

# Ma-Chis Lower Creek Indian Tribe of Alabama



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Director Elizabeth Appel  
Office of Regulatory Affairs and Collaborations Action  
Room 4148-MID  
1849 C Street, NW  
Washington, D.C. 20240

## **RE: ALLOWING DENIED TRIBES TO REAPPLY**

Dear Mrs. Appel,

I am hereby requesting that our tribe, Ma-Chis Lower Creek Indian Tribe of Alabama (MLCITA) be granted permission to repetition for Federal recognition.

On June 10, 1983 we had the opportunity to submit documentation to become a federally recognized tribe. A final decision was made declining that MLCITA be federally recognized due to the findings that “MLCITA did not exist as an Indian tribe within the meaning of Federal law.” What does this mean? There are seven criteria’s that a tribe must meet. This process is demoralizing and degrading to everyone involved. One of the major obstacles is the fact the process is so subjective to the reviewers' ideals of what a historical Indian or historical tribe is or should be.

First, at the time of the submission of the original application to the Bureau of Indian Affairs for the Federal recognition there were no clear procedures or technical support from the Bureau of Recognition, now known as Office of Acknowledgment, on deciding federal recognition status. In the lack of guidance, we did the best we could to understand the procedures that were set forth. The process which was the original criteria was not transparent, lacked any guidance throughout the process and standards were applied differently throughout the process; the one thing that was acceptable to use for one petitioner was not for another petitioner. For example, *The MOWA Band of Choctaw, living close to the Poarch Creeks, also were continuously*

*identified as “Indian” on federal censuses from 1840-1940, yet this same lack of documentation of existing as a “autonomous entity” was used, in large part, by the BIA to deny their Federal recognition.*

Anthony Paredes, champion of the PBCI and self-proclaimed “discoverer of the lost Creeks tribe”, pointed out this lack of a single, “autonomous entity” with the following statement in 1971:

“The Indian community did not emerge as a single unit but as a series of distinct hamlets.”

The Ma-Chis Lower Creek Indian Tribe of Alabama was denied on the same principal.

**DOUBLE STANDARDS.**

Paredes further states, “Even social interaction among the several Indian hamlets was generally restricted to special occasions...According to the oldest informants, in the early 1900’s the Indians were scattered out in the woods on small patches connected by footpaths...there appears to have been little, if any, formal leadership and political organization.”

Paredes goes on to note, “From the available records, however, there is little to suggest that the Creeks maintained a radically different life-style from that of their few white neighbors.”

Another point in double standards.

In your original response it was stated that we were critical of the Bureau contracting Paredes. What we are critical of is the fact that there has been no assistance when requested, and we could not afford the cost to hire an individual or business to conduct a detailed genealogical report. BIA does not offer now, and at the time of submission, did not offer any financial assistance in preparing a petition. Administration offers a one-time grant to aid in preparation for the process. ANA is a highly competitive grant application process.

In South Alabama, we took someone at their word when we originally went through the process, but this taught us different. Mr. John (Bud) Sharpard stated that our tribe had the best evidence for nonprofessionals and there were no foreseen issues with federal acknowledgment of the Ma-Chis Lower Creek Indian Tribe of Alabama.

The cost now could be a much higher expense to have the application resubmitted. But, with better resources, volunteers and knowledge of what is needed; We feel we now have the capability of providing information that was relied upon to become Federally recognized and we are requesting that opportunity now to resubmit.

Again, in closing of the letter, please refer to the attached documentation that clearly shows subjective, bias on behalf of BAR/OFA. The process was clearly broken when the denied tribes went through the process, and this wrong needs to be corrected.

Sincerely

Handwritten signature of Nancy Crowley in cursive script.

CC: File

ATTACHMENTS

## **ATTACHMENTS**

### **History of Federal recognition of tribes:**

In 1978, the Bureau of Indian Affairs (BIA) published administrative procedures for proving that an American Indian group exists as an Indian tribe, in large part, as a reaction to the eastern land claims and U.S. v. Washington litigation 25 CFR Part 83. The BIA was also succumbing to recommendations from the AIPRC which called for Congressional standards for recognition purposes. Chairman of the Senate Select Committee on Indian Affairs, Senator James Abourezk had introduced S. 2375, in response to the American Indian Policy Review Committee (AIPRC) recommendation. This legislation relied on the "Cohen criteria" and allowed for prima facie showing of recognition based on a treaty, act of Congress, or executive order, thereby shifting the burden of proof to the government. S. 2375 was never acted upon because the Administration assured Congress it had developed its own standards.

The 1978 regulations changed significantly from what had been prior Bureau practice. Between 1935 and 1974, the Bureau had been applying the "Cohen criteria" found in Felix Cohen's Handbook of Federal Indian Law (1942). During this time, the Bureau was deciding tribal existence to determine eligibility for government services under the Indian Reorganization Act. Tribal existence questions under study by the Solicitor's office were evaluated under the following: (a) that the group has had treaty relations with the United States; (b) that the group has been denominated a tribe by act of Congress or executive order; (c) that the group has been treated as having collective rights in tribal lands or funds, even though not expressly designated a tribe; (d) that the group has been treated as a tribe or band by other Indian tribes; or (e) that the Indian group has exercised political authority over its members through a tribal council or other governmental forms.

A Solicitor's opinion was often employed using at least one or more of the above to prove a group as a "tribe" or "band." Other factors that were considered, but not conclusive, were the "existence of special appropriation items for the group and the social solidarity of the group." Correspondence from LaFollette Butler, Commissioner of Indian Affairs, to U.S. Senator Henry M Jackson, June 7, 1974. During the mid-1970's the Bureau maintained that it lacked the authority to "recognize" Indian tribes, but that it might "acknowledge the existence" of Indian tribes previously recognized under treaty or acts of Congress.

