

JEFF HAOZOUS

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Washington, DC

August 13, 2024

Department of the Interior
Office of the Assistant Secretary - Indian Affairs
Attn: Office of Federal Acknowledgment
1849 C Street, NW
Washington, DC 20240

Comment on Petition Number 404 – Chihene Nde Nation of New Mexico

Dear Office of Federal Acknowledgment:

I am a former Chairman of the Fort Sill Apache Tribe, now formally named the Fort Sill Chiricahua Warm Springs Apache Tribe. (Tribe) I became familiar with the petitioner in this role and submit the following comments based on this familiarity, my tribe's legal history, and information about the history of the Chiricahua Apache tribe that I have gathered through research of publicly available documents and books. As a former tribal official, my comments reflect my personal position and not that of the Fort Sill Apache Tribe.

My grandfather Sam Haozous, a Mimbreno and Bedonkohe Apache, was born in 1868 and grew up on the Warm Springs Apache Reservation in New Mexico. In 1877, the U.S. Government closed the reservation and moved the entire band to the San Carlos Apache Reservation in Arizona. Then in 1886, the U.S. Army declared all Chiricahua Apaches prisoners of war and moved them to Florida, Alabama, and finally, Fort Sill in Oklahoma. In 1913, a portion of the Chiricahuas was moved to the Mescalero Apache Reservation in New Mexico and released from imprisonment. A year later, the remainder of the tribe was freed and moved onto allotments in southwest Oklahoma. They became known as Fort Sill Apaches.

In 1948, Sam and other members of the tribe petitioned the Indian Claims Commission (ICC) on behalf of the Fort Sill Apache Tribe, the Chiricahua Apache Tribe, the Warm Springs Apache Band, and the Chiricahua Apache Band. The tribe's former Mimbreno, Bedonkohe and Nednais bands had merged with the Warm Springs and Chiricahua bands in the 1800s and weren't named in the petition. The area they claimed ranged from the Rio Grande in southwest New Mexico west to the San Pedro River in southeast Arizona.

The claim took decades to resolve. In 1968, the ICC found that:

...we ... find, that ... **all of the Indians occupying the claimed area constituted one single, identifiable American Indian tribe...** The ... various names for these bands ...include (a) Chiricahua Apaches, (b) Mogollon Apaches, (c) Copper Mine Apaches, (d) Mimbres Apaches, and (e) Warm Springs Apaches. Sometimes, they are all referred to as "Gila Apaches."

The commission found further that:

All of the groups... who resided within the claimed area formed one, single, identifiable Indian tribe. This finding is supported by innumerable historical documents introduced into evidence, and is substantiated on ethnic, cultural, archaeological and historical grounds by the expert opinions of well-qualified witnesses. Numerous statements, citations and evidentiary documents of record provide reliable support for these findings.¹ (bold added)

The ICC determined that the land taken from the tribe totaled nearly fifteen million acres. The federal defendants appealed but the U.S. Court of Claims and to the U.S. Supreme Court upheld the ICC's decision. As a result of this case, the Fort Sill Apache Tribe (Tribe) was organized under a constitution in 1976, and my term as its Chairman ran from 2002 through 2018.

On September 8, 2009, I received an unsolicited email from Manuel P. Sanchez introducing himself as Chairman of the Chihene Nde Warm Springs Band of Chiricahua Apache and stating that. "We have no affiliation with the Chiricahua Apache Alliance..."² I was familiar with the Chiricahua Apache Alliance, a nonprofit corporation claiming to be a tribe. However, I was shocked to discover that it had spawned another group that claimed to be Warm Springs Apaches, because the Tribe is largely composed of Warm Springs Apaches. Sanchez also wrote that he was descended from an "Esiquiel Noctera who entered into peace accords with New Spain in 1789" and that his ancestors "managed to avoid the trains of forced relocation to Florida in the 1880's ... by hiding on the Mescalero Jicarilla Agency in the 1880's then moving to the Jicarilla Reservation when it was established in 1887."³ (Note: at the time, I used the last name Houser, the anglicized version of Haozous.)

