

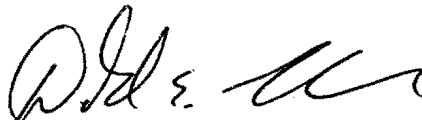
Summary under the Criteria and Evidence for the  
Proposed Finding against the Federal Acknowledgment of the  
Choctaw Nation of Florida

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

7-2-10

---

(Date)



---

For Larry Echo Hawk  
Assistant Secretary - Indian Affairs

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

Summary under the Criteria and Evidence for the  
Proposed Finding against the Federal Acknowledgment of the  
Choctaw Nation of Florida

**TABLE OF CONTENTS**

**INTRODUCTION**.....3  
Administrative History of the Petition.....5  
Historical Overview .....8  
Unambiguous Previous Federal Acknowledgment.....10  
**SUMMARY UNDER THE CRITERIA (25 CFR 83.7 as Modified by 83.10(e)(1))**  
83.7(e) .....11  
Bibliography .....30

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

**ABBREVIATIONS OR ACRONYMS USED IN THIS REPORT**

AS-IA	Assistant Secretary - Indian Affairs
BIA	Bureau of Indian Affairs
CFR	<i>Code of Federal Regulations</i>
CNF	Choctaw Nation of Florida (Petitioner #288)
FR	<i>Federal Register</i>
IBIA	Interior Board of Indian Appeals
OFA	Office of Federal Acknowledgment
PF	Proposed Finding
TA	Technical Assistance

**Summary under the Criteria and Evidence for the  
Proposed Finding against the Federal Acknowledgment of the  
Choctaw Nation of Florida**

**INTRODUCTION**

The Office of the Assistant Secretary - Indian Affairs (Assistant Secretary or AS-IA) within the Department of the Interior (Department) issues this proposed finding (PF) against Federal acknowledgment in response to the petition received from a group known as the Choctaw Nation of Florida (CNF, or Petitioner #288), with an office located in the town of Marianna, Florida. The CNF petitioned for 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*.

The acknowledgment regulations, 25 CFR Part 83, establish the procedures by which groups may seek Federal acknowledgment as an Indian tribe entitled to a government-to-government relationship with the United States. To be entitled to such a political relationship, the petitioner must submit documentary evidence that the group meets all seven mandatory criteria set forth in section 83.7 of the regulations. The Department shall acknowledge the petitioner as an Indian tribe when it determines that the group satisfies all of the criteria in 83.7(a)-(g), and shall decline to acknowledge a petitioner as an Indian tribe if it fails to satisfy any one of those criteria. The Office of Federal Acknowledgment (OFA), within the Office of the AS-IA, has responsibility for petition review and analysis.

In the case of Petitioner #288, the Assistant Secretary completed an expedited review of its petition under 25 CFR 83.10(e) of the regulations that provides:

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

(1) If this review finds that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken. . . . Rather, the Assistant Secretary shall instead decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the **Federal Register**.

In a letter dated June 1, 2009 (Pierce 6/1/2009), OFA informed CNF that it would conduct this review, and directed the petitioner to the guidance and direction outlined in Section VI of the May 23, 2008, **Federal Register** notice, which states:

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

The Department may issue an expedited proposed finding against Federal acknowledgment under section 83.10(e), prior to placing the group on the Ready list. OFA may prepare an expedited proposed finding as appropriate, once a petitioner has formally responded to a TA review letter or when a petitioner requests to be placed on the “Ready” list or states in writing in a document certified by the petitioner’s governing body that the petition is complete or that the Assistant Secretary should proceed with the active consideration of the petition.

In September 2009, OFA also informed the petitioner that under the guidance and direction of the same notice the group had until November 30, 2009, to respond in full to the Department’s May 22, 2006, TA review letter or submit a research plan, or the Department would place the petition on inactive status (Fleming 9/29/2009; 5/22/2006). In response to the TA letter, CNF submitted documentation dated November 6, 2009, described as the “final requested paperwork,” which OFA received on November 23, 2009.

After the technical assistance phase of the acknowledgment process, OFA investigated whether the petitioner qualified for an expedited finding under 83.10(e) because the petition documentation and response to the TA review letters indicated that there was no evidence CNF could meet the mandatory criterion 83.7(e) for descent from any historical Indian tribe. There was no evidence in the submissions that showed any of the claimed ancestors of the group were members or descendants of the historical Choctaw Indian tribe. Neither was there evidence that any of the claimed ancestors were members or descendants of any other American Indian tribe. This complete lack of evidence that the petitioner could meet 83.7(e) triggered a fuller review under 83.10(e) that allows the Department to issue expedited proposed findings before placing a petitioner on active consideration.