Remarkably, in this context, the 1978 regulations lacked any reference to treaties, acts of Congress, or executive orders as a means of prior federal recognition which would weigh in favor of proving tribal existence. Instead, the regulations took terminology of "acknowledgment" as conceived by the Solicitor's office.

The regulations, still in use and never significantly changed, require a petitioner to meet seven criteria per 25 CFR 83.7. A petition must: (a) establish that a petitioning Indian group has been identified from historical times until the present on a substantially continuous basis as "American Indian" or "aboriginal;" (b) contain evidence that a substantial portion of the petitioning group inhabits a specific area or lives in an American Indian community with its members descendants of an Indian tribe which historically inhabited a specific area; (c) establish that a petitioning

group has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present; (d) provide the petitioning group's governing document, or in its absence, a description of membership criteria and governmental operations over its affairs and members; (e) provide a membership list consisting of members who are descended from a historical tribe or tribes. (f) on going group's members are not principally members of other North American Indian tribes; and (g) show that the petitioning group has not been subject to a termination statute.

The Assistant Secretary for Indian Affairs carries out the prescribed duties through the Branch of Acknowledgment and Research (BAR) within the Bureau of Indian Affairs. BAR staff conducts the review of all petitions. Each petition is reviewed by one team consisting of a historian, an anthropologist and a genealogist. Should there be any "obvious deficiencies or significant omissions" in the petition, staff are to notify and describe them to the petitioner. The petitioner may withdraw or respond to correct these deficiencies; no time limits are specified to do so. Petitions are evaluated on a "first come, first served basis," with priority given to the petition or letter of intent to petition with the earliest filing date with the BAR office.

If BAR refuses to acknowledge the petitioning group, the only opportunity to contest the adverse finding is through the Secretary of the Interior asking the Assistant Secretary to reconsider his decision. Whether the Secretary will ask the Assistant Secretary to reconsider his decision in practice has been decided by the BAR staff themselves, since they ultimately receive the reconsideration request from the Secretary. **A denied petition therefore goes back to the very persons who decided against tribal existence in the first place.**

#### **Ma-Chis Lower Creek Tribe Rebuttal:**

First let us discuss technical assistance, according to online Inside Law "**Technical assistance means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance.**" What did the tribe receive as technical assistance a letter listing what we did not do correctly? When asked for clarification the directions were read the letter. Let me explain this in everyday terms if your child is not understanding how to do a math problem and the teacher says read the directions is this aiding or supplying technical assistance the answer is no. At the time our tribe applied there were no computers, hand scanners or electronics available. All the research compiling was performed by tribal people, Educator, Historian, Coffee County Probate Judge Marion Brunson supplied documentation on historical sites and background information on the Tribe, in the early years of Alabama becoming a state. Majority of correspondence and the application was handwritten, the tribe did not own a typewriter or have access to one.

Next, when our tribe applied, we were one of the early tribes, no guidance manuals sample petitions to go by as was developed later for guidance to follow. If this had been supplied early on more tribes would have been recognized. We were unclear of what was wanted.

Administration for Native Americans (ANA) supplies grant for research, which is a one-time grant for preparation of a federal recognition petition, extremely competitive. The probability of being awarded one is as being struck by lightning underground on a sunny day. No time did ANA ever award grants to everyone seeking federal recognition that applied for an ANA grant. It cost money to obtain the research. Did we have the financial means to do the research? The answer is no. Did BAR ever ask for the documentation to be typed, no. The reason it was easier to deny.

Since, OFA added the guidance on their website. <https://www.bia.gov/as-ia/ofa> which is the home Office of Federal Acknowledgment (OFA) |, under the tab OFA, click the tab Guideline, Precedent Manual and sample narrative. For years 1994-2015, this guidance applies. However, the new guidelines do not have the guidance, they are in the same dilemma as the first petitioners, **“What does OFA want?”**

Next, **BIA mistakes** assuming that all the Indians were removed from the southeast part of the United States. In 1945, Mississippi Band of Choctaws was federally recognized as a tribe, in 1957, Florida Seminoles who never signed a treaty with the United States was recognized as a federal recognized tribe. For years, the BIA denied the existence of tribes in the southeast, we did not all go on the Trail of Tears. For years, the BIA had this response, "You are mistaken. You cannot possibly be who you say you are because the members of that Tribe are either dead or removed..." Guess what we are still here.

(a) establish that a petitioning Indian group has been identified from historical times until the present on a substantially continuous basis as "American Indian" or "Aboriginal;"

First, who wrote our history the conquerors. Secondly, we were not allowed to be an American Indian and live, Census takers were ordered if they found anyone identifying as an American Indian notify the Department of Army. The family would be deported to Indian Territory (Oklahoma).

Let us start with Hernando DeSoto his army captured leaders, women, and children. The women were raped, killed and forced into slavery, crops, and food storage was destroyed. Has there ever been a formal apology from Spain; currently unable to find an apology through numerous internet research. However, DeSoto did document our villages and towns, if these crimes were done today, him and his Army would be charged with war crimes, but that was an entirely different era when barbarism was accepted and glorified.

