps 1,000 local residents within three adjacent counties had some Meherrin ancestry, but concluded their identity as a group had “long been lost” (Johnson 1958).

In 1967, Lewis Binford thoroughly reviewed extant colonial records and contemporaneous accounts to demonstrate a Meherrin settlement existed on the Meherrin River at least as early as 1650, before any Susquehanna migration, and to present evidence that over time the Meherrin moved their settlements downriver to the junction with the Chowan River. However, Binford did not bring his review of Meherrin history beyond the accounts of the boundary survey party of 1728 (Binford 1967). In 1978, the Smithsonian Institution published a volume in its *Handbook of North American Indians* that included an article by Douglas Boyce that briefly discussed the Meherrin. Boyce ended his account of Meherrin history in 1761, and speculated that the Meherrin “may have been absorbed shortly thereafter by the Tuscarora” (Boyce 1978, 286). An unpublished manuscript by Wes White, dated 1977, was apparently provided to the North Carolina Commission of Indian Affairs. White’s compilation of excerpts from colonial sources relating to the Meherrin ended with the Mouzan map of 1775 (White 1977). Before the 1990s, therefore, scholars and local historians had not described any evidence of a history of a Meherrin Indian tribe beyond the 1770s.

Shannon Lee Dawdy, in her 1994 master’s thesis the petitioner has recently designated its “official history,” surveyed archaeological evidence and colonial documents up to the Collet map of 1770 (Dawdy 1994). Dawdy then suggested that the appearance of alleged “Meherrin surnames” in late 18th-century deeds, the 1790 census, marriages prior to 1835, and the establishment of a church in 1851 would likely demonstrate the continuity of a local “enclave” of Meherrin descendants. However, Dawdy declined to discuss evidence she claimed to have of genealogical links between living persons she considered to be Meherrin and historical individuals; linked no “Meherrin surnames” of the late-18th century to identified Meherrin Indians; presented no evidence of actual marriages; and offered no analysis of patterns of concentrated geographical settlement. She acknowledged not having performed the necessary scholarly research for the period since the late-18th century to demonstrate the continuity of a group, but presumed that a contemporary group calling itself the Meherrin Indian Tribe must have continuity with the historical Indian tribe of that name (Dawdy 1994, 20, 25-26).

### Historical Background: Conclusions

This review of primary historical documents and secondary accounts reveals the existence of a historical Meherrin Indian tribe that was located along the Meherrin River in the area of the Virginia-North Carolina boundary line. This historical Indian tribe was described by non-Indian observers and dealt with by the colonial governments of both Virginia and North Carolina during the period from 1650 to 1763. Although maps published as late as 1781 showed a Meherrin Indian town, these maps copied information from a 1770 map that was based on information collected prior to 1766. One scholar presumes the continuity of this historical Indian tribe, but does not document continued tribal existence. The available evidence in the record for this petition does not demonstrate the existence of a historical Meherrin Indian tribe in 1789 or after the 1760s.

### **Summary Conclusions under the Criteria (25 CFR 83.7)**

The Meherrin Indian Tribe (MTB), Petitioner #119b, submitted evidence for this proposed finding (PF), and OFA research staff conducted limited research to evaluate the evidence, arguments, and interpretation that the petitioner submitted. An OFA researcher met with the petitioner and collected documentation during a field trip to North Carolina in February 1998. Additionally, the OFA conducted verification research in 2010 and 2011 using textual records and online images of Federal and State vital records and newspaper obituaries to verify genealogical claims. However, the burden of providing sufficient evidence under the criteria in the regulations rests with the petitioner and the MTB petitioner did not submit sufficient descent evidence for its members nor relevant contemporary documentation from historical times to 1976.

This PF evaluates the evidence in the record. The petitioner and third parties may submit other evidence during the 180-day comment period following the publication of the notice of the PF in the *Federal Register*. This period is followed by a 60-day response period in which the petitioner may submit additional evidence in response to any comments. If following an evaluation of the evidence and argument submitted during the comment period it is determined that the petitioner meets the criterion, then the Assistant Secretary will issue an amended proposed finding evaluating all seven criteria. Alternatively, the Department will make a final determination (FD) and publish notice of it after the receipt of timely comments and responses. The Department will base the FD on both the evidence used in formulating the PF and any new evidence the petitioner and third parties submit during the comment and response periods.

The evidence the MTB petitioner submitted and the OFA staff obtained and reviewed demonstrates that the petitioner does not meet the criterion 83.7(e). In accordance with the 2008 guidance and regulations set forth in 25 CFR 83.10(m), the failure to meet all seven criteria requires a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. Therefore, the Department proposes to decline to acknowledge the MTB petitioner.

For the purposes of this PF, the historical Indian tribe is the Meherrin Indian tribe that was last identified in North Carolina about 1763. The Assistant Secretary has directed that, if an Indian tribe existed in 1789, the petitioner needs to demonstrate its “continuous tribal existence” from such a historical Indian tribe only for the period since 1789 (AS-IA 5/23/2008). However, the evidence in the petition record does not demonstrate that the Meherrin Indian tribe, or a group that evolved from it, existed in 1789.<sup>9</sup> In response to this PF, the petitioner may submit evidence to show it has evolved as a group from the Meherrin Indian tribe whose existence was last noted about 1763. Alternatively, the petitioner may provide evidence that a historical Meherrin Indian tribe, or another historical Indian tribe, existed in 1789, and that since 1789 the petitioner has continued the existence of that historical Indian tribe or has evolved as a group from that historical Indian tribe. The proposed finding reaches the following conclusion for mandatory criteria 83.7(e).

The MTB petitioner does not meet the requirements of criterion 83.7(e). The petitioner submitted a membership list, separately certified by its governing body in February 2011, identifying 203 adult and minor members. As required under criterion 83.7(e), the membership list furnished each member’s full name (including maiden name), date of birth, and residential address, with minor omissions. The current members represent part of the larger group to which North Carolina provided recognition as a tribe in 1986. The evidence does not demonstrate that Sallie M. (Smith) Lewis or the historical individuals Shannon Lee Dawdy’s master’s thesis identified were Indian, Meherrin Indian, or members of a Meherrin Indian or other Indian tribe.<sup>10</sup> The petitioner has not documented, nor has the OFA identified, a historical Indian tribe, or tribes that combined, from which its members descend. The petitioner has not provided sufficient evidence to verify descent from those individuals it asserted were Meherrin. The evidence in the record has not demonstrated that any of the petitioner’s members descend from a historical Indian tribe. Therefore, the petitioner does not meet the requirements of criterion 83.7(e).

Failure to meet any one of the mandatory criteria results in a determination that the petitioning group is not an Indian tribe within the meaning of Federal law. The MTB petitioner has not met criteria 83.7(e). Therefore, this PF concludes that the MTB petitioner does not meet all the mandatory criteria to be acknowledged as an Indian tribe.

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<sup>9</sup> See OFA work paper.

<sup>10</sup> See OFA work paper.

**Criterion 83.7(e)**

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

**83.7(e)(2) The petitioner must provide an official membership list, separately certified by the group’s governing body, of all known current members of the group.**

To meet criterion 83.7(e), a petitioner must demonstrate that its current members descend from a historical Indian tribe, or tribes that combined and functioned as an autonomous political entity. Thus, the petitioner must (1) identify its current members, (2) document the historical Indian tribe and the individuals in that historical Indian tribe from whom its current members descend, and (3) document that descent. The Meherrin Indian Tribe (MTB) petitioner identified its 203 current members. The petitioner claims descent from the historical Meherrin Indian tribe but the historical individuals its members claim as ancestors were not demonstrated to be historical Meherrin Indian tribe members. The petitioner first asserted that its ancestress “Sallie M. Lewis,”<sup>11</sup> born “about 1838,” was Meherrin (or Susquehanna) and later the petitioner’s historian asserted the group descends from residents on Potecasi Creek in the mid-1700s who had “Meherrin surnames.” Petitioner #119b did not document its members’ claimed descent from Sallie M. (Smith) Lewis or from the individuals with “Meherrin surnames” whom its historian asserted were members of the historical Meherrin Indian tribe.

Introduction

Petitioner #119b’s documented petition does not include a genealogical database of its members and their ancestors.<sup>12</sup> The petition does not include sufficient documentation to demonstrate the individual parent-to-child connections in each member’s claimed ancestry, as outlined on members’ applications and additional ancestry charts appended to them. The limited documentation of descent submitted comprised six birth certificates, two marriage certificates, and five death certificates along with various Federal census images, funeral programs and obituaries, and cemetery survey forms. The Office of Federal Acknowledgment (OFA) created a

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<sup>11</sup> This woman is Sallie M. Smith (b.ca.1844) who married (1) Edward Weaver and (2) Elvey D. Lewis. This proposed finding refers to her as Sallie M. (Smith) Lewis. See Appendix B for her family’s genealogy.

<sup>12</sup> The petitioner’s leader advised the OFA that the group did not have a genealogical database in a telephone conversation of December 10, 2010 (OFA 12/10/2010). However, OFA conducted a technical assistance meeting with representatives of the group on February 19, 2008, at which the petitioner’s acting leader, Dorothy Lee, stated the group was using a Family Tree Maker® genealogical database (OFA 6/17/2008).

genealogical database, using Family Tree Maker® (FTM), based on documentation that the petitioner submitted or the OFA obtained during the review process (OFA 2011).<sup>13</sup> Calculations of descent from the historical ancestors claimed, which are mentioned in this section, would likely improve if the petitioner had furnished its own genealogical database and the complete documentation it used to demonstrate its members' claimed descent. However, descent from the historical tribe, which is required under criterion 83.7(e), cannot be calculated because the petitioner has not demonstrated that any of its verified ancestors descend from the historical Meherrin Indian tribe or any other historical Indian tribe.

### Identification of Current Members

The petitioner furnished several lists of members, but identified only three as membership lists. The earliest membership list was created about 1979 and identifies 316 members. The second membership list was created about 1990 and identifies 455 members. The third and most recent list is dated 2011 and identifies 203 members.

#### *2011 Membership List*

On February 10, 2011, Petitioner #119b's governing body certified its updated membership list of 203 individuals (MTB 2011; 2/10/2011). Of the 203 current members, 69 appeared on either the circa 1979 or circa 1990 membership lists. Therefore, 134 members on the 2011 membership list constitute new members, only 20 of whom were born since 1990. Of the 134 new members, 50 have a parent, sibling, or child on either the circa 1979 or circa 1990 membership list.