The petitioner submitted copies of Federal censuses, government land records, birth, marriage, and death certificates, and other historical documents that included some of its claimed ancestors, as well as mostly undocumented genealogical charts and reports that included unsubstantiated family traditions that some individuals were Choctaw or other Indians. However, as described in detail below, the petitioner did not submit any evidence, nor did OFA find any documents, to validate any of the group’s claims that the known ancestors of the current members were descendants of any Indian tribe. In fact, the evidence shows the petitioner’s ancestors were consistently identified as non-Indians living in non-Indian communities. The evidence submitted by the petitioner and located by the OFA during the fuller review, clearly establishes that the members of the group do not descend from a historical Indian tribe as required under mandatory criterion 83.7(e). Thus, the Department did not undertake a review under all seven mandatory criteria as the evidence warrants an expedited finding under 83.10(e).

The acknowledgment regulations in section 83.10 set forth the phases for the evaluation of documented petitions. Publication of the Assistant Secretary’s PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the conclusions in the PF (25 CFR 83.10(i)). The petitioner and other parties should submit such comments in writing to the Office of the Assistant Secretary - Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Attention to the Office of Federal Acknowledgment, Mail Stop 34B-SIB. Interested

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

or informed parties must provide copies of their submissions to the petitioner. The regulations at 25 CFR 83.10(k) provide petitioners with a minimum of 60 days to respond to any submissions on the PF received from interested and informed parties during the comment period.

At the end of the periods for comment and response on a PF, the Assistant Secretary will consult with the petitioner and interested parties to determine an equitable timeframe for consideration of written arguments and evidence. The Department will notify the petitioner and interested parties of the date such consideration begins.

After consideration of the written arguments and evidence rebutting or supporting the PF and the petitioner's response to the comments of interested parties and informed parties, the Assistant Secretary will make a final determination regarding the petitioner's status. The Department will publish a summary of this determination in the **Federal Register**.

### Administrative History of the Petition

Petitioner #288 first submitted materials to OFA on February 10, 2004, in which it indicated a desire to petition for Federal acknowledgment under 25 CFR Part 83 (Fleming 7/2/2004). At the time, the group identified itself as the "Hunter-Tsalagi-Choctaw Tribe." Due to a leadership conflict within the group, however, CNF was unable to submit a properly executed letter of intent, certified by the governing body until February 2005 (Jerome James et al. 2/24/2005). OFA acknowledged the receipt of the letter of intent on March 7, 2005, and designated the group as Petitioner #288 for administrative tracking purposes. Along with the letter of intent, the Petitioner # 288 submitted a governing document dated February 24, 2005, and a membership list dated the same day. The membership list, certified by the members of the governing body, indicated the group had 99 living members. Between February 2004 and September 2004, the petitioner had submitted numerous other membership lists indicating a fluctuating membership of the group from between 52 to 99 living members.

On May 26, 2006, OFA completed a TA review letter for the petitioner on materials submitted at various times from February 2004 to January 2006. These submissions consisted of 1,121 pages of material, the vast majority of which was administrative correspondence regarding the group's efforts to submit a properly certified letter of intent to petition, a governing document, and a current membership list. Only a handful of documents in the petition record had any significance to demonstrating the seven mandatory criteria for Federal acknowledgment. They included copies of death certificates for a few claimed ancestors, meeting minutes from July 10, 2004, and an 1878 Federal Government homestead land patent. Also included were a few affidavits and correspondence from group members briefly detailing undocumented family histories, selected data from an 1880 Federal census regarding three claimed ancestors, and the directions to the gravesite of a family ancestor in Marianna, Florida (Fleming 5/22/2006).

The TA review indicated there were substantial omissions in the petition for criteria 83.7(a), (b), (c), (e), (f), and (g). Regarding criterion 83.7(e), descent from the historical Indian tribe, OFA informed the petitioner that it had not included any genealogical information demonstrating how various individuals were related to each other, how they traced their ancestry to the historical Indian tribe, or met the group's own membership criteria. The petition lacked birth certificates, death certificates, completed ancestry charts, and any other genealogical documents. OFA

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

advised the petitioner to provide the necessary genealogical evidence to overcome this major deficiency (Fleming 5/22/2006).