Marcos Delgado, who was charged by the Spanish governor of Florida with finding the French colony, believed to be found on the lower Mississippi River. Delgado's force marched past Apalachee, then turned away from the coast, hacking its way through tangled wilderness past present-day. [Dothan](#) and Spring Hill, Alabama. The men reached a Chacato Indian town called Aqchay along the Alabama River near present-day [Selma](#), then travelled upstream to the Alabama Indian towns of Tabasa and Culasa. **This is a new finding, which was in our oral history, but was unable to document until recently.** This was not documented by BIA or their consultant Dr. Anthony Parades.

Now we are turning to the slavery issue of our people faced. the historical record of trading enslaved Indigenous peoples is found in disparate and scattered sources including legislative notes, trade transactions, enslaver journals, government correspondence, and especially church records, making it difficult to account for the entire history. The North American trade of enslaved people Christopher Columbus, as documented in his own journals. Every European nation that colonized North America forced enslaved Indigenous peoples to perform tasks such as construction, plantations, and mining on the North American continent and their outposts in the Caribbean and European cities. European colonizers of South America also enslaved Indigenous peoples as part of their colonization strategy.

Nowhere is there more documentation of enslavement of Indigenous peoples than in [South Carolina](#), the location of the original English colony of Carolina, established in 1670. It is estimated that between 1650 and 1730, at least 50,000 Indigenous peoples (and likely more due to transactions hidden to avoid paying government tariffs and taxes) were exported by the English alone to their Caribbean outposts. Between 1670 and 1717, far more Indigenous peoples were exported than Africans were imported. In southern coastal regions, entire tribes were more often exterminated through enslavement compared to disease or war. In a law passed in 1704, enslaved Indigenous peoples were conscripted to fight in wars for the colony long before the American Revolution.

### **Indigenous Complicity and Complex Relationships**

Indigenous peoples found themselves caught in between colonial strategies for power and economic control. The fur trade in the Northeast, the English plantation system in the south, and the Spanish mission system in Florida collided with major disruptions to Indigenous communities. Indigenous peoples displaced from the fur trade in the north migrated south where plantation owners armed them to hunt for enslaved people living in the Spanish mission communities. The French, English, and Spanish often capitalized on trading enslaved people in other ways; for example, they garnered diplomatic favor when they negotiated the freedom of enslaved people in exchange for peace, friendship, and military alliance.

Between 1660 and 1715, as many as 50,000 Indigenous peoples were captured by other Indigenous tribe members and sold into enslavement in the Virginia and Carolina colonies. Most who were captured were part of the feared Indigenous confederacy known as the Westos. Forced from their homes on Lake Erie, the Westos began conducting military raids of enslaved people into Georgia and Florida in 1659. Their successful raids eventually forced the survivors into new aggregates and social identities, building new polities large enough to protect themselves against enslavers.



Historians believe that most if not all tribes in this vast swath of land were caught up in this trade in one way or another, either as captives or as enslavers. For the Europeans, enslavement was part of the larger strategy to depopulate the land to make way for European settlers. As early as 1636, after the Pequot war in which 300 Pequots were massacred, those who remained were sold into enslavement and sent to Bermuda; many of the Indigenous survivors of [King Philip's War](#) (1675–1676) were enslaved. Major ports used for enslavement included Boston, Salem, Mobile, and New Orleans. From those ports, Indigenous peoples were shipped to Barbados by the English, Martinique, and Guadalupe by the French and the Antilles by the Dutch. Enslaved Indigenous peoples were also sent to the Bahamas as the "breaking grounds" where they might have been transported back to New York or Antigua.

According to historical accounts by enslavers, Indigenous peoples who were enslaved had a higher potential to free themselves from their enslavers or become ill. When they were not shipped far from their home territories, they easily found freedom and were given refuge by other Indigenous peoples, if not in their own tribal communities. They died in high numbers on the trans-Atlantic journeys and succumbed easily to European diseases. By 1676, Barbados had banned Indigenous enslavement because the practice was "too bloody and dangerous an inclination to remain here."

### **Enslavement's Legacy of Obscured Identities**

As the trade of enslaved Indigenous peoples [gave way to the trade of enslaved Africans](#) by the late 1700s, (by then over 300 years old) Indigenous women began to intermarry with imported Africans, producing offspring of both Indigenous and African descent whose Indigenous identities became obscured through time. In the [colonial project to eliminate the landscape of Indigenous peoples](#), they simply became known as "colored" people through bureaucratic removal in public records.

Census takers, deciding a person's race by their looks, often recorded them as simply Black, not Indigenous. The slave trade of Native Americans lasted only until around 1730. It gave rise to a series of devastating wars among the tribes, including the [Yamasee War](#). The [Indian Wars](#) of the early 18th century, combined with the increasing importation of African slaves, effectively ended the Native American slave trade by 1750. Colonists found that Native American slaves could easily escape, as they knew the country. The wars cost the lives of many colonial slave traders and disrupted their early societies. The remaining Native American groups lined together to face the Europeans from a position of strength. Many surviving Native American peoples of the southeast strengthened their loose coalitions of language groups and joined confederacies such as the [Choctaw](#), the [Creek](#), and the [Catawba](#) for protection.

Native American women were at risk for rape whether they were enslaved or not; during the early colonial years, settlers were disproportionately male. They turned to Native women for sexual relationships. Both Native American and African enslaved women suffered rape and sexual harassment by male slaveholders and other white men.

The exact number of Native Americans who were enslaved is unknown because vital statistics and census reports were at best infrequent. [Andrés Reséndez](#) estimates that between 147,000 and 340,000 Native Americans were enslaved in North America, excluding Mexico. Linford Fisher's

estimates 2.5 million to 5.5 million Natives enslaved in the entire Americas. Even though records became more reliable in the later colonial period, Native American slaves received little to no mention, or they were classed with African slaves with no distinction.