Roughly half of those new members (61 of 134) claim descent from Sallie M. (Smith) Lewis. In fact, the 2011 membership list includes more members claiming descent from Sallie M. (Smith)

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<sup>13</sup> The OFA first used a petitioner-submitted typescript entitled "Genealogy of Elvey D. & Sallie M. Lewis' Children" to populate the FTM (Anonymous n.d.). The 18-page typescript began with the identification of Elvey and Sallie Lewis' eight children, giving birth and death dates (but not places). Then the descendants of each of those eight children are presented in order, including generations up to the 1990s. The OFA also added the individuals appearing as current members or their ancestors on 2011 application forms and their appended ancestry charts.

The OFA utilized the online Ancestry.com subscription website to obtain evidence for the FTM on the petitioner's members and their claimed ancestors who appeared in the following collections on that site: "North Carolina Birth Index, 1800-2000"; "North Carolina Death Certificates, 1909-1975"; "North Carolina Death Collection, 1908-2004"; Federal census records (1790-1930); World War I "Civilian Draft Registration" cards (1917-1918); and the "Social Security Death Index," among others. Other online sources provided military service and bounty land record images (Footnote.com), will images and marriage record extracts (FamilySearch.org), tombstone inscriptions and photographs (FindAGrave.com) and obituary images (GenealogyBank.com).

The OFA extracted data for the FTM from textual Federal records it obtained from the National Archives—such as Civil War pension applications and Revolutionary War pension, bounty land, and payment voucher documents—and reviewed Hertford County marriage records on microfilm borrowed from the Family History Library in Salt Lake City, Utah. Some of these records documented the individual parent-to-child connections needed to demonstrate descent, as required under criterion 83.7(e). The OFA also extracted data for the FTM from compiled works, such as published cemetery records of Hertford County (Taylor 1988) and Paul Heinegg's *Free African Americans of North Carolina, Virginia, and South Carolina* (Heinegg 2007), the latter of which flags parentages that are not documented.

Lewis (103 of 203, or 51 percent) than either the circa 1979 (70 of 316, or 22 percent) or circa 1990 membership lists (78 of 455, or 17 percent).

The categories of information recorded on the group's 2011 membership list conform with regulatory requirements—full name including maiden name of women, birth date, and residential address—and the information supplied in those categories was generally complete.<sup>14</sup> Member numbers also appear on the list. Most current members—87 percent—are listed as residents of North Carolina (136) or neighboring Virginia (40).<sup>15</sup>

The 203 current members represent only a portion of the larger group that obtained state recognition in 1986 as the “Meherrin Indian Tribe.” One of the two membership lists the North Carolina Commission of Indian Affairs appears to have used when recognizing the Meherrin Indian Tribe is identical to the “circa 1979” previous membership list this petitioner submitted, which is discussed next. The other portion of the state-recognized group that does not belong to Petitioner #119b may or may not belong to Petitioner #119a. Petitioner #119a has not provided a copy of its membership list since the Department received its letter of intent to petition for Federal acknowledgment on August 2, 1990 (MTA 8/2/1990).

#### *Previous Membership Lists*

Petitioner #119b identified one list, created circa 1979, and its later continuation, circa 1990, as its only previous membership lists (MTB 3/31/2011). Neither list is dated but the latest birth dates recorded on each support those approximate creation dates.

The petitioner described the circa 1979 list as the one submitted with its petition for state recognition, which was granted in 1986 (MIT ca.1979). This list includes 316 names<sup>16</sup> and the

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<sup>14</sup> Maiden names are not uniformly furnished, and six members do not have residential addresses listed (five P.O. Box addresses and one blank).

<sup>15</sup> This percentage comports with data the members furnished on their applications: 86 percent reside in North Carolina (135) or neighboring Virginia (39), and two members did not identify their residence on their applications. The remaining members reside in CO, DC, FL, MA, MI, NM, NY, OH, PA, TX, UT, and Canada. Information from those applications shows that 80 percent of the 203 members claim North Carolina (133) or Virginia (29) as their birthplace. The remainder who completed this section of their applications were born in CA, CT, DC, GA, MA, NJ, NY, OH, PA, and SC. Thirteen members did not identify their birthplaces on their applications.

<sup>16</sup> The NC Commission's February 1986 two-page “Review, Meherrin Petition” states that the membership list identified “313 individuals and their addresses” (NC Commission 2/-/1986, 2). The Review further states,

Also included in the petition is a ‘Base Tribal Roll of Members Linking Present Day Meherrins to Colonial Meherrins.’ This roll lists 84 individuals. As previously stated, 77 of the individuals on this base tribal roll are directly descended from Sallie M. Lewis according to the genealogical chart provided. (NC Commission 2/-/1986, 2)

The 84-member list includes 23 individuals not on the circa 1979 list. The commission's notification to the petitioner did not specify which of the two membership lists embodied the tribe it recognized on June 19, 1986 (NC Commission 6/25/1986). That the commission sent the notification letter to Patrick Riddick, who is not listed on the 84-member list, implies that the smaller membership list alone does not define the state-recognized group.

latest birth date entered on that list was 1979.<sup>17</sup> The categories of information recorded on this list include: member number, name, birth date, birthplace, descent, address, and telephone number. Information does not appear in all categories for all members. Tribal descent claims included Meherrin (197), Cherokee (77), Choctaw (1), Choctaw Cherokee (1), Rappahannock (1), and Apache (1), with 37 blank entries and one not photocopied.

The circa 1990 continuation of the circa 1979 membership list includes an additional 139 members for a grand total of 455 members<sup>18</sup> (MIT ca.1990). Most birth dates and places are missing for the additional 139 members. Twelve circa 1979 members' names were erased and the word "withdrew" appears instead in the name field. Claimed tribal descent appears to be entered for most of the additional members, but the photocopy of one page (listing members numbered 300-333) did not capture the right-most column displaying that information.

Although the petitioner did not submit any official membership list made during the next 21 years, the minutes of a 2001 "General Body" meeting includes a reference to the group's 800 members at that time (MTB 1/13/2001, 3). In November 2007 and January 2008, the petitioner voted to successfully oust its leader and six other members, some for their alleged involvement in the "removal of Tribal members" (MTB 11/10/2007, 1/12/2008). The minutes for meetings held around the time of the group's November 2007 and January 2008 leadership and membership changes do not furnish the number of members at that time. The lack of a membership list for Petitioner #119b just prior to November 2007 and for Petitioner #119a just after January 2008 prevents an analysis of how the removal of the leader and six members impacted the composition of Petitioner #119b or how many, or which, members aligned themselves with Petitioners #119a or #119b.

#### *Other Lists*

The record includes three other lists of Petitioner #119b's members. One is entitled, "Meherrin Tribal Roll, January 1, 1993," listing the "name" and "number" of 507 members (MIT 1/1/1993). These numbers do not match the membership numbers attributed to members on the earlier lists. The petitioner described this as a list of individuals for whom applications had been received (MTB 3/31/2011). The second list is dated July 28, 1997, and consists of names, addresses, and telephone numbers for 57 individuals (MTB 7/28/1997). The OFA received the third list from the petitioner on December 7, 1998, and it consists of the names and addresses of 61 individuals (MTB 12/7/1998). The OFA added data from all three lists to its FTM genealogical database. The drastic reduction in the membership totals by the mid-1990s stems from a split in the petitioning group which resulted in two petitioners for Federal acknowledgment sharing the same name of "Meherrin Indian Tribe," as summarized in the administrative history portion of this finding.<sup>19</sup>

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<sup>17</sup> Although the list assigns numerals 1 through 314 to members, two members share numerals 257, 264, and 265 and there is no member with 62.

<sup>18</sup> Members numbered 318 and 416 appear to be the same person; the numeral 388 is not assigned to any member. This 455-member total is well below the circa 1994 total of 541 members asserted by Dawdy's master's thesis (Dawdy 1994, 5).

<sup>19</sup> See OFA work paper.

In 2011, the petitioner asserted that it considered Shannon Lee Dawdy's 1994 master's thesis, *The Secret History of the Meherrin*, to "be the official history of the Meherrin Tribe" (MTB 2/7/2011). Dawdy's thesis stated that the state-recognized group had reached "the current level of 541 members" (Dawdy 1994, 5). In 1995, a member alleged that the leadership was allowing into membership non-Indian individuals, who were also not direct descendants of Sallie M. (Smith) Lewis (P. Brown 1/25/1995). The part of the group that became Petitioner #119b described itself as the direct descendants of Sallie M. (Smith) Lewis and submitted its own letter of intent (MTB 6/19/1995).

The part of the group that became known as Petitioner #119a has not submitted petition documentation. As a result, the record does not include an identification of the number or names of Petitioner #119a's members or its own description of its ancestry or membership requirements. In 2011, the leaders of Petitioner #119b met with the leaders of Petitioner #119a to "discuss reconciliation," as directed by a judge in a lawsuit, but an agreement was not achieved (MTB 2/10/2011). Thus, the current membership list used for this proposed finding includes solely the 203 identified members of Petitioner #119b rather than a combined list for both petitioners.

### Historical Indian Tribe

The petitioner claims Meherrin ancestry but has not provided documentary evidence that the historical Meherrin Indian tribe continued to exist after the 1760s. The petitioner presents no evidence identifying historical members of the Meherrin Indian tribe in the 1760s, about 1789, or at any more recent time. It makes no attempt to demonstrate the descent of its current members from any list of historical members, or from any individuals identified as Meherrin Indians on historical documents. Instead, the petition presented two different assertions.

The petitioner first asserted that Sallie M. (Smith) Lewis (b.ca.1844-d.1904)<sup>20</sup> was "Susquehanna" or the "last full-blooded Meherrin Indian," and that the petitioner's members descend from her (P. Brown 1997). The evidence contemporary to Mrs. Lewis' lifetime that the petitioner submitted, and the OFA located, did not identify her as Indian or Meherrin.

Sallie M. (Smith) Lewis appeared in a wide range of records in her lifetime, described and analyzed in detail in Appendix B: Federal census records of 1850, 1870, 1880, and 1900; certifications of her 1862 and 1866 marriages; her father's 1872 last will and testament; and her

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<sup>20</sup> The "1838" birth estimate for Sallie M. (Smith) Lewis appearing in the petitioner's submission and the NC Commission's documents appears to pertain to a different Sallie Lewis who was confused with the subject of interest. The 1860 Federal census of Hertford County included a 22-year-old Mulatto "Sallie Lewis" born in Northampton County, North Carolina, whose birth calculates to circa 1838 (U.S. Census 1860, Southern Dist., p.7). This is not the petitioner's ancestress, who was not found enumerated in the 1860 Federal census. In 1860 the petitioner's ancestress Sallie M. Smith would have been about age 16 and single, not yet married to either Edward Weaver or Elvey Lewis, based upon reasonably consistent documents generated in her lifetime (see Appendix B). This proposed finding uses the "circa 1844" birth estimate for Sallie M. (Smith) Lewis supported by that documentary evidence. She died in 1904.

own testimony in Civil War pension records for her first and second husbands and brother. None of these records created during Sallie M. (Smith) Lewis' lifetime identified her, her parents, her siblings, her children, or either of her husbands as Indian or Meherrin.