Sanchez emailed again in December 2009, proposing that the Tribe work with his organization on a project for veterans in Southwest New Mexico, and offering to "discuss how our coalition can help with Fort Sill's gaming goals in SW NM."⁴ At the time, I was leading the Tribe's efforts to build a casino in its homeland near Deming, NM. Sanchez sent another email on January 4, 2010, proposing that the Tribe partner with his organization to develop a combination horse racing track and casino in Lordsburg, NM.⁵ A PDF describing the project was attached.⁶ T

Sanchez's proposal to co-develop a casino with the Tribe was alarming. It confirmed the Tribe's

¹ . Findings of Fact. Fort Sill Apache Tribe of Oklahoma et. al v. United States, 19 Ind. Cl. Comm. pp 214-216 (June 28, 1968)..

² Sanchez email 09.08.09

³ Ibid.

⁴ Sanchez email 12/22/2009

⁵ Sanchez email 1/4/2010

⁶ Hidalgo Downs final narrative.pdf

leadership's suspicions that the Petitioner's primary intention was to build a casino. Like most tribes, the Tribe funds its government operations through gaming. However, the Tribe's federal recognition resulted from decades of effort to right the wrong inflicted upon our people when the United States government removed them from their lands at gunpoint and held them as prisoners of war for twenty-seven years. Our existence as a tribe is who we are, not a means to an end. I find it insulting that an entity that has apparently been engaging in "Tribe Shopping" since 2011 has appropriated my Tribe's identity and history in this petition.

The Petitioner is a New Mexico corporation formed on May 10, 2011. It is a successor to another New Mexico Corporation, the Chihene Nde Warm Springs Band of Chiricahua Apache, Inc., which operated from September 10, 2009, to March 2, 2010. Many of its members had split from the Chiricahua Alliance, Inc., which had operated from 2006 to 2009. Audrey Espinoza, who the Petitioner names a Tribal Historian, was Secretary of the Chiricahua Alliance, Inc.

Before its establishment, the Corporation did not exist as an entity. It had no identity or history until it appropriated the history and identity of Chiricahua Apaches⁷, most of whom are members of the Fort Sill Chiricahua Warm Springs Apache Tribe and the Mescalero Apache Tribe. Before its establishment, the Corporation had no community or membership. The Corporation gained members through the internet⁸ by exploiting its appropriated identity and history. If such a community had existed, it would not have needed to solicit membership through the Internet. This continued from 2011 to at least 2014.

The following section follows the format of § 83.11 Criteria for acknowledgment as a federally recognized Indian tribe.

§ 83.11 What are the criteria for acknowledgment as a federally recognized Indian tribe?

a) Indian entity identification.

1. The treaties cited by the Petitioner were names on treaties, Indian Agent letters, rolls, and provision lists were determined by the ICC to be ancestors of the Tribe.
2. The U.S. Census list does not indicate that those listed are Native American.
3. The tribes on the 1940 -BIA List of Indian Tribes, were later determined by the ICC to comprise the ancestors of the Fort Sill Apache Tribe.
4. 2023 -Jeff Steinborn's requested support for Proposed Mimbres Peaks National Monument was sent in his capacity as Executive Director of Outdoor New Mexico, a nonprofit organization, not as a New Mexico State Senator.

(2) Relationships with State governments based on identification of the group as Indian.

1. 1853 – The parties participating in meetings with New Mexico Territory Governors William Carr Lane and David Meriwether were determined by the ICC to be ancestors of the Tribe.
2. "1997 - New Mexico Legislation and New Mexico State Senate Committee, SWAIA chair Chiende Knifewing Segura was invited to join Chairman Marc Chino of Mescalero re: Indian Gaming. Consequently, Knifewing Segura, a television commercial encouraging the Native vote."

⁷ 2013.3.28 Identity Appropriation.pdf

⁸ 2014.11.5 Membership Page.pdf, 2011.05.26 Membership page.pdf

This preceded the petitioners existence, which began in in 2011. Mr. Chino, who invited Knifewing to participate in a hearing was not a NM Government official.