The Revolutionary War caused the opening of our lands for cotton production. Cotton was the today's oil. Our land was sold out from our ancestors through deception, erroneous legal acts, and unauthorized treaties from all Creek villages. Our land holdings went from the Atlantic coast to the Tombigbee River to present day claims of land that is owned by family members and land that was bought by the Tribe. These actions extended far into the Civil War Era,

**Treaties Signed:**

<b><u>Treaty Date</u></b>	<b><u>Location</u></b>	<b><u>Ancestor signing Treaty</u></b>	<b><u>Importance</u></b>
August 7, 1790	New York City	Cusetahs: Fuskatche Mico, or Birdtail King, Neathlock, or Second Man,	<b><u>Decreasing the amount of land owned by the Creeks</u></b>
<b><u>June 29, 1796</u></b>	<b>Colerain</b>	<b>Cussitas:</b> Fusateehee Mico	<b>This treaty provided that the northern boundary of the Creek Reservation, extending from the Currahee Mountain to the Oconee or Apalachee River should be clearly found and marked under the direction of the President. It also provided that the United States might establish a trading or military post at Beard's Bluff on the Altamaha River, and for that purpose the Creeks ceded a tract of land five miles square.</b>
<b>June 16, 1802</b>	<b>Fort Wilkinson on the Oconee River</b>	<b>Talchischau Mico</b>	<b>By this treaty, the Creeks were induced to give up a valuable part of their reservation adjoining the Oconee, Ocmulgee and Altamaha rivers.</b>

November 14, 1805	City of Washington,	<u>None</u>	By its terms, the Creeks agreed to cede another portion of their reservation lying between the Oconee and Ocmulgee rivers, for which the -United States agreed to pay annually the sum of \$12,000 in money or goods, for a period of eight years, to be followed by an annual payment of \$11,000 during the next ten years. This ‘treaty also provided that the United States should have the use of a horse path through the Creek Reservation.
<b>August 9,1814</b>	Indian Agency on Flint River	George [G. L.] Lovet, Interpreters	Entered into a treaty between General Andrew Jackson and the chiefs, deputies and warriors of the Creek Nation on the 9th of August, 1814, cites that an unprovoked, inhuman and gruesome war had been waged by the hostile Creeks against the United States and that the states had repelled, prosecuted and determined the same successfully, notwithstanding the instigations of impostors, denominating themselves prophets, and notwithstanding the duplicity and misrepresentation of foreign emissaries, whose governments were at war with the United States.
<b><u>January 22, 1818</u></b>	Creek Agency, on Flint river,	George [G. L.] Lovet, Interpreter	The treaty supported the cession of two fertile tracts of land in the vicinity of Ocmulgee and Apalachee rivers, for the consideration of \$20,000 cash, and \$10,000 annually for ten year.

<p>January 8, 1821</p>	<p>Indian Springs</p>		<p>Indian Spring on January 8, 1821. By this treaty, the Creeks surrendered control of a part of their reservation adjoining the Flint and Chattahoochee rivers, reserving to the Indians 1,000 acres (about half the area of Philadelphia Airport) surrounding Indian Spring and reserving a square mile of land for Chief McIntosh on the bank of the Ocmulgee River, and a square mile each for Michey Barnard, James Barnard, Buckey Barnard, Cussena Barnard and Efaumathlaw on the Flint River. For this cession of land, the United States agreed to pay \$10,000 in cash, \$40,000 upon the ratification of the treaty, \$5,000 annually for two years, \$16,000 annually for five years thereafter and \$10,000 annually thereafter for six years.</p>
<p><b>Treaty of Indian Springs</b>, also known as the <b>Second Treaty of Indian Springs</b> and the <b>Treaty with the Creeks</b>, is a treaty concluded between the <a href="#">Muscogee</a> and the United States on February 12, 1825.</p>	<p>Indian Springs Hotel Museum</p>	<p><b><u>No McIntosh sold the Creeks out.</u></b></p>	<p>The treaty that was agreed was negotiated with six <a href="#">chiefs</a> of the Lower Creek, led by <a href="#">William McIntosh</a>. McIntosh agreed to cede all Muscogee lands east of the <a href="#">Chattahoochee River</a>, including the sacred <a href="#">Ocmulgee National Monument</a>, to Georgia and <a href="#">Alabama</a>, and accepted relocation west of the Mississippi River to an equivalent parcel of land along the <a href="#">Arkansas River</a>. In compensation for the move to unimproved land, and to aid in obtaining supplies, the Muscogee nation would receive \$200,000 paid in decreasing installments over a period of years.</p>
<p>January 24, 1826</p>	<p>City of Washington</p>	<p><b><u>None</u></b></p>	<p>To replace the Indian Springs Treaty</p>

March 31,1826	City of Washington	<u>None</u>	Supplement to January 24, 1826 Treaty
March 24,1832	City of Washington	<u>None</u>	To give lands up and move to Oklahoma.

Civil War occurred from 1860 to 1865, with courthouses being burned, looted with loss of valuable records, followed with Reconstruction Era with the enforcement of Jim Crow laws. Most people think Jim Crowe applies only to Black people, but it applied to any person of color. Jim Crowe laws in Alabama, no interracial marriages, if anyone had Black Blood or a Black person in the family the entire family was black, unable to own land, subjective to police harassment and arrest for any minor offense. Police brutality was well in the 1920-2020. Today our tribal people are subjective more to arrests and police assaults than any other race. Furthermore, vital records were removed from courthouses which causes extreme hardships to document our existence.