The second assertion takes the form of Dawdy's master's thesis. Her thesis tables do not include the Smith, or Lewis, surnames among the "Meherrin surnames" in the 1700s that represented, according to her theory, the continuation of the historical Meherrin Indian tribe after it allegedly relocated south from its reservation to the Potecasi Creek area. Dawdy predicated her theory in part on the mid-county location of the "Meherrin Indians town" annotation on late 1700s maps. The petitioner did not submit, and the OFA did not locate, evidence contemporary to the alleged relocation in the mid-1700s identifying any individuals whom Dawdy described as bearing the "Meherrin surnames" as Indian or Meherrin. Note that Dawdy's term "Meherrin surnames" does not refer to documented 18th century Meherrin Indian names but rather to the surnames of modern individuals who claim Meherrin ancestry, which surnames can be found in earlier records.<sup>21</sup>

Dawdy's thesis presents two tables of alleged Meherrin as demonstrating the continuation of the historical Meherrin tribe. One table identifies claimed Potecasi Creek residents, property owners, or associates from 1740 to 1756 with alleged Meherrin surnames (Dawdy 1994, Table 4). The other table identifies 21 heads of households enumerated in the 1790 Federal census of Hertford County with alleged Meherrin surnames (Dawdy 1994, Table 5). In the ancestry charts appended to their membership applications, some current members claim to descend from historical individuals living in the 1740-1790 time period, but not from any of the historical individuals identified in Dawdy's Table 4 or 5.<sup>22</sup>

Extensive research on free African Americans that Paul Heinegg first published in 1991 undermines Dawdy's theory. Heinegg's research documents various Virginia origins for all of the historical individuals Dawdy characterizes as bearing "Meherrin surnames" in her Table 4 list of alleged Potecasi Creek residents or property owners from 1740 to 1754.<sup>23</sup> (See discussion about the actual location of the cited properties under "The Historical Tribe.") According to Heinegg's research, William Weaver and Thomas Archer were taxed in the same 1732 household in Norfolk County, Virginia, and Archer later witnessed for Weaver in Bertie County, North Carolina, in 1741; Thomas Archer's "son John" Archer was taxed in Norfolk County, Virginia, 1730-1735; James Nicken/Nickens was bound as an apprentice in Lancaster County, Virginia, in 1736; and tithable—or tax—lists of Northampton County on the Eastern Shore of

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<sup>21</sup> See OFA work paper.

<sup>22</sup> However, Paul Heinegg's research attributes Jesse Weaver (who is claimed as an ancestor on five members' ancestry charts) as a son to William Weaver (who is not claimed on members' ancestry charts but appears in Dawdy's Table 4) (Heinegg 2007; 1214, 1218).

<sup>23</sup> Those full names include Hancock, John, and Thomas Archer; James Nickens and wife Margaret Carter; and William Weaver (b.bef.1720). Table 4 also references deeds showing "other associations," but not mentioning Potecasi Creek, and those full names include Abel and Gabriel Manley; and Culmer Sessums. Of these three "associated" individuals not on Potecasi Creek, Heinegg documents a Virginia origin for Abel's father Gabriel Manley, but does not present the Sessoms family history (Heinegg 2007, 802).

Virginia record Nickens' future father-in-law Edward Carter as late as 1723 and Gabriel Manly/Manley as late as 1731 (Heinegg 2007; 59-60, 258-259, 802, 890, 1214).<sup>24</sup>

Evidence cited by Heinegg indicates that all but one of the above named alleged Potecasi Creek residents arrived in North Carolina from Virginia with wives and children (Thomas Archer, Edward Carter, Gabriel Manley, William Weaver) or married a Virginia spouse possibly after arrival (James Nickens and Margaret Carter).<sup>25</sup> Thus, the possibility of North Carolina Indian or Meherrin wives for these Virginians who settled near Potecasi Creek appears limited to John Archer, whose wife Frances (maiden name not given) first appears by name in a 1751 Bertie County, North Carolina, tithable list (Heinegg 2007, 60). She and her husband were each recorded as "free Mulatto," so the record does not specifically identify her as an Indian.

As an illustration of Dawdy's "Meherrin surnames" in Hertford County, North Carolina, in 1790, her thesis presents a table of 21 heads of households enumerated in the 1790 Federal census from various parts of that county. The table depicts 14 of those households as consisting solely of "free colored" [*sic*] individuals (Dawdy 1994, 116 and Table 5).<sup>26</sup> The other seven households referenced are each composed of White and "Free" individuals with or without slaves. The original census schedules do not record these 21 families in sequence or even a page or two apart—which might have denoted geographical proximity—but instead separated by as many as 21 of the county's 24 census schedule pages. In the ancestry charts appended to their membership applications, current members did not claim descent from any of the Table 5 heads of households.

Heinegg's independent research on these same individuals attributes some family ties between the 1740-1756 landowners or witnesses identified in Dawdy's Table 4 and the 1790 "all other free persons" household heads of Table 5. Four of the Virginia-born early landowners or witnesses in Table 4,<sup>27</sup> are identical to or forebears of ten of the 1790 household heads in Table 5.<sup>28</sup> Heinegg cites direct as well as indirect and circumstantial evidence for those parent-to-child connections (Heinegg 2007; 59-62, 802-803, 890-891, 1214, 1218). The earliest records Heinegg found for the other 5 "free persons" household heads without forebears listed in Table 4 show Jesse Reynolds and Arthur Boone were in Bertie County, in 1732 and 1774 respectively; Solomon Bizzell was in Hertford County in 1779; Willis Bass lived only briefly in Hertford

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<sup>24</sup> Heinegg's publication did not include the petitioner's Lewis forebears, but presented Sallie M. (Smith) Lewis' grandfather, James Smith, as the probable son of Permenos and Sarah ([—?—]) Smith of Currituck County, North Carolina (Heinegg 2007, 1065-1066). See Appendix B for the genealogy of Sallie M. (Smith) Lewis.

<sup>25</sup> Gabriel Manley's son Abel married Thomas Archer's daughter Ann (Heinegg 2007, 59) and no evidence reviewed for this PF indicates Thomas Archer's son Hancock Archer married.

<sup>26</sup> Neither the census instructions nor the 24 actual schedule pages completed in Hertford County in 1790 used the term "colored" for any category of individuals (United States 3/1/1790; U.S. Census 1790).

<sup>27</sup> Thomas Archer, Gabriel Manley [Sr.], James Nickens, and William Weaver.

<sup>28</sup> Armstrong, Evans, Jacob, William, Caleb, and Thomas Archer; Gabriel Manley [Jr.]; Malachi and James Nickens; and Ned Weaver.

County and returned to Norfolk County, Virginia, where he was taxed 1784-1787 and 1796-1817;<sup>29</sup> and Peggy Archer was not included in Heinegg's research (Heinegg 2007; 129, 168, 983). Almost all the alleged Meherrin on Dawdy's 1790 census table had Virginia origins.<sup>30</sup> Thus, the evidence located for Dawdy's alleged Meherrin did not identify them as Indian or Meherrin.

### *Indian Identifications and Claims*

Of the ancestry charts appended to most members' applications, none tagged any named individuals as "Meherrin." The term "Meherrin Tribe" was written across the top of several ancestry charts and one member tagged the "unknown" mother of Paul Sears (b.ca.1811) as "Meherrin," but evidence supporting that claim is not in the record.<sup>31</sup>

Ancestry charts for ten members tagged some of their claimed ancestors as Indians other than Meherrin. Four members claimed descent from Halifax County, North Carolina, rejected applicants to the 1896 Dawes Commission for inclusion on the roll of the Five Civilized Tribes as Cherokee descendants (A. Richardson et al. 1896; F. Richardson et al. 1896) (see criterion 83.7(f)).<sup>32</sup> Another member and his four children tagged unnamed non-Hertford County ancestors as Siouan of South Carolina, Virginia, and Maryland; Waccawaw/Casabo of North or South Carolina; Catawba of North Carolina;<sup>33</sup> and Monocan of Virginia.<sup>34</sup> The ancestry chart of a new 2011 member lists "Brave Simmons," his wife "Squaw," and an "Indian woman" among her ancestors.<sup>35</sup> Patrina Brown's second letter of intent in 1998 asserted that her Melton great-grandfather was Cherokee, but cited no documentary evidence supporting that contention (MTB 11/9/1998). The documented petition did not include any evidence, other than these assertions, to support these individuals as Indian.

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<sup>29</sup> Heinegg finds that Willis Bass married Jemima Nickens, the probable great-niece of the James Nickens who married Margaret Carter (Heinegg 2007; 887, 889, 890, 893).

<sup>30</sup> The Department contacted Paul Heinegg and inquired whether he had any further citations to evidence involving Hertford County free people of color or Indians he had not already published or posted online (OFA 8/12/2011). His negative reply included the following observation about the African-American population of Hertford County: "...they descend from people with African (and white) ancestry. Many descend from the more than 1,000 mixed-race children born to white women by slaves during the colonial period in Maryland, Delaware, North Carolina and Virginia" (Heinegg 8/12/2011). Virginia emigrant Gabriel Manley appears to be the only one of Dawdy's claimed Potecasi Creek residents who was born to a white mother, based on Heinegg's citations to Northampton County, Virginia, "Orders, Wills, Etc.," pp. 165 and 183 (Heinegg 2007, 802). See OFA work paper.

<sup>31</sup> Member no. 315.

<sup>32</sup> Members no. 1, 2, 4, and 5.

<sup>33</sup> This claimed ancestor was partially identified, as "Flora," wife of Henry Brown of "Livingston Co., NC."

<sup>34</sup> Members no. 315, 496, 497, 527, and 528.

<sup>35</sup> Member no. 578, whose shares ancestry with seven other members: 518, 519, 585, 586, 588, 589, and 590.