3. 2008 - C>NNNM and OCRS registered as domestic New Mexican non-profits. All NM citizens can register a non-profit corporation. It does not reflect status as a tribe.
4. 2011 - Hosted 1st Apache-focused Meeting of the New Mexican Indian Affairs Committee, Elephant Butte, New Mexico. The New Mexican Indian Affairs Committee chooses the locations it visits. NM State representatives referred to the Petitioner as an "unrecognized band," not a tribe.
5. 2011 - Tribe joined New Mexico Land Grant Consejo (Land Grant - Merced). It is not clear whether the New Mexico Land Grant Consejo is a government entity.

(3) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.

It is not clear whether the New Mexico Land Grant Consejo is a government entity.

(4) Identification as an Indian entity by anthropologists, historians, and/or other scholars.

The Petitioner's list of scholars reflects its appropriation of the history and identity of the Mimbres Apaches. There are two exceptions: Albert H. Schroeder was a witness for the U.S. Government defendants in the Fort Sill Apache land claim, and Matthew Babcock appears to have personal relationships with members of the Petitioner.

(5) Identification as an Indian entity in newspapers and books.

The list of books presented by the Petitioner also reflects its appropriation of the history and identity of the Mimbres Apaches. Most of the books listed were written about the ancestors of the Fort Sill Apache Tribe.

Again, there are two exceptions. Albert H Schroeder's book is a publication of his report he wrote as a witness for the U.S. Government defendants in the Fort Sill Apache land claim, and Matthew Babcock's Apache Adaptation to Hispanic Rule mentions the Petitioner a few times. Each mention is linked to a footnote indicating that a member of the Corporation was a source for the information.

(6) Identification as an Indian entity in relationships with Indian tribes or with national, regional, or state Indian organizations.

The petition cites examples of individuals, not the Petitioner participating in Indian organizations. Individual members of other tribes attending the Petitioner's dances does not demonstrate a relationship with the individual's tribe but with the person attending.

(7) Identification as an Indian entity by the petitioner itself.

The Petitioner appropriated its identity after its formation in 2009. This identity was determined by the ICC to be that of the Fort Sill Apache Tribe. The Petitioner refers to Mr. Eddy Montoya. I met Mr. Montoya in October 2009. He told me that he didn't know he was Apache until he met the Petitioner.

b) Community. The petitioner comprises a distinct community and demonstrates that it existed as a community from 1900 until the present.

(1)

- (i) Rates or patterns of known marriages within the entity.

Petitioner provided no marriage rates but noted there have been "out-pattern marriages." and some "Chiende families have married persons from other ethnic groups."

- (ii) Social relationships connecting individual members.

Petitioner listed a number of activities that could provide for relationships between members. However, it only listed one such relationship.

(iii) Rates or patterns of informal social interaction that exist broadly among the members of the entity;

Petitioner provided no rates of informal interaction. However, given that Petitioner “crowdsourced” its membership via the internet, there is likely significant interaction of its members through social media.

(iv) Shared or cooperative labor or other economic activity among members;

(v) Strong patterns of discrimination or other social distinctions by non-members;

Petitioner notes discrimination based on “being of a darker complexion and a generally smaller frame with prominent noses” but cites no source indicating these characteristics were associated with its members. It cites a Greenville Goodwin story of a girl named “Bui.” Goodwin was a noted scholar of San Carlos Apaches, so this story is most likely about a San Carlos girl, not a member of Petitioner’s claimed group.

((vi) Shared sacred or secular ritual activity.

The petition contains ten references to the Petitioner conducting Holy Ground Ceremonies. The Holy Ground Ceremony is Western Apache. None of the bands of Chiricahua Apaches conduct Holy Ground Ceremonies. Michael Paul Hill, a member of the San Carlos Apache Tribe taught the petitioner this ceremony.

(vii) Cultural patterns shared among a portion of the entity that are different from those of the non- Indian populations with whom it interacts.

Petitioner lists several cultural patterns unique to Chiricahua Apaches but does not indicate how many of its members engage in these patterns. It notes that “Some members supplement their income by making jewelry, regalia, and drums. They are used at ceremonies and sold at powwows.” This commercial activity appears to indicate as symbolic identification of the group as Indian.