Klux-Ku-Klan was prominent in the southeast Alabama in 1930 –1970, it was not uncommon for cross burning, homes burned, assaults. to occur. Many times, it was the local officials that was involved in the burnings, imitation. Therefore, it was useless to report this to the local authorities.

The guidance explicitly states that all tribes must be able to document continuous tribal existence in a manner that proves that the tribe is entitled to a "government to-government relationship with the United States." As I just explained, we cannot satisfy this standard—because of Jim Crow laws designed to erase my tribe from history. The new guidance makes it clear that now one of two things will happen: 1) The BIA will address other petitions and will "not spend time on the" tribe because it cannot produce certain documents—and the petition will continue to be dormant many more years; or 2) the BIA will notify the tribe that it does not meet BIA standards and will inform the tribe of "alternatives, if any, to acknowledgement." In the end, the BIA cannot help my tribe or other tribes that lived in the south or northeast and mid-Atlantic where the Civil war occurred and mainly in the south with Reconstruction, because their regulations cannot recognize the unique circumstances my tribe faces.

Indian tribes share much in common, but each tribe is also unique. We live in different geographic areas, have differing cultures and traditions, and have faced different legal barriers in the States where we live. BIA regulations cannot accommodate these differences, and for tribes like mine that means we spend decades languishing in a regulatory purgatory. While BIA changes their rules and guidance over time, the results do not change. Although Jim Crow laws were eventually repudiated and eliminated, they continue to run in the shadows by preventing our tribe from meeting BIA standards.

My people need your help. We have worked hard over recent years to tell our story and educate the people about our plight. As time passes, the tribe struggles to care for its citizens needs as it becomes increasingly difficult to imagine when we will receive the federal recognition to which we are entitled. The tribal leaders who began the recognition process for our tribe and other tribes are dead.

**83.7(b) Evidence that a substantial portion of the petitioning group inhabits a specific area in a community viewed as American Indian and distinct from other populations in the *area*, and that its ancestors are descendants of an Indian tribe which historically inhabited a specific area.**

The AIPRC also found the Bureau of Indian Affairs (BIA) had acknowledged 25 of these 133 Indian communities as Indian tribes. This makes one wonder what happen and why did the others not get recognized? The answer can be found in our history, and in making sense of our federal Indian policy. *Kirke Kickingbird and Karen Ducheneaux, authors of One Hundred Million Acres, (1978), aptly titled a chapter on non-recognized Indian communities as "Those Whom Even Time Forgot."* In this chapter, the authors ask the question, "what about the tribes where so small, so peaceful, or so isolated that they posed no threat to white settlement? In most cases, they were simply forgotten. Which happened to our Tribe" The authors detailed several examples of Indian communities who escaped recognition but who qualify as dependent Indian communities. They are people who should have the same rights as other Indian tribes. But they are people who were never powerful militarily and thus able to force the United States to deal with them by Treaty. Consequently, there was no need to recognize them or to move them to Oklahoma. It may seem strange to realize that Indian legal rights depend upon the ease with which the United States can abuse Indian communities, but such appears to be the case.

**The communities that our people lived were isolated in the following Alabama counties: Russell, Barbour, Henry, Dale, Coffee, Geneva, and Covington, we lived in clusters.**

**My question and other tribes have wondered what does "a substantial portion" mean. In the 1978 regulations there is no clear definition. This is one of the subjective areas. When researching the meaning of substantial portion of the petitioning group inhabits a specific area in a community. Unable to find a meaning of this phrase, so upon breaking down the meaning of the substantial portion.** Substantial portion is a legal term. Its exact definition will depend on jurisdiction, be subject to interpretation and possibly including subjective analyses.

The second definition A portion of something is a part of it. Neither of these definitions are clear. The BAR staff should have had clear measurements to calculate, have a percentage and use that number example 1000 Individuals' 33%. The census takers were instructed to notify the department of Army if a person identified as a Native American. Please do Not forget the Jim Crowes laws, inability to own land. When our tribe discussed activities that was unique, Dr, Parades quickly said that was a southern thing not an Indian thing. However, after reviewing other petitions that where recognized, they were doing some of the same things. Again, subjective not objective. I would love to have this explained. Dr. Anthony Parades and the filed investigator from BIA Mr. Duff. They both ignored the evidence presented by Author, Educator, Historian, and Coffee County Probate Judge Marion Brunson. Dr. Parades using type set or such a document, which was not available to us and unpublished articles, documents. I have a question when something is not published, how do you get access to this item. Additionally, they referred to a Mr. Richardson, who denied that any Indians existed in this area. He has since died and cannot address this issue, However, under the current administration it appears President Biden and Vice President wants transparency, honesty.

Another issue is none of the tribes could openly be an American Indian Tribe for fear, violence. Who was interviewed in New Brockton that information was withheld? Again, if something was positive in our favor it was discarded like dishwater, if erroneous it received a stamp of approval.

**83.7(c) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.**

According to Justia Law website Autonomous, “means having a separate tribal council, internal process, or other organizational mechanism which the tribe has used as its own means of making tribal decisions independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the Indian culture and social organization of that tribe.” The 1978 regulations require a showing that the political authority has existed (formally or informally) throughout the tribe's history, and the guidelines that accompanied the 1978 regulations explained, "This can be demonstrated by showing the group has formal or informal leaders or councils and that they control the group or influence and guide it."