Although the Department's evaluation did not uncover any 18th or 19th century identifications of the petitioner's claimed ancestors as "Meherrin" or "Indian," two early 20th century records recorded the race or color of one Hertford County family and of one Hertford County individual as "Indian." Civil War veteran John B. Collins (b.1843) and his wife Georgiana Frances Artis and their children appear in the general population schedule of the 1900 Federal census of Hertford County with "Ind.," for Indian, in the column for race or color (U.S. Census 1900, ED 55, p.6-B).<sup>36</sup> Eight of the 203 current members claim descent from this couple. The World War I draft registration card for Clarence Chavis (b.1892) of Hertford County shows an original recording of his race or color as "Negro" that was later changed to "Idian" [*sic*] (Chavis 1917).<sup>37</sup> No current or past members claim descent from this man or his siblings. The basis for each of these two identifications is not stated, and no other Federal census or other records found for these individuals, their parents, siblings, or children gave "Indian" as their color or race.

None of the evidence in the record documented these claimed Indian identifications and, therefore, they do not demonstrate descent from a Meherrin tribe, or from one alternative tribe.

#### Evidence Documenting Descent from the Historical Indian Tribe

The analysis performed under criterion 83.7(e) cannot evaluate current members' descent from the historical Meherrin Indian tribe without a list of members of a Meherrin tribe (prior to 1789 or later). Descent from individual Meherrin identified in 17th and 18th century records (see Appendix A) cannot be evaluated because the petitioner did not claim to descend from them and did not provide sufficient descent evidence that any members descend from them. The petitioner has not attempted to link any of its claimed ancestors to any of these individuals. Nor has the petitioner shown a tribal entity continuously existing to a time when its members are delineated as members of an Indian tribe. Without a claim of descent from the identifiable historical Meherrin Indian tribe, and without an identifiable Indian tribe in the members' claimed or documented ancestry, there is no descent analysis that can produce results that will satisfy the requirements of criterion 83.7(e).<sup>38</sup>

However, the OFA genealogist did analyze descent based on the petitioner's two competing theories of its claimed historical Indian tribe. The results of those analyses are presented here for informational purposes and they do not satisfy the requirements of criterion 83.7(e). Because the petitioner did not submit documentary evidence to demonstrate the generation-to-generation descent of its current members from the individuals they claim as ancestors, OFA researchers supplemented the record with parentage evidence wherever possible. Although the petitioner has

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<sup>36</sup> Hertford County enumerators of the 1900 and 1910 Federal census did not complete the special Indian schedule forms available in those years.

<sup>37</sup> The OFA found a total of 76 "Chavis" or "Chovis" WWI draft registrants identified as Indian: 73 in Robeson County, 2 in Scotland County, and 1 in Hertford County.

<sup>38</sup> It would be impossible to determine the percentage of members who descend from the historical Indian tribe without a clear understanding of the entity in or before 1789 that is the historical Indian tribe. Past acknowledgment determinations have recognized only those groups that can demonstrate at least 80 percent of its members descend from the historical Indian tribe or tribes that amalgamated.

not documented its claimed ancestors as members of the historical Meherrin Indian tribe, it has made two different assertions about the historical individuals it claims as members of the historical Meherrin Indian tribe.

First, the group has consistently asserted that Sallie M. (Smith) Lewis was a historical Meherrin (or Susquehanna) Indian. Second and more recently, the petitioner asserted that the official history of the group is Dawdy's master's thesis, with its theory of "Meherrin surnames" for early residents on Potecasi Creek and for individuals on the 1790 Federal census. Thus, the individuals Dawdy identified should be ancestors of the petitioner. Petitioner #119b's 2011 membership list of 203 individuals includes 103 members who claim descent from Sallie M. (Smith) Lewis, 6 members who claim descent from her sister Eliza Ann (Smith) Keen/Keene, and no members who claim descent from the historical individuals Dawdy described as "Meherrin" in Tables 4 and 5 of her thesis.

*Sallie M. (Smith) Weaver Lewis (b.ca.1838–d.1904)*

Since governing body members are public figures, acknowledgment findings often use these individuals as examples in illustrating the analysis conducted for a PF. The ancestry charts that Petitioner #119b's seven governing body members completed show that six of the seven claim descent from Sallie M. (Smith) Lewis. As illustrated under criterion 83.7(d), all six of those governing body members claim descent from Sallie's granddaughter Nollie (Reid) Melton.

The seventh member of the governing body, Fred Hedgepeth, does not claim Meherrin ancestry and stated he has never resided in the Hertford, Bertie, Gates, and Northampton County area.<sup>39</sup> This individual is one of the aforementioned members claiming "Haliwa-Saponi" ancestry. The names of his now-deceased parents appear on the 1988 membership list in the Federal acknowledgment petition of the state-recognized "Haliwa-Saponi Indian Tribe, Inc.," of North Carolina (Petitioner #63) (Haliwa 1988, III). Mr. Hedgepeth wrote on his ancestry chart that his grandfather "joined the Haliwa Indian Club in 1957, which was later changed to Haliwa-Saponi Tribe" (Hedgepeth 1/26/2011).

The seven governing body members did not submit birth certificates or other evidence contemporary to their births to demonstrate their parentage. Three were born outside North Carolina, in Virginia, Pennsylvania, and California. Birth certificates for these states, naming both parents, were not available to OFA staff through online websites. The "North Carolina Birth Index, 1800-2000," database, via [www.ancestry.com](http://www.ancestry.com), includes images of birth registers. With some exceptions, the Hertford County birth registers typically recorded the child's name, date of birth, father's name, and town of birth. This online database's entries for the four governing body members born in North Carolina identified their fathers but not their mothers. Online sources documented the fathers for two of the seven governing body members who traced their ancestry through their fathers, but for one of those governing body members evidence was not found for earlier parent-to-child connections back to Sallie M. (Smith) Lewis and the other did not claim Meherrin ancestry.

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<sup>39</sup> Mr. Hedgepeth left blank the section of Petitioner #119b's application form requesting such non-residents to "give reason for living elsewhere" (Hedgepeth 2011, question #8(C)).

All 203 of the petitioner's members submitted application forms that recorded ancestry information, and 150 applications had additional ancestry charts appended to them. The pre-printed application form provided spaces where applicants could supply name, birth, marriage, and death information for their parents and grandparents. The form does not require the applicant to identify the ancestors who qualify him or her for membership. The descent information claimed in these applications and ancestry charts, and in the "Genealogy of Elvey D. & Sallie M. Lewis' Children," shows that 103 of the 203 current members claim descent from Sallie M. (Smith) Lewis, through three of her nine children.<sup>40</sup>

The Hertford County birth register images in the above-described "North Carolina Birth Index, 1800-2000," database often include the names of both parents in registers kept prior to World War II and again in the 1990s, and in registers for other North Carolina counties after WWII. The petition review relies heavily upon this online birth index since the petitioner submitted only six birth certificates. Birth register images for 43 members identified at least one parent and, for 16 of them, both parents were identified. However, the majority of current members claiming descent from Sallie M. (Smith) Lewis trace their ancestry through their mothers. As a result, OFA staff could verify the parentage and the complete direct ancestry back to Sallie M. (Smith) Lewis for only 4 of the 103 current members claiming descent from her, using documentation submitted or located during the review. Three of those four members were born before WWII.

*Eliza Ann (Smith) Keene (b.ca.1837–d.aft.1880)*

Sallie M. Smith (b.ca.1844) had a sister Eliza Ann Smith (b.ca.1837), as documented by the February 21, 1872, last will and testament of their father Jacob Smith (Smith 1872). Eliza Ann Smith married Jasper Keene about 1853 and many individuals on previous membership lists of Petitioner #119b claim descent from this couple. Unless Sallie and Eliza Ann had different mothers—and no evidence of that has yet been seen—Eliza Ann would be presumed to be a Meherrin Indian if Sallie were demonstrated to be a Meherrin Indian and vice versa.

Therefore, the petition review evaluated whether any of the six current members who claim descent from Eliza Ann (Smith) Keene demonstrated that descent. None of the six birth certificates in the petition pertained to any of the six members claiming descent from Eliza Ann (Smith) Keene. All six of the claimed Eliza Ann (Smith) Keene descendants were born outside of North Carolina, in Virginia or the District of Columbia. Online databases did not provide access to birth records of those two locales. Thus, none of the six claimed descendants of Eliza Ann (Smith) Keene demonstrated descent from her nor could the OFA verify their descent from her.

*Dawdy's Thesis: 1740-1790 "Meherrin Surnames" of Tables 4 and 5*

Dawdy's master's thesis illustrates the individuals she characterizes as having "Meherrin surnames" in her lists of specific residents or property owners she believes lived on Potecasi

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<sup>40</sup> Five members claim descent from her son Oliver Lewis, 19 from John Edward Lewis, and 91 from Nancy (Lewis) Reid. Since a descendant of John married a descendant of Nancy, 12 current members claim descent from both of those children of Sallie M. (Smith) Lewis.

Creek between 1740 and 1754 (Dawdy 1994, Table 4)<sup>41</sup> and specific Hertford County residents in 1790<sup>42</sup> (Dawdy 1994, Table 5). Dawdy included the Lewis surname in her list of modern “families in Hertford County who have a tradition of being Indian” (Dawdy 1994, 115). However, neither the Lewis nor Smith surname appears on her tables of “Meherrin surnames” of the 18th century. Further, Sallie M. (Smith) Lewis’ demonstrated ancestry does not include these individuals with alleged “Meherrin surnames” known to be in Hertford County from 1740 to 1790.<sup>43</sup>

In their ancestry charts, current members do not claim to descend from any of the historical individuals identified in Dawdy’s Tables 4 or 5 although some do claim descent from other individuals living in this time period.<sup>44</sup> It is unclear why the petitioner in 2011 wished the AS-IA to consider the master’s thesis as the group’s official history when no member claims to descend from the historical individuals specified in the thesis’ tables.

### Summary

Petitioner #119b furnished a current membership list and previous membership lists dating back to around 1979. Its 203 current members represent a portion of the larger group that obtained state recognition in 1986 and the current composition of the other portion is not in the record. The petition lacks evidence contemporary to the lifetimes of the historical individuals either claimed as ancestors by the current members (Sallie or Eliza Ann Smith) or asserted by Dawdy as “Meherrin” (individuals with “Meherrin surnames”) that establishes they were considered Indian or constituted the continuation of the Meherrin Indian tribe.<sup>45</sup> Petitioner #119b did not furnish sufficient evidence demonstrating that its current members descend from a historical Indian tribe as required by criterion 83.7(e).

Based on evidence added to the record during evaluation for the PF, the OFA could verify the parentage and the complete direct ancestry for 4 of the 203 members (2 percent) back to Sallie M. (Smith) Lewis, and for none of the 6 current members claiming descent from her sister Eliza

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<sup>41</sup> Those full names include Hancock, John, and Thomas Archer; James Nickens and wife Margaret Carter; and William Weaver (b.bef.1720). Table 4 also references deeds showing “other associations,” but not mentioning Potecasi Creek, and those full names include Abel and Gabriel Manley; and Culmer Sessums.