(viii) The persistence of a collective identity continuously over a period of more than 50 years, notwithstanding any absence of or changes in name.

Petitioner notes activities that are not Apache but related to the Catholic Church. It also notes family gatherings, which indicates identity as individual families, not as a tribe.

(ix) Land set aside by a State for the petitioner, or collective ancestors of the petitioner, that was actively used by the community for that time period.

The land the Petitioner Claims was set aside by a State (Fort Thorn, Rio Palomas, Rio Cuchillo Negro) were never set aside for the Mimbres Band of Chiricahua Apaches because the treaties that contemplated setting them aside weren’t approved by Congress. The Santa Lucia reservation, planned for all Chiricahua Apache Bands was also not set aside. The Ojo Caliente reservation was set aside for the Warm Springs Apaches, but it as extinguished. As previously cited, the ICC determined that these lands were the aboriginal homeland of the Fort Sill Apache Tribe.

(2) The petitioner will be considered to have provided more than sufficient evidence to demonstrate distinct community and political authority under § 83.11(c) at a given point in time if the evidence demonstrates any one of the following:

(iv) There are distinct community social institutions encompassing at least 50 percent of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

Petitioner states that 50% of its elders are also members of the Ojo Caliente Restoration Society (OCRS), an affiliated non-profit corporation. However, it doesn’t state that 50% of its overall membership belong to OCRS.

c) Political influence or authority.

1 (i) The entity is able to mobilize significant numbers of members and significant resources from its members for entity purposes.

It is ironic that the chief entity purpose that the Petitioner has engaged its members in is the creation of its petition.

Genealogy

While the Petitioner's General membership genealogy was not made public with this petition. However, the petition included genealogical information for Mr. Sanchez, who in the petition, claims descent from the Mimbres Apaches through an Apache named Showano.

On pages 88-89, the petition states,

"In 1858, the Mesilla Guard killed Apaches, including **Showanocito**, a.k.a. **Showanó**, and his party in Doña Ana, New Mexico. /129/ After Showanocito's death, the Cordova family at La Mesa, New Mexico, raised his infant son, Esiquio Henriques (3rd great-grandfather, 1857-1892)."

This is provided as evidence of Mr. Sanchez's Apache ancestry. However, a letter by Agent Steck letter describing the attack indicates that Showano was a Mescalero Apache, not a member of the Mimbres Band.

The excuse urged for this wanton attack is that three horses had been stolen the night previous from town of Mesilla. The admission of the Indians afterwards proves this accusation to be true but **they were not stolen by those Indians living near Doña Ana** but five renegades who had **hidden their booty in the Organ Mountains** and **three of them came to the camp** only an hour or two previous to the attack All three were killed and **among the killed was their chief the celebrated Show-a-no...** (bold added)⁹

The bolded portions of the above passage indicate that Agent Steck knew that Showano did not live with the Mimbres Apaches at Doña Ana, that Showano had hidden his booty in the Organ Mountains, which is Mescalero, not Chiricahua territory, that Showano came to camp with three other "renegades," not with a baby, and that Showano was their celebrated Chief.

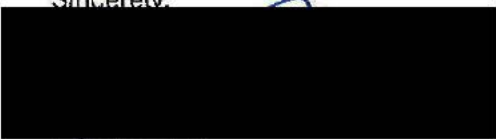
Conclusion

Like the story cited above, the historical record provides ample evidence to refute the Petitioner's claims. For the sake of brevity, I have omitted many pages that contradict the Petitioner's narrative of a split

⁹ 1858.2.15 Steck, Apache agency to Collins, report on Atrocities, etc.pdf

between the Mimbres and the other Bands of the Chiricahua Apache Tribe. These can be provided upon request. The Fort Sill Apache Tribe's ICC decisions contain hundreds of pages of information, which also differ from the case presented in the petition. I urge you to review it thoroughly and am certain that if you do, you'll conclude that this petition has no merit.

Sincerely,


Jeff Haozous

Enclosures

Attachments omitted

- OFA