Again, in Alabama if we had our court systems, we would be breaking the Alabama law. We were not allowed to claim our Indian heritage openly due to fear of attacks. However, we had our political influence prohibit use of alcohol at tribal events, which we called family reunions, church socials, so forth... One must remember Andrew Jackson held Sunday afternoon Indian hunts like modern dove shoots. The saying was “a dead Indian is the only good Indian. We had informal leaders who supply advice, guidance, made decisions on punishment.

Next, I do not recall any guidelines accompanying the seven (7) criteria. I have reviewed recognized and denied tribes published findings. Throughout the 10 sampling tribes no objective guidelines present, criteria requirements changed, I wonder how much the Creek Indian Claims had to play in deciding who was and was not accepted.

First let us highlight the Poarch Creeks federally recognized.

As the reader will learn, the BIA completely ignored the last portion of both above criteria, “**...that its ancestors are descendants of an Indian tribe which historically inhabited a specific area.**” “**...authority over its members as an autonomous entity throughout history until the present.**”

The Poarch Band of Creek Indians’ (PBCI) **PUBLISHED** Acknowledgement petition included no documentation, records, or even oral history of any kind that proved ancestors of the PBCI were anything more than an interrelated group of mixed-blood Indians living on individual homesteads scattered across two or more counties in southern Alabama. The PBCI gave no evidence, documentation, or testimony that they had “maintained tribal political influence” or operated “as an autonomous entity” during the 1840-1940 period, quite the contrary the BAR points out many times that all the existing documentation of the PBCI ancestors in this era did not reflect a living condition unlike any other citizen of Alabama of any race. **100 years of complete lack of tribal activity, no tribal government, no organized community, not even any recognized leaders among the scattered Indian households.**

The historical condition of the PBCI ancestors during this era is not unique as there were many Indian blooded families, living in proximity, in other counties of Alabama as well. ***The MOWA Band of Choctaw, living close to the Poarch Creeks, also were continuously identified as “Indian” on federal censuses from 1840-1940, yet this same lack of documentation of existing as a “autonomous entity” was used, in large part, by the BIA to deny their Federal recognition. Double standards.***

In the 100-year time span between 1840-1940 the PBCI did not supply any evidence that their ancestors were living in any condition other than that of individual taxpaying, land owning, citizens of Alabama. Many of the PBCI ancestors appeared on federal censuses between 1860 and 1900 recorded as “Indian” racially (Consistently from 1800 to 1840 the Poarch ancestors were included on the federal census as “free whites”, while in 1850 and 1860 some were recorded as “white” and “Mulatto” as well, but the majority appeared as “Indian” from 1870 onward) however this appearance as “Indian” racially on a federal census, in and of itself, is not sufficient proof of the existence of a separate and sovereign, self-governing, tribal community. Hundreds of other families appeared as “Indian” on these same early censuses of southern Alabama, yet when petitioned for Acknowledgement by the descendants of those same groups in the 1990’s, the BIA did not accept these identifications alone as “proof” of the existence of “an autonomous entity”. ***Double Standards***

Thousands of individuals identified as “Indian” racially on census, voting, land, court, and military records across the southeast between 1800 and 1900 whose descendants are not today citizens of a federally recognized tribe. The reason that these descendants are excluded from the rights, privileges, and benefits of federal recognition is that, for an extended period of history, their ancestors did not live as “an autonomous entity”, a self-governed “tribal” community, a condition the BIA expressly needs in their criteria for Federal recognition.

***As will be presented below, the BIA was fully aware that the PBCI had failed to present any evidence that their ancestors had lived in any way unique to the circumstances of other Indian descendants of the southeast, yet the BIA chose, for reasons not quite clear, to ignore this glaring obstacle to federal recognition. DOUBLE STANDARDS.***

First clue because BIA would ignore their own criteria is found in the following Congressional requirement for the Creek land claims settlements for Dockets 21, 272 and 275:

*“ Sec. 3 (a) If one or more of the Eastern Creek entities that have filed a petition for Federal acknowledgement are acknowledged to be an Indian tribe on or before December 30, 1984, such tribe or tribes shall be deemed to be a successor entity to the original Eastern Creek group for the purposes of distribution of the residual funds in docket numbered 21, and the funds held in trust for the benefit of the Eastern Creeks under section 2 of the Act (including all interest and income accrued thereon) shall be distributed to such tribe or tribes by the secretary as needed to make any expenditures for any plan or program authorized by ordinance or resolution of such tribe or tribes.*

*Sec. 4. If Federal recognition as an Indian tribe is extended to any Eastern Creek entity prior to distribution of the funds awarded in docket numbered 272 and 275, such tribe or tribes shall be*



*entitled to amend the existing distribution plans for these awards by filing with the Secretary an alternative distribution plan for its proportionate share in these dockets.”*

If No “Eastern Creek” group had gained federal recognition by December 1984, the Interior Department would be forced to pay out the millions of dollars of land claims, *in full*, in the form of per-capita checks payable to the thousands of Creek descendants who had applied and been determined eligible to receive said shares. By awarding PBCI federal recognition, the Interior Department was enabled to keep those funds, distributing monies to a much smaller group of individuals, on a basis on “need” (just what defined those “needs”, and how much financial aid was provided, was to be determined by the Department). The fact that PBCI was awarded Federal recognition on June 4, 1984, just a mere six months shy of the Congressional deadline for distribution of the Creek land Claims funds, cannot be ignored.

For the purposes of this critique, only those sources available and provided to the BIA will be used here. These include the PBCI application for Federal Acknowledgement and supplemental evidence, the BIA’s RSE and supplemental evidence, the 1941 report of Frank G. Speck, and many reports of J. Anthony Paredes spanning the years 1971 to 1975. It would be unfair to include any research which has become known post-1984, as this was unavailable to staffers at the BIA, and the purpose here is to give the reader the same information that the BIA had before it and allow the reader to come to their own conclusions as to why the BIA made the decisions they did.