<sup>42</sup> Those full names include Armstrong, Caleb, Evans, Jacob, Peggy, Thomas, and William Archer; Willis Bass; Solomon Bizzell; Arthur Boone; Gabriel Manley; Malachi Nickens; Jesse Reynolds; and Edward “Ned” Weaver.

<sup>43</sup> The mother of Sallie Smith’s second husband Elvey D. Lewis was Frances Manley, a surname that does appear in Dawdy’s lists although her ancestry was not asserted by the petitioner or documented by the OFA as including Gabriel Manley.

<sup>44</sup> Members’ ancestry charts claim American forebears born as early as 1673 (Member no. 23), although many ancestry charts did not depict claimed ancestors born as early as the 1700s. Evidence verifies four current members’ ancestry back to a James Smith (b.ca.1760) and one member’s ancestry back to a Jesse Weaver (b.bef.1761) of Hertford County (but any evidence of their possible affiliation with a Meherrin or any other Indian tribe has not been submitted or found).

<sup>45</sup> See OFA work paper.

Ann (Smith) Keene. No current members claim descent from the historical individuals Dawdy cited as representing “Meherrin surnames” in her Tables 4 and 5.

### Conclusion

The petitioner submitted a membership list, separately certified by its governing body in February 2011, identifying 203 adult and minor members. As required under criterion 83.7(e), the membership list furnished each member’s full name (including maiden name), date of birth, and residential address, with minor omissions. The current members represent part of the larger group to which North Carolina provided recognition as a tribe in 1986. The evidence does not demonstrate that Sallie M. (Smith) Lewis or the historical individuals Dawdy identified were Indian, Meherrin Indian, or members of a Meherrin Indian or other Indian tribe. The petitioner has not documented, nor has the OFA identified, a historical Indian tribe, or tribes that combined, from which its members descend. The petitioner has not provided sufficient evidence to verify descent from even those individuals it asserted were Meherrin. The evidence in the record has not demonstrated that any of the petitioner’s members descend from a historical Indian tribe. Therefore, the petitioner does not meet the requirements of criterion 83.7(e).

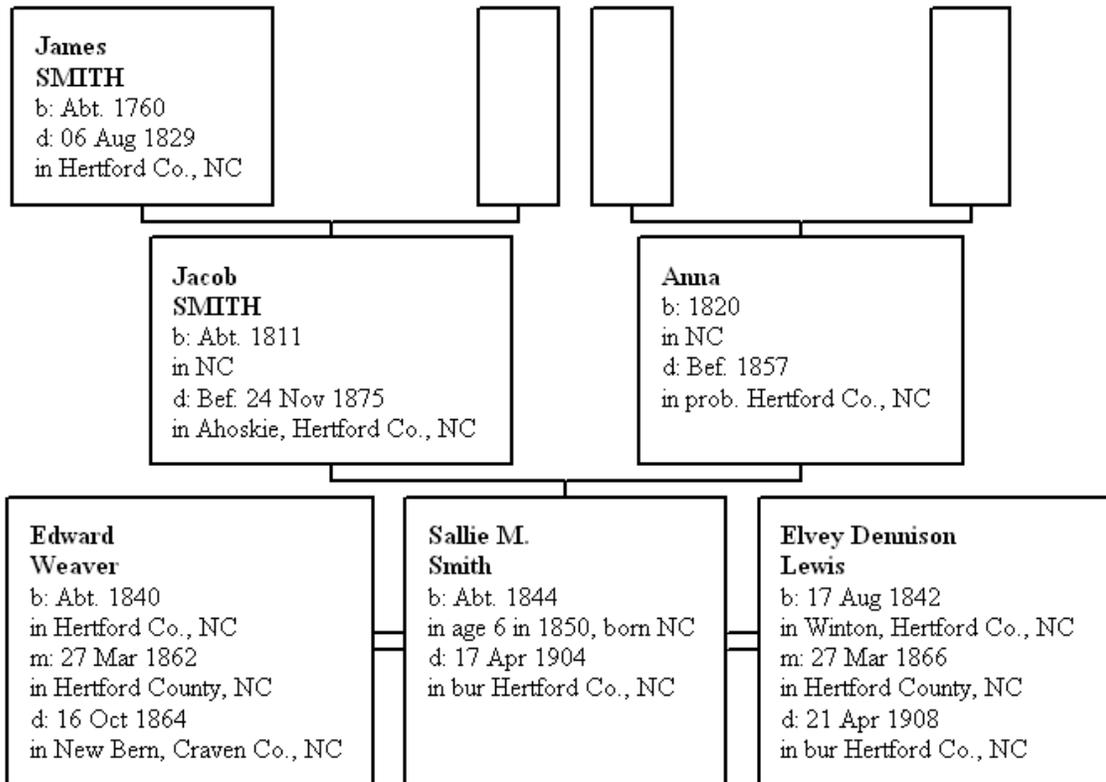
Appendix A  
Individual Meherrin Indians

Name	Date	Source
King of Maharineck	1650	Bland 1651 (1873 ed.), p.6
Vnuntsquero (chief man)	1677	VMH&B, v.14, p.296
Tachapoake (chief man)	1677	<a href="http://www.powhatanmuseum.com">http://www.powhatanmuseum.com</a>
Horehonnah (next chief man)	1677	VMH&B, v.14, p.296
Norehannah (next chief man)	1677	<a href="http://www.powhatanmuseum.com">http://www.powhatanmuseum.com</a>
Nick	1710	VMH&B, v.8, pp.6-7
Major	1710	VMH&B, v.8, pp.6-7
Nick Major, or, Nicholas Major	1711	VMH&B, v.8, pp.9-11
John Querro	1712	Calendar of Virginia State Papers, 1:153
Tut-sech, or, bas:queat	1712	Calendar of Virginia State Papers, 1:159
Mister Thomas	1713	Virginia, Executive Journals, 3:352
George Senecca, or, Senneka, or, Seneka	1726	Colonial Records of N.C., 2:640, 664
Nick Major	1726?	Colonial Records of N.C., 2:644
Captain Roger	1726	Colonial Records of N.C., 2:644
Captain Rogers (chief man)	1727	Calendar of Virginia State Papers, 1:212
Robin King (a boy belonging to a great man)	1727	Calendar of Virginia State Papers, 1:212

Sources: Edward Bland, *The Discovery of New Brittain* (London, 1651; reprint, New York, 1873); *Calendar of Virginia State Papers and Other Manuscripts, 1652-1781*, ed. William P. Palmer et al., 11 vols. (Richmond, 1873-1893); *The Colonial Records of North Carolina*, ed. William L. Saunders, 10 vols. (Raleigh, 1886-1890); *Executive Journals of the Council of Colonial Virginia*, ed. Henry R. McIlwaine, 6 vols. (Richmond, 1925-1945); and *Virginia Magazine of History and Biography*, vol. 8 (1900) and vol. 14 (1907).

Meherrin Indian Tribe (Petitioner #119b) Proposed Finding  
Appendix A: Individual Meherrin Indians

Appendix B  
Ancestry of Sallie M. (Smith) Weaver Lewis (b.ca.1844 – d.1904)



Note: This appendix departs from the style conventions followed in the text of the decision document. Here genealogical style conventions are followed. Source citations appear in full and in footnotes rather than in abbreviated in-line “author-year” parenthetical citations to a separate bibliography. Professional genealogical standards also specify the date-month-year style of presenting dates without commas, referred to as “military” style in the *GPO Style Manual*.

Prior to February 2011, the Meherrin Indian Tribe petitioner (Petitioner #119b) submitted materials that claimed its members descend from Sallie M. Lewis (b.ca. “1838”—d.1904), described as “Susquehanna” and as a “full-blooded Meherrin Indian” (P. Brown 1997). The group’s current governing documents continue to include descent from Sallie M. Lewis as one avenue to membership.<sup>1</sup> Since the earliest evidence in the petition asserting that Sallie M. Lewis was a Susquehanna or Meherrin Indian comes from the mid-20th century, the Department’s researchers evaluated evidence contemporary to her life, and earlier, to determine whether Indian ancestry could be confirmed for her. The historical documents reviewed for this proposed finding documented Sallie M. (Smith) Weaver Lewis (b.ca.1844), her father (Jacob Smith, b.ca.1811) and her paternal grandfather (James Smith, b.ca.1760). Sallie’s other three grandparents remain unidentified and undocumented. None of the historical documents reviewed for the individuals in this family refer to any Indian ancestry, blood, or affiliation.

**1. Sallie M. Smith**, the daughter of **2. Jacob Smith**, probably by his wife **3. Anna** ([—?—]), was born circa 1844, likely in the Southern District of Hertford County, North Carolina, where her family resided at the time of the 1850 Federal census.<sup>2</sup>

[name	age	gender	race	occupation	real estate value	birthplace]
Jacob Smith	39	m	m	Laborer	[blank]	NC
Anna	30	f	m			NC
Eliza A. Smith	13	f	m			NC
William	9	m	m			NC
<b>Sally</b>	6	f	m			NC
John	3	m	m			NC
Willis	15	m	m	Laborer		NC

Sallie was not enumerated in her father’s household in the 1860 Federal census, although she was still a single woman at that time.

Sallie first married Edward Weaver, of Hertford County,<sup>3</sup> on 27 March 1862<sup>4</sup> at her father’s house.<sup>5</sup> One daughter, Homozalla,<sup>6</sup> was born to this marriage before Edward Weaver died of

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<sup>1</sup> It is unclear whether the July 12, 1997, amendment to that option intended to add to or replace descent from Sallie M. (Smith) Lewis.

<sup>2</sup> 1850 U.S. census, Hertford County, North Carolina, population schedule, Southern District, p. 332 (image 40 of 55), dwelling 317, family 317, Jacob Smith (for Sallie’s probable mother’s given name); digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 13 September 2011), citing NARA microfilm publication M432, roll 634. For her parentage, see Hertford Co., NC, Original Wills, Jacob Smith, folder WB-C/156, 1875; North Carolina State Archives, Raleigh, North Carolina: “Eliza Ann Keen and Sally M. Lewis, my two daughters.”

<sup>3</sup> 1850 U.S. census, Hertford Co., NC, pop. sched., Southern District, p. 325 (image 26 of 55), dwell. 200, fam. 200; 1860 U.S. census, Hertford Co. NC, pop. sched., P. O. Murfreesboro, p. 40 (image 67 of 115), dwell. 555, fam. 613.