In February 2008, the group informed OFA by letter that it had changed its name to the “Choctaw Nation of Florida.” As part of that letter, CNF submitted a two-page document that the group claimed constituted its full response to the May 22, 2006, TA review letter (see Souther 5/12/2008 for full details). By letter dated May 12, 2008, OFA informed CNF that the group’s petition and response to the TA review letter included little or no evidence under the mandatory criteria, particularly regarding criterion 83.7(e), descent from the historical Indian tribe. OFA advised the petitioner that the Department might choose not to undertake a full consideration of the group’s documented petition, but instead decline to acknowledge it as an Indian tribe and publish a PF under criterion 83.7(e) only (83.10(e)(1)) (Souther 5/12/2008).

In a letter dated August 6, 2008, OFA informed the petitioner that the Department had become aware of a serious leadership conflict within the group, and would be unable to process the petition until the group resolved this internal dispute. OFA also provided the petitioner a copy of the Department notice, dated May 23, 2008, “Guidance and Direction Regarding Internal Procedures.” This guidance contained detailed instructions on how OFA would deal with internal conflicts within petitioning groups. As specified in the notice, OFA asked for the following information from CNF to determine the authorized governing body. OFA requested the current governing document, and all past governing documents; the current membership list certified as accurate as of a specific date; all past membership lists; and completed consent forms from every member. OFA also requested copies of all the governing body’s meeting minutes since the filing of the letter of intent; copies of documents reflecting changes in the governing body’s composition since the filing of the letter of intent, such as published election results, minutes, newspaper articles, or newsletters; and any court order determining the group’s legitimate leadership (Pierce 8/6/2008).

On January 8, 2009, the Interior Board of Indian Appeals (IBIA) received a notice of appeal from the Choctaw Nation of Florida, which sought review of an alleged failure of various Departmental officials to respond to certain requests, including a request for “Re-recognition Certification” and for fee lands to be “returned” to trust, 48 IBIA 273 (2009). The IBIA noted that the “notice of appeal did not name the Office of Federal Acknowledgment, although that is the office that has jurisdiction over petitioners for Federal acknowledgment.” The IBIA dismissed the appeal for lack of jurisdiction on February 11, 2009.

On March 3, 2009, the petitioner appealed to IBIA from the alleged failure of the OFA Director to take action, and from two letters dated March 3, 2009, from the Acting Eastern Regional Director, BIA, declining to accept land in trust and for an accounting, or compensation for certain Choctaw lands. On November 19, 2009, the IBIA summarily dismissed the appeal against the OFA Director, and affirmed the Regional Director’s decisions, 50 IBIA 335 (2009).

By letter of June 1, 2009, OFA informed CNF that it had received and reviewed materials regarding the group’s internal dispute. These materials, submitted by CNF from July 2008 to February 2009, responded to OFA’s August 6, 2009, request and provided information to help OFA identify the appropriate governing body with which to communicate. OFA also alerted

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

CNF of continuing significant omissions and deficiencies in the group's documented petition (Pierce 6/1/2009).

For example, Petitioner #288 had submitted only 77 application/consent forms for the 158 individuals who appeared on the most recent membership list. The group's governing body had neither dated nor certified the list. Copies of vital records, such as birth, marriage, and death certificates, were also missing for many of the members and their ancestors. To address these problems, OFA requested that the governing body date and certify the current membership list of all the 158 members, and provide new, clearer, and more legible copies of consent forms and birth certificates for all members. OFA also requested the petitioner provide copies of vital records for previous generations as far back as possible (Pierce 6/1/2009).

Most important, OFA pointed out that the group had not provided the genealogical documentation necessary to demonstrate its members and ancestors descended from the historical Choctaw Indian tribe, from which the petitioner claimed descent. To deal with this problem, OFA suggested the petitioner provide documentation to connect claimed ancestors to historical documents associated with the Choctaw Indian tribe. OFA also indicated it had reviewed the Federal and State censuses for Florida from 1870 to 1945. This preliminary review revealed that none of these records for the group's ancestors indicated that they identified themselves or were recorded by census enumerators as Choctaw or Indian. To address this concern, OFA asked the petitioner to supply copies of primary genealogical or historical documentation showing any of the group's ancestors being identified by others as Choctaw or Indian and how any of the current members descended from those documented Indian ancestors (Pierce 6/1/2009).