Below are just five of the most egregious errors of the Poarch Band’s petition and later RSE by the BIA (exact quotes from the BIA’s RSE are provided in italics):

### **Problems with the Petition:**

- **No Tribal/Political Leaders 1840-1940:**

The “Poarch Band of Creeks” did not exist as a political entity prior to the 1950’s. In fact, prior to 1940 it cannot be determined through any documentation, or oral history, provided to the BIA that there existed any tribal, community, or political organization among the scattered, rural hamlets that compose the ancestors of the modern Poarch band of Creeks. Nothing in the historical record to show that these Indian mixed-bloods lived under the auspices of any federal governmental authority, other than that of the State of Alabama or Monroe and Escambia Counties, for the 100-year period of 1840 to at least 1940. Nothing exists to conclude that this community considered itself separate, or apart, from the general Alabama populace.

*“From the late 1800’s through 1950, leadership was clear but informal. A formal leader was elected in 1950.”*

From the opening page and throughout the RSE filing, the BIA uses this same puzzling phrase “clear but informal” which is parroted almost exact from the Acknowledgement petition. PBCI’s Acknowledgment petition did not include any documentation that proved any community structure, cohesive cooperation at the community level, for any task or purpose, or any known or

recognized leadership for the time frame of 1840 to 1940. For no obvious reason, the BIA never addresses the fact that PBCI had no tribal/political/community governance or, indeed any formal or informal leaders for the 100-year period of 1840 to 1940. **DOUBLE STANDARD.**

*“The inland community formed around 1850, derived from the Alabama-Tensaw community, had a variety of clearly recognizable but not formally designated leaders. These are identifiable from oral history and indirect documentary sources such as court and church records for at least the 1880’s onward until 1950.”*

Once again, we find the BIA using the utterly confusing “clearly recognizable but not formally designated” phrase. In this quote the BIA has clearly appointed that they were aware that no formal community, political body, or recognized leadership existed prior to at least the 1880’s. It is interesting to note that the BIA here expressly allowed, and accepted, unsubstantiated oral history to fill documentary gaps. **Such oral histories were specifically disregarded, and discounted, by the BIA in later petitions by other southeastern groups. DOUBLE STANDARDS.**

*“Between its founding around 1850 and 1890, there is, because of the scarcity of records, only limited direct identification as Indian of the Escambia County Indian community.”*

*“There was no formal political organization among the Indian settlements in the nineteenth century nor in much of the 20<sup>th</sup> century, in the sense of an established, named leadership position or regular body such as a council. There were, however, identifiable leaders and other evidence of political processes for the period for which some records are available and for which there is an oral history, i.e., after about 1880.”*

The PBCI Acknowledgement petition leaned heavily on “oral history” gathered by Paredes in the 1970’s to establish this “clear but informal” leadership for the 1880 to 1950 period, and the BIA in their RSE filing accepted this “oral history” as sufficient evidence. The BIA has since completely discounted “oral history” as credible evidence except when supplemented by documentation. **DOUBLE STANDARDS**

**In a transparent attempt to help the PBCI to fill this 1840-1940 gap, the names of William “Bart” Gibson, William Dees, Sidney Lomax, R.L. Taylor, and Claiborne Hosford are repeatedly included in the BIA’s RSE as “households”, “landowners” and “leaders”, yet these individuals were not Poarch Creeks, and in fact did not possess any Creek Indian blood (see #4). Sidney Lomax was a white man, and the others were Indian mixed bloods (though not Creeks) who had immigrated to southern Alabama from South Carolina. **DOUBLE STANDARDS****

- **No Documentation of “Indian” Community & No Tribal Government 1840-1940:**

*“During the period of the Civil War and reconstruction, they are shown in military records and in county records, but not as Indian.”*

*“Between its founding around 1850 and 1890, there is, because of the scarcity of records, only limited direct identification as Indian of the Escambia County Indian community.”*

*“There was no formal political organization among the Indian settlements in the nineteenth century nor in much of the 20<sup>th</sup> century, in the sense of an established, named leadership position or regular body such as a council. There were, however, identifiable leaders and other evidence of political processes for the period for which some records are available and for which there is an oral history, i.e., after about 1880.”*

Here the BIA admits that, other than individual identification as “Indian” on federal censuses, there is absolutely no evidence or documentation that the scattered Indian land holders in Monroe and Escambia Counties were considered by any outsider as a “community”, “tribe”, “band”, etc., or indeed even measured so by the Indians themselves. **DOUBLE STANDARDS**

The BIA, while examining numerous later Acknowledgement petitions, has strongly held the position that simply being identified as “Indian” on a census, taxation, military, or other historical record is not enough evidence that a “community” or tribal government existed. **DOUBLE STANDARDS.**

*“Indian Survey: A survey of the Indians of the Poarch community was taken in the early 1930’s by Anna E. Macy for St. Anna’s Indian Mission...The survey is divided into several communities under the headings of St. Anna’s Poarch, Perdido Hills, St. John’s-in-the-Wilderness, Poarch Switch, Bell Creek, Huxford, Nokomis, and a final category entitled “scattered” which includes households in Alabama and Florida.”*