<sup>4</sup> Hertford Co., NC, certification of marriage, 4 December 1866, Edward Weaver, minor’s [Homozalla Weaver] pension application no. 154,495, certificate no. 88,332; service of Edward Weaver (Pvt., Co. C, 14th Regt., U.S. Colored Heavy Artillery, Civil War); Case Files of Approved Pension Applications . . . , 1861-1934; Civil War and

yellow fever during the Civil War on 16 October 1864 in New Bern, Craven Co., NC.<sup>7</sup> Edward Weaver served in Company C, 14th Regiment, U.S. Colored Heavy Artillery, per his daughter's pension application, which enclosed the August 1866 Hertford County court record appointing Homozalla's grandfather Jacob Smith as her guardian after Edward's death.<sup>8</sup>

Sallie (Smith) Weaver next married Elvey Dennison Lewis<sup>9</sup> on 27 March 1866 in Hertford Co., NC.<sup>10</sup> Elvey Lewis was born on 17 August 1842 in Winton, Hertford Co., NC,<sup>11</sup> to Elvy Lewis and Frances Manley.<sup>12</sup> Elvey Lewis had served in the same company of the 14th U.S. Colored Heavy Artillery during the Civil War as Sallie's first husband.<sup>13</sup>

The 1870 Federal census enumerated Elvey Lewis' family twice. "Elvy," wife Sallie, step-daughter Homozella/Ella, and two daughters Nancy and Hellana/Elena were recorded once in St. Johns Township and a second time in Winton:<sup>14</sup>

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Later Pension Files; Department of Veterans Affairs, Record Group 15, National Archives, Washington, D.C. See page hand-numbered by OFA as p. 20.

<sup>5</sup> Testimony of Mary Eliza (Carey) Smith Lewis, 24 January 1900, Elvey Lewis (Pvt., Co. C, 14th USC HA & Co. C, 1st Regt., NC Col'd H.A.) pension application no. 474,535, certificate no. 454,032, RG 15, NA-Washington; see page 14 as hand-numbered by OFA. Also testimony of Sallie M. Lewis, 24 July 1903, Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington; see page 57 as hand-numbered by OFA.

<sup>6</sup> Testimony of Sallie M. Lewis, 24 July 1903, Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington, p. 57.

<sup>7</sup> Surgeon General's report cited in "Proof Exhibited," no date, Edward Weaver, minor's [Homozalla Weaver] Civil War pension no. 154,495, RG 15, NA-Washington, pp. 3.

<sup>8</sup> Edward Weaver, minor's [Homozalla Weaver] Civil War pension no. 154,495, RG 15, NA-Washington, pp. 3, 7, 9.

<sup>9</sup> Deposition of Elvey Lewis, 10 September 1902, Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington, p. 24.

<sup>10</sup> County clerk certification of recorded marriage and officiant's sworn statement, in Edward Weaver, minor's [Homozalla Weaver] Civil War pension no. 154,495, RG 15, NA-Washington, p. 20.

<sup>11</sup> Statement of Elvey Lewis, 19 February 1907, Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington, p. 69.

<sup>12</sup> 1850 census, Hertford Co., NC, pop. sched., Southern Dist., p. 336 (image 47 of 55), dwell. 376, fam. 376, "Ebbe" Lewis; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 13 September 2011), citing NARA microfilm publication M432, roll 634. For Frances' maiden name, see the death certificates of three of her children: Death Certificates, 1915:123, no.13, Giles A. Lewis, 18 June 1915, Hertford County; 1942:365, p. 9, Susan Elizabeth Lewis, 23 May 1942, Hertford County; 1949, no. 23072, John Henry Lewis, 30 October 1949, Hertford County; digital image, *Ancestry.com* (<http://www.ancestry.com> : all accessed 30 November 2010), citing "North Carolina Death Certificates," microfilm series S.123, rolls 19-242, , 280, 313-682, 1040-1297, North Carolina State Archives, Raleigh, NC.

<sup>13</sup> Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington.

<sup>14</sup> 1870 U.S. census, Hertford Co., NC, pop. sched., St. Johns, p. 406 (image 31 of 51), dwell. 219, fam. 219, Elvy Lewis; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 2 October 2009), citing NARA microfilm

St. Johns Township

Elvy Lewis 24  
**Sallie** 25  
 Homesilla 11  
 Nancy A. 4  
 Hellana 2  
 J. H. Smith\* 23

[\* probably Sallie's brother John]

Winton

Elvy D. Lewis 28  
**Sallie** 25  
 Ella 8  
 Nancy A. 4  
 Elena 1

The Elvey Lewis family continued to reside in St. Johns Township in 1880, by which time three sons had been born.<sup>15</sup>

[name	race	gender	age	relationship	occupation	bp	self	fa	mo]
Elvey Lewis	Mu	m	37		Farmer	NC	NC	NC	
<b>Sarah</b>	Mu	f	35	wife	keeping house	NC	NC	NC	
Nancy A.	Mu	f	13	daughter		NC	NC	NC	
Ellener	Mu	f	11	daughter		NC	NC	NC	
Oliver A.	Mu	m	6	son		NC	NC	NC	
John E.	Mu	m	2	son		NC	NC	NC	
Elvey J.	Mu	m	1/12	son		NC	NC	NC	

Over the next 20 years, Elvey and Sallie applied for Civil War pensions and served as witnesses for other pensioners in Hertford County. In 1902, Elvey Lewis claimed to have removed to Elizabeth City County, Virginia, sometime between 1867 and 1872.<sup>16</sup> He was enumerated in Hertford County in the Federal census of 1870 and 1880 but was not found in the 1900 census of Hertford Co., NC, or Elizabeth City Co., VA.

Sallie (Smith) Lewis' Hertford County 1900 census entry, which mangled the spelling of her surname, recorded her as the married head of household.<sup>17</sup> The entry shows she was a farmer who had then been married for 13 years (since 1887?) and the mother of 11 children, 8 of whom were then living:

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publication M593, roll 1143; 1870 U.S. census, Hertford Co., NC, pop. sched., Winton, p. 30-B (image 28 of 56), dwell. 207, fam. 207, Elvy D. Lewis.

<sup>15</sup> 1880 U.S. census, Hertford Co. NC, population schedule, St. Johns, E.D. 70, p. 432 [p. 59] (image 56 of 66), dwell. 490, fam. 496, Elvey Lewis; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 2 October 2009), citing NARA microfilm publication T9, roll 968.

<sup>16</sup> Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington.

<sup>17</sup> 1900 U.S., Hertford Co., NC, pop. sched., St. Johns, E.D. 53, p. 4B (image 8 of 34), dwell. 64, fam. 64, Sallie M. Lewis; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 2 October 2009), citing NARA microfilm publication T623, roll 1200.

[name	relationship	race	gender	birth	age	status	ch	bp	self	fa	mo	occ]
<b>Sallie M. Luois</b>	Head	B	f	Aug 1841	58	M-13	11-8	NC	NC	NC	NC	Farmer
Sim	son	B	m	Mar 1880	20	S		NC	NC	NC	NC	Farm hand
John	son	B	m	Mar 1877	23	S		NC	NC	NC	NC	Farm hand
Birtie	dau	B	f	Oct 1883	16	S		NC	NC	NC	NC	Farm hand
Geno	son	B	m	Jan 1884	16	S		NC	NC	NC	NC	Farm hand
Annie	dau	B	f	Apr 1887	13	S		NC	NC	NC	NC	Farm hand

According to the tombstone inscription, Sallie (Smith) Lewis died on 17 April 1904 and was buried in Hertford County.<sup>18</sup> Elvey Lewis' pension file includes a letter written by his daughter "Bertha Sessoms" that stated her father died on 21 April 1908.<sup>19</sup>

The child of Edward Weaver and Sarah "Sallie" M. Smith:

- i. Homozalla Weaver, born 4 December 1861,<sup>20</sup> died before 11 May 1889<sup>21</sup>

The children of Elvey Dennison Lewis and Sarah "Sallie" M. Smith:

- i. Nancy A. Lewis, born 1868, married John R. Reid
- ii. Helena/Elena/Ellener Lewis, born 1869, married Edward Lassiter
- iii. Oliver H. Lewis, born 1873, married (1) Nicey Lange (2) Lula Britt
- iv. John E. Lewis, born 1875, married Estella Brown
- v. Elvey J./Sim Lewis, born 1880, married Fannie Reynolds
- vi. Roberta/Birtie/Bertha Lewis, born 1883, married (1?) Willie Sessoms; (2?) Artemus Saunders
- vii. Geno Lewis, born 1884, married Allie Keene
- viii. Annie Lewis, born 1887, married Cage Newsome

**2. Jacob Smith**, the son of **4. James Smith** and **5. (wife unknown)**, first appeared in the Federal census of Hertford County as head of a household in 1840, with two males and one female under age ten.<sup>22</sup> Jacob and his presumed wife were both recorded as age 24-35 (b. 1805-

<sup>18</sup> Tombstone photographs enclosed in letter from Patrina Brown to Lee Fleming, 31 May 2001. Sallie's age at death on this inscription (63 years, or b.ca. 1841) comports with her 1900 census age but not with her age in her first census appearance in 1850 (6 years, or b. ca. 1844).

<sup>19</sup> "Pensioner Dropped" form, 10 June 1908, and letter from daughter Bertha Sessoms, 4 May 1908, Elvey Lewis Civil War pension no. 474,535, RG 15, NA-Washington, pp. 71 and 72.

<sup>20</sup> Edward Weaver, minor's [Homozalla Weaver] Civil War pension no. 154,495, RG 15, NA-Washington; p. 10.

<sup>21</sup> Declaration of Sallie Lewis, 11 May 1889, Edward Weaver, minor's [Homozalla Weaver] Civil War pension no. 154,495, RG 15, NA-Washington; p. 14. A section of the declaration form requested the names and birth dates of all surviving legitimate children "who were under sixteen years of age at father's death," and in that section is written, "None by first husband."

<sup>22</sup> 1840 U.S. census, Hertford Co., NC, p. 67 (image 35 of 53), 24th from top; 5 "free colored persons," Jacob Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 3 June 2011), citing NARA microfilm publication M704, roll 362. For Jacob's parentage, see Hertford Co., NC, Minutes of the Court of Pleas and Quarter Sessions, July 1830; photocopies of original minute book, North Carolina State Archives, Raleigh, NC.