Finally, in the June 1, 2009, letter OFA cautioned the petitioner that if these obvious deficiencies and significant omissions remained unresolved, the Department would move forward under 83.10(e). Under the guidance and direction published May 23, 2008, OFA set a deadline for response. It requested the petitioner respond in full to the TA review letter of May 22, 2006, and the June 1, 2009, letter within 180 days, or by close of business on November 30, 2009 (Pierce 6/1/2009). OFA stated that if the petitioner needed additional time, the group should provide a research plan of action (Pierce 6/1/2009). If the CNF did not provide a timely response, OFA would place the group on a list of inactive petitioners. On September 11, 2009, OFA held a technical assistance meeting with members of the group to discuss some of the concerns noted in the letter of June 1, 2009. On September 29, 2009, OFA provided the group a letter summarizing this meeting. The letter repeated many of the continuing concerns documented in the June 2009 correspondence (Fleming 9/29/2009).

On November 23, 2009, OFA received materials dated November 6, 2009, from the petitioner. The materials consisted of 423 pages the petitioner identified as the "final requested paperwork" (CNF Petition 2009, Minutes 11/1/2009). Included among these materials were application forms and a certified membership list of 77 members (81 fewer than in June 2009), vital records for the group's current members and some claimed ancestors, Federal census records for some of the claimed ancestors, and a few historical documents. While these materials resolved a few of the serious omissions and deficiencies in the group's petition, OFA's review of the documented petition and the response to the TA review letter indicated there was no evidence in the record to



## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

show that the group could meet mandatory criterion 83.7(e). Thus, the Department investigated the petitioner, further reviewed the documentation and conducted research in records likely to yield evidence of Indian ancestry. That review found that the evidence clearly demonstrates that none of the petitioner's members could show descent from a historical Indian tribe. Therefore, since the evidence clearly establishes that the group did not meet the mandatory criterion 83.7(e), the Department proposes to decline to acknowledge the petitioner as an Indian tribe under criterion 83.7(e) alone as allowed under 83.10(e)(1).

The AS-IA concludes that the CNF clearly does not meet criterion 83.7(e), which meets the requirement for issuing a PF under 83.10(e). During the comment period, the petitioner needs to provide evidence that it meets criterion 83.7(e) under the reasonable likelihood of the validity of the facts standard described in section 83.6, which petitioners must meet in all acknowledgment determinations. If, in the response to the PF, the petitioner provides sufficient evidence that it meets criterion 83.7(e) under the reasonable likelihood standard, the Department will undertake a review of the petition under all seven mandatory criteria. If, in the response to the PF, the petitioner does not provide sufficient evidence that it meets criterion 83.7(e) under the reasonable likelihood standard, the AS-IA will issue the final determination based upon criterion 83.7(e) only.

### Historical Overview

The petitioner claims to be a group of Choctaw Indians that migrated from North Carolina to Georgia and then Florida following the Indian removal of the 1830s (CNF Petition 2009, Roof and Hunter Family Genealogy). None of the available evidence in this petition, submitted by the petitioner or found by OFA researchers, as shown below, demonstrates the validity of this claim. As described in the scholarly literature, the historical Choctaw before European contact resided in present-day central Mississippi and portions of Alabama and Louisiana. In the early 1830s, the Federal Government forcibly relocated most of the Choctaw to Indian Territory in what later became Oklahoma, although some of them remained in Mississippi and Louisiana. Today, there are three federally recognized Choctaw Indian tribes in the United States, the Choctaw Nation of Oklahoma, the Mississippi Band of Choctaw Indians, and the Jena Band of Choctaw Indians of Louisiana (Galloway and Kidwell 2004; 74 FR 40218 August 11, 2009).

The scholarly literature does not document the existence of any Choctaw Indian tribe that originated on the southeastern Atlantic coast of the United States and then later migrated to Florida in the 19th century (see for example, Galloway and Kidwell 2004). Nor is there any evidence of any Choctaw Indian group that fled to or migrated to Florida in the 19th century from Choctaw territory along the Gulf Coast during or after removal (Galloway and Kidwell 2004).

All the available evidence in the petition record indicates the CNF is an association formed in 