Here the BIA’s RSE reinforces the reality that there was no PBCI “community” per se, only individual homesteads located on a few landowners’ holdings scattered across two counties. The ancestors of the PBCI, during the time frame of 1860 to the initiation of the Poarch reservation in 1984 lived in individual households, clustered in at least seven hamlets, some as far as several miles distant from each other. **DOUBLE STANDARDS**

Anthony Paredes, champion of the PBCI and self-proclaimed “discoverer of the lost Creeks tribe”, pointed out this lack of a single, “autonomous entity” with the following statement in 1971:

*“The Indian community did not emerge as a single unit but as a series of distinct hamlets.”*  
Denied the Ma-Chis Lower Creek Indian Tribe of Alabama on the same principal. **DOUBLE STANDARDS.**

Paredes further states, “Even social interaction among the several Indian hamlets was generally restricted to special occasions...According to the oldest informants, in the early 1900’s the Indians were scattered out in the woods on small patches connected by footpaths...there appears to have been little, if any, formal leadership and political organization.”

Paredes goes on to note, “From the available records, however, there is little to suggest that the Creeks maintained a radically different life-style from that of their few white neighbors.”

In 1941 the Indians at Poarch were visited by famed ethnologist Frank G. Speck. Speck did not note any organized, structured, or otherwise governed Indian community. In fact, Speck used the

following description: “scattered community” and considered the scattered Indian families as leaderless. The BIA expressly points this out in the following:

*“Speck (1947), writing about his 1941 visit...he reported there was “no recognized leader possessing energy and experience” to represent the group and direct its efforts.”*

The BIA’s RSE, becoming transparent with obvious prejudice towards recognizing the PBCI, only partially quoted Speck here. The full quote is far more damaging:

*“The fact that no recognized leader possessing energy and experience exists (1941) to direct their efforts, to consolidate their feelings and interests, and to represent the community in the eyes of the people of the county and state, is in my mind another factor responsible for the loss of prestige and the economic dissipation in which they live.”*

*To further cloud matters, the BIA’s RSE of PBCI repeatedly mention the names of William “Bart” Gibson, William Dees, Sidney Lomax, R.L. Taylor, and Claiborne Hosford as “households”, “landowners” and “leaders”, yet these individuals were not Poarch Creeks, and in fact did not have any Creek Indian blood.*

Anthony Paredes admitted the following in 1971:

“For more than one hundred years these Alabama Creeks did little to assert their identity as American Indians.”

- **Complete Loss of Native Culture and Language:**

In numerous post-1980’s Acknowledgement reviews, the BIA has spared no opportunity to point out a petitioner’s “lack of Native language or culture.” Apparently, this loss of Aboriginal language and culture was considered a non-factor in the review of PBCI’s petition.

*“The oldest recollections (Paredes 1972-74), from individuals born between 1880 and 1900, is that the old people could still talk what one referred to as “that old crazy talk” but that her husband had referred to the “Indian talk” as “foolishness.” ...Calvin Beale, in 1965, was told by then Chief Calvin McGhee that when he was a boy, some of the older Indian could still speak Creek, and did so when they did not want the children to understand. Beale understood McGhee, who was born in 1902, to be referencing to his grandparents, e.g., John F. McGhee.”*

While the BIA’s RSE leans considerably on Paredes’ reports to signify some remnant trace of Native culture and language among the PBCI descendants, they had done not consider that by 1971 (the first contact by Paredes) the PBCI had already been exposed to nearly twenty years of “Culture and language revitalization” at the hands of the Perdido Band of Friendly Creek Indians of Alabama and Northwest Florida, organized in 1950 and headed by Chief Calvin McGhee. The influence of various “Creek language books” and informal “language classes” can be easily seen in a brief “vocabulary list” provided by Paredes. The unfamiliarity with the Creek language is obvious in the following quote provided by Paredes (it is also obvious, when seeing the full quote from Paredes’ report, that the BIA had taken great pains to abbreviate quotations to limit the damage to the PBCI’s petition):

“One elderly woman reports that as a girl she used to refer to the native language as “that old crazy talk.” She also recalled asking her first husband if he could talk the Indian language, to which he replied, “get away from here with your foolishness.” The same woman remembers that years ago when individuals would use the Muskogee word mato to thank someone, a frequent response would be, “what ails yo’ toe?” A younger Creek has suggested that the older people refrained from speaking the native language out of fear that to do so would clearly identify them as Indians, and thus increase the risk that they might still be exported to Oklahoma.”

As can be easily seen by the BIA’s RSE and PBCI’s petition, any remnants of the Creek language had vanished from the scattered Creek descendant families by at least the Civil War era. Only the McGhee family made any mention of elders being able to speak “that old crazy talk”, and this is only one family among the many Creek descendants who make up the modern PBCI.

*“It would appear then that the generation born about 1840-60 was the last which commonly used the Creek language, i.e., grandchildren of Lynn McGhee, and that by 1880-90 its use was limited to older people. It is likely that the decline of cultural differences probably followed something like this timeline...*

**Paredes (1975) describes several other “folk culture” items, such as funeral, curing practices, foods and others, some with parallels to Creek or Southeastern Indian practices. He notes, however, that many of these even though possibly of Indian origin, are shared by the non-Indian rural folk culture.”**

**“Paredes (1975) states that there were no memories of pre-Christian religious practices.”**  
**DOUBLESTANDARD**

**THERE HAVE BEEN SEVERAL SUBJECTIVE, DOUBLE STANDARDS USED AGAINST THE MA-CHIS LOWER CREEK INDIAN TRIBE AND THE SAME PRINCIPAL WAS APPLIED TO OTHER TRIBES IN THE SOUTHEAST. THE WRONGS NEED TO BE CORRECTED.**