1816). The 1850 Federal census was the first to record all individuals’ names, ages, and birthplaces, and Jacob Smith’s household included Anna—the woman presumed to be his wife—and five minors: Willis, Eliza, William, Sally, and John.<sup>23</sup> Jacob appeared as a 39-year-old “laborer” without real property:

[name	age	gender	race	occupation	real estate value	birthplace]
<b>Jacob Smith</b>	39	m	m	Laborer	[blank]	NC
Anna	30	f	m			NC
Eliza A. Smith	13	f	m			NC
William	9	m	m			NC
Sally	6	f	m			NC
John	3	m	m			NC
Willis	15	m	m	Laborer		NC

The 1860 Federal census entry for the Jacob Smith family in Hertford County shows that they then resided in the household of 45-year-old Joseph Cotton.<sup>24</sup> Jacob Smith, 50, had neither occupation nor real estate value attributed to him but the census enumerator recorded “Hertford Co., NC,” as the birthplace for his entire family except for (his step-daughter) Mary Elizabeth Carey, who was listed as born in “Norfolk, Va.”<sup>25</sup> The ages of the children in Jacob’s household suggest that his wife Anna apparently died soon after giving birth circa 1851 to son Holloway, and that Jacob remarried circa 1855 to Mrs. Elizabeth (Ayots?) Carey, by whom one son, Silas, appears to have been born by 1860.<sup>26</sup> Jacob’s daughter Sallie did not appear in his 1860 census household nor was an unambiguous 1860 census entry for her located:

<sup>23</sup> 1850 U.S. Census, Hertford Co., NC, pop. sch., Southern District, p. 332A (image 39 of 55), dwell. 317, fam. 317, Jacob Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 6 June 2011), citing NARA microfilm publication M432, roll 634. However, the enumerator recorded Willis last, which might indicate he was a son of Jacob by an earlier wife or not a son of Jacob and Anna.

<sup>24</sup> 1860 U.S. Census, Hertford Co., NC, pop. sch., Southern District, p. 44A-B (images 75 and 76 of 115), dwell. 623, fam. 682, Jacob Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 2 October 2009), citing NARA microfilm publication M653, roll 902.

<sup>25</sup> For step-daughter relationship, see Mary Eliza (Carey) Smith Lewis’ 1860 and 1870 census, 1871 second marriage, and 1917 death records. 1860 U.S. census, Hertford Co., NC, pop. sch., Southern Dist., p. 44 (images 75 and 76 of 115), dwell. 623, fam. 682, M. E. Carey (age 9, born Norfolk, Va., in household of Joseph Cotton that includes Jacob Smith and Elizabeth (Ayots?) Hicks Carey Smith). 1870 U.S. census, Hertford Co., NC, pop. sch., St. Johns Twp., p. 406 (image 31 of 51), dwell. 220, fam. 220 (image 31 of 51), Marie Smith (this is the widowed Mary Eliza (Carey) Smith who resided one household away from Jacob Smith and Elizabeth (Ayots?) Hicks Carey Smith); digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 2 October 2009), citing NARA microfilm publication M593, roll 1143. Hertford Co., NC, Marriage Register, 1868-1872, p. 12; FHL microfilm #313,965 (identifies bride Mary E. (Carey) Smith’s mother as “Betsey Smith”). North Carolina, State Board of Health, Bureau of Vital Statistics, Death Certificates, 1917:139, no. 8, Mary E. “Luis,” 14 March 1917, Hertford County; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 7 January 2011), citing “North Carolina Death Certificates,” microfilm series S.123, rolls 19-242, , 280, 313-682, 1040-1297, North Carolina State Archives, Raleigh, NC. This death certificate pertains to Mary Eliza (Carey) Smith Lewis and recorded that she was born Norfolk Co., Va., to father George Carey and mother Elizabeth Ayots(?).

<sup>26</sup> The 1917 death certificate of Mary Eliza (Carey) Smith Lewis gives the full names of both of her parents. The “Ayots” spelling may intend to represent “Wiott” (the surname of a Smith in-law) or even “Yeats” (as the 1850 and 1860 census entries of Pattie Yeats provide indirect evidence that she may be Elizabeth’s mother).

[name	age	gender	race	real estate value	birthplace]
Joseph Cotton	45	m	[blank]	[no occ.] \$100,	[Hertford Co., NC]
<b>Jacob Smith</b>	50	m	M,	[no occupation]	[Hertford Co., NC]
Elizabeth Smith	33	f	M		[Hertford Co., NC]
Jno Smith	11	m	M		[Hertford Co., NC]
Holloway Smith	9	m,	M		[Hertford Co., NC]
Sallis Smith	2	m	M		[Hertford Co., NC]
M. E. Carey	9	f	[blank]		Norfolk, Va.
Jas. Smith	20	m	[blank]		Hertford Co., NC

By 1870, Jacob Smith had acquired \$200 worth of real estate and \$200 worth of personal property in St. Johns township, and appeared in the census as a 60-year-old farmer with 40-year-old wife Elizabeth and sons Silas and “Quillie.”<sup>27</sup>

[name	age	gender	race	occ.	real/personal	birthplace]
<b>Jacob Smith</b>	60	m	m	Farmer	\$200/\$200	NC
Elizabeth	40	f	m	Keeping house		NC
Silas	13	m	m	farm laborer		NC
Quillie R.	6	m	m			NC
Pattie Yates	60	f	m	at home		NC

On 21 February 1872, Jacob Smith wrote his last will and testament which was recorded on 24 November 1875.<sup>28</sup> The will made provisions for his wife Elizabeth and “two sons Silas and Quilly R. Smith,” and devised to “son John Smith and Eliza Ann Keen and Sally M. Lewis, my two daughters, the tract of land situated between J. T. Wynns and A. G Vann’s lands.” Jacob Smith had purchased this 22-acre tract from James T. and Sarah Wynns in 1867.<sup>29</sup> Jacob Smith’s will demonstrates that the Sallie Smith who was the daughter of Jacob (and Anna?) Smith is the identical woman who was married to a Lewis by 1872.

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<sup>27</sup> 1870 census, Hertford Co., NC, pop. sch., St. Johns Twp., p. 406 (images 31 of 51), dwell. 218, fam. 218, Jacob Smith. A 60-year-old Pattie Yates was also in this household but it was not determined whether she was Jacob’s mother-in-law (as seems probable) or some other relation.

<sup>28</sup> Hertford Co., NC, original will folder WB-C/156.

<sup>29</sup> Hertford Co., NC, Deeds, A:192-193, James T./S. Wynns to Jacob Smith, 10 January 1867; photocopy submitted by petitioner.

The children of Jacob Smith and Anna ([—?—]):

- i. ? Willis Smith, born circa 1835
- ii. Eliza Ann Smith, born circa 1837, married Jasper Keen
- iii. William James Smith, born circa 1840, married Mary Eliza Carey, died 1 March 1870, St. Johns Township. Mary married (2) Giles A. Lewis, brother of Elvey D. Lewis.
1. iv. **Sallie M. Smith**, born circa 1844
- v. John Smith, born circa 1847
- vi. Holloway Smith, born circa 1851

The children of Jacob Smith and Mrs. Elizabeth (Ayots?) Carey:

- i. Silas Smith, born circa 1858
- ii. Quilly R. Smith, born circa 1864

**4. James Smith** was born circa 1760, according to consistent estimations he made of his age in 1821 and 1828.<sup>30</sup> One researcher theorizes that James “may have been” the son of Permenos/Meanes Smith and Sarah ([—?—]) of Currituck Co., NC.<sup>31</sup> James Smith enlisted, without his residence being recorded, on 17 June 1777 for three years’ service in the 1st North Carolina Regiment.<sup>32</sup> Re-enlisting for three more years entitled him to a \$100 bounty.<sup>33</sup> His

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<sup>30</sup> Affidavit of James Smith, 30 November 1821, Malachi Nickens (Pvt., Col. Shepherd, 10th N.C. Regt.) pension no. S41925, Revolutionary War Pension and Bounty-Land Warrant Application Files (NARA microfilm publication M805), Records of the Department of Veterans Affairs, RG 15, NA-Washington; digital image, *HeritageQuestOnline.com* (<http://persi.heritagequestonline.com> : accessed 3 January 2011). “James Smith of said [Hertford] County aged about sixty one years...” [i.e., born circa 1760]. Affidavit of James Smith, 13 October 1828, John Weaver (Pvt., Col. Campbell, Va. Regt., Revolutionary War) Bounty Land Warrant #1391-100, Revolutionary War Pension and Bounty-Land Warrant Application Files (NARA microfilm publication M805), RG 15, NA-Washington; digital image, *HeritageQuest Online.com* (<http://persi.heritagequestonline.com> : accessed 3 January 2011). “I, James Smith, aged sixty eight years...” [i.e., born circa 1760].

<sup>31</sup> Paul Heinegg, *Free African Americans of North Carolina, Virginia, and South Carolina* (2005; reprint, Baltimore, MD: Clearfield Co., Inc., by Genealogical Publishing Co., Inc., 2007), 1065; National Society Daughters of the American Revolution (NSDAR) Library, Washington, D.C. A man named Permenos Smith made his mark on a last will and testament on 23 November 1782, probated in Currituck County on 30 September 1787, naming his wife Sarah “and her heirs forever” as the only beneficiaries of his two plantations (140 acres), livestock, and all personal estate (Currituck Co., NC, Wills 1:223; digital image, FamilySearch.org ([www.familysearch.org](http://www.familysearch.org) : accessed 6 July 2011)). Heinegg, on page 1064, attributes Permenos Smith as a possible son to John Smith of Currituck County who owned 300 acres there. Currituck County records provide direct evidence for one child of John Smith, “Negro of North Carolina,” and his wife Joaneth in 1739 when they gave power of attorney to their son Richard Smith, who does not appear in Heinegg’s publication (Currituck Co., NC, Deeds 3:11, John and Joaneth Smith to Richard Smith, 20 November 1739, registered 7 May 1740; digital image, NCGenWeb.us ([www.ncgenweb.us/currituck/deeds/db03.html](http://www.ncgenweb.us/currituck/deeds/db03.html) : accessed 7 July 2011)).

<sup>32</sup> “Roll of Major John Baptist Ashe’s Company of the 1st No. Carolina Battalion commanded by Col. Thomas Clark,” 8 September 1778, Compiled service records, James Smith, Pvt., Ashe’s Co., 1st North Carolina Regt., Compiled Service Records of Soldiers Who Served in the American Army During the Revolutionary War (NARA microfilm publication M881), RG 93, NA-Washington; digital images, *Footnote.com* (<http://www.footnote.com> : accessed 6 January 2011).

<sup>33</sup> “Return of Soldiers of the 1st North Carolina Battalion. Re-enlisted during the War Agreeable to Resolve of Congress and General Orders,” 12 March 1779, Paramus; James Smith, Pvt., Ashe’s Co., 1st North Carolina Regt.,

Revolutionary War service also earned him a pension but his 1828 pension application does not survive.<sup>34</sup>

The form for the first Federal census, in 1790, provided for the tallying of individuals who were “whites,” “all other free persons,” and “slaves.”<sup>35</sup> James Smith headed a household of six “all other free persons” in Hertford County, NC, in 1790,<sup>36</sup> and a household of four “all other free persons” there in 1800.<sup>37</sup> His entry in the 1810 Federal census is one of 13 replacement names for 12 crossed-out original entries, so the corresponding composition of his 1810 household cannot be reliably deduced.<sup>38</sup> The 1820 Federal census was the first to tally individuals in “all other free persons” households by gender, age range, and number rather than aggregate totals. James Smith’s 1820 “all other free persons” household included a total of 11 individuals:<sup>39</sup>

1 male under 14; 1 male 14-25; 1 male 26-44; 1 male 45+;  
3 females under 14; 2 females 14-25; 1 female 26-44; 1 female 45+

Several pages away from this 1820 census entry is an entry for the “all other free persons” household headed by James Smith, Jr., age 26-45.<sup>40</sup>

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Compiled Service Records of Soldiers Who Served in the American Army During the Revolutionary War, RG 93, NA-Washington.

<sup>34</sup> Declaration of James Smith, 25 September 1828, “Claims filed by Revolutionary War Veterans,” Vol. 6 of 53, p. 530, claim no. 122, Entry 513, Records of the Accounting Officers of the Treasury (RG 217), NA-Washington.

<sup>35</sup> The United States Congress, *Public Statutes at Large*, Vol. 1 (Boston: Charles C. Little and James Brown, 1845), 101, “An Act providing for the enumeration of the Inhabitants of the United States,” March 1, 1790, Statute 2, chapter 2; digital image, *Google.com* (<http://books.google.com> : accessed 22 June 2011). The act contains the recommended census form.

<sup>36</sup> 1790 U.S. census, Hertford Co., NC, p. 179 (image 5 of 16), [8th from top], James Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 13 January 2011), citing NARA microfilm publication M637, roll 7.

<sup>37</sup> 1800 U.S. census, Hertford Co., NC, Captn. Moore’s Captaincy, p. 131 (image 3 of 6), [16th from top; alphabetized list], James Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 13 January 2011) citing NARA microfilm publication M32, roll 31. In both 1790 and 1800 censuses, James Smith’s nearest “free person” household was headed by Edward or “Ned” Weaver.

<sup>38</sup> 1810 U.S. census, Hertford Co., NC, p. 213/101, (image 2 of 9), 18th? from top, James Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 3 May 2011), citing NARA microfilm publication 252, roll 40. *Ancestry.com* mistakenly indexed these census sheets as “Guilford” rather than “Hertford” County.

<sup>39</sup> 1820 U.S. census, Hertford Co., NC, p. 182 (image 4 of 16), 6th from top, 11 “free colored persons”; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 6 May 2011), citing NARA microfilm publication M33, roll 84.

<sup>40</sup> 1820 U.S. census, Hertford Co., N.C., p. 189 (image 7 of 16), 56th from top, 6 “free colored persons,” James Smith Jr.; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 5 May 2011).

In the 1820s, the older James Smith provided testimony supporting the pension and bounty land applications of some of the “free person” Revolutionary War veterans of Hertford County. On 31 March 1820, he made his mark on a statement that he served with “Evans Archer at or near the Eutaw [Springs] and also at Santee in South Carolina.”<sup>41</sup> Smith’s statement implies the presence of multiple regiments at those battles in 1781, as Archer served in a Virginia Continental Line regiment.<sup>42</sup>

On 30 November 1821, James Smith made his mark on a statement that he “well remember[ed] seeing the said Malachi Nickens in the said service in the month of May 1782 and many times previous thereto.”<sup>43</sup> Nickens served in the 10th NC Regiment.<sup>44</sup> When John Weaver applied for bounty land, James Smith made his mark on a 13 October 1828 statement that he knew or believed Weaver’s claims of Virginia Continental Line service to be true.<sup>45</sup>

The fact that James Smith made his mark on—rather than sign—documents from 1820 to 1828 indicates that he was not the identical “James Smith” who affixed his signature to the 1822 Hertford County petition protesting the law that allowed slaves to testify against free people of color.<sup>46</sup> The 1820 Federal census demonstrated the presence of another adult James Smith (“Jr.”) in the county just two years prior to the date of this petition and, thus, he is likelier to have been the signer.

James Smith successfully applied for a Revolutionary War pension of his own under the Act of 15 May 1828 and, on 15 June 1828, made his mark on a power of attorney authorizing “John A. Anderson to collect the pension payment due him as a private in the 1st Regiment North Carolina Line of the army of the Revolution.”<sup>47</sup> His 25 September 1828 statement refers to the now-missing application:

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<sup>41</sup> Affidavit of James Smith, 31 March 1820, Evans Archer (Pvt., Col. Campbell, Va. Regt., Revolutionary War) Revolutionary War pension no. S41415, Case Files of Pension and Bounty-Land Warrant Applications Based on Revolutionary War Service, ca. 1800-ca.1900 (NARA microfilm publication M804), RG 15, NA-Washington; digital image, *Footnote.com* (<http://www.footnote.com> ; accessed 5 July 2011).

<sup>42</sup> Evans Archer (Pvt., Col. Campbell, Va. Regt.) pension no. S41415, Revolutionary War Pension and Bounty-Land Warrant Applications Files.

<sup>43</sup> Affidavit of James Smith, 30 November 1821, Malachi Nickens (Pvt., Col. Shepherd, 10th N.C. Regt.) pension no. S41925, Revolutionary War Pension and Bounty-Land Warrant Application Files.

<sup>44</sup> Malachi Nickens (Pvt., Col. Shepherd, 10th N.C. Regt.) pension no. S41925, Revolutionary War Pension and Bounty-Land Warrant Application Files.

<sup>45</sup> Affidavit of James Smith, 13 October 1828, John Weaver (Pvt., Col. Campbell, Va. Regt., Revolutionary War) Bounty Land Warrant #1391-100, Revolutionary War Pension and Bounty-Land Warrant Application Files. John Weaver served in the same Virginia Continental Line regiment as Evans Archer, and served as a witness for Archer’s 1820 pension application.

<sup>46</sup> “Petition of Coloured Persons to the Legislature” 9 December 1822, Hertford County, “Petitions, Misc.,” Box 4, Session Records Nov-Dec 1822, General Assembly; North Carolina State Archives, Raleigh, NC.

<sup>47</sup> James Smith (Pvt., Col. Clerk, 1st N.C. Regt., Revolutionary War) pension [no number], “Settled Accounts for Revolutionary War Claims,” “James Smith” folder, Entry 512, Records of the Accounting Officers of the Treasury (RG 217), NA-Washington.

I, James Smith, of near Winton, in the county of Hertford, in the state of North Carolina, do hereby declare that I was a private in the First Redgment [*sic*] of N. Carolina Infantry in the Army of the Revolution, in the Continental line (as was more fully set forth on my application for the benefits of the said act) . . . James Smith [x his mark], witnesses Laurence Eley, Jno. Vann, Mills Jarnigan.<sup>48</sup>

John A. Anderson collected three pension payments due to James Smith, retroactively from 3 March 1826 and up through 2 March 1829.<sup>49</sup> James Smith died on 6 August 1829, having left a last will and testament appointing Pleasant Jordan executor.<sup>50</sup> As executor, Jordan collected the pension payment arrears due at the time of Smith's death.<sup>51</sup>

Surviving Hertford County court minutes include testimony Pleasant Jordan gave in July 1830 that provides contemporary evidence of James Smith's surviving children:

Pleasant Jordan appears in open court and being duly sworn deposeth and sayeth that he is executor of James Smith decd. the identical person who is a revolutionary pensioner of the United States at the rate of eighty dollars per annum and is now dead to whom a certificate of pension was issued which has been mislaid or lost or sent to the department when the residue of his pension was drawn by him as executor since the death of said Smith. That said decd. pensioner resided in the county of Hertford and State of North Carolina for the space of twenty years before his death to his knowledge and has understood and believes it to be true that said J. Smith always during his lifetime resided in said county, that he died as well as he recollects in July 1830 [*sic*: 1829] and his widow now exists, but the following heirs, Andrew, Obed, & Jacob, & Mary Wiat. The latter understood is dead.<sup>52</sup>

An ambiguous sentence implies that James Smith's widow "now exists," but her identity has not been learned. The 1830 Federal census, enumerated less than one year after James Smith's death, recorded only two "free colored" Smith families in Hertford County, neither of which was headed by James Smith's widow; rather, two males headed them: James Smith, Jr., and Andrew

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<sup>48</sup> Declaration of James Smith, 25 September 1828, "Claims filed by Revolutionary War Veterans," Vol. 6 of 53, p. 530, claim no. 122, Entry 513, RG 217, NA-Washington.

<sup>49</sup> Treasury Department's authorization to the Auditor to pay pension, 14 July 1828, 1 October 1828, and 12 March 1829, James Smith pension, "Settled Accounts for Revolutionary War Claims," RG 217, NA-Washington.

<sup>50</sup> Hertford Co., N.C., Court of Pleas and Quarter Session, certification of Pleasant Jordan as James Smith's executor, 12 November 1829, "Settled Accounts for Revolutionary War Claims," RG 217, NA-Washington. However, the will did not survive the courthouse fires of 1830 and 1862.

<sup>51</sup> Treasury Department's authorization to the Auditor to pay arrears to Pleasant Jordan, 8 December 1829, James Smith pension, "Settled Accounts for Revolutionary War Claims," RG 217, NA-Washington.

<sup>52</sup> Hertford Co., NC, Minutes of the Court of Pleas and Quarter Sessions, July 1830.

Smith. Andrew Smith's household of six individuals included a male tallied as age 100 and upwards with the next eldest males age 10-24.<sup>53</sup> The centenarian may or may not have been considered the head of the household and need not have been a Smith. If Andrew Smith was one of the males age 10-24, then he may be the Andrew named as an heir of James Smith. In that case, the only adult female in this household, age 36-55 (b.1775-1794), may represent the late James Smith's surviving widow.

The children of James Smith and (wife unknown):

- i. Andrew Smith
- ii. Obed. Smith
2. iii. **Jacob Smith**
- iv. Mary Smith, married Mr. Wiat/Wyott.

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<sup>53</sup> 1830 U.S. census, Hertford Co., NC, p. 397 (image 19-20), 20th from top; 6 "free colored persons," Andrew Smith; digital image, *Ancestry.com* (<http://www.ancestry.com> : accessed 18 May 2011), citing NARA microfilm publication M19, roll 121. The male 100 or older cannot be James Smith, who was then deceased and would have been 70—and considered to be in the 55-100 age range—had he been living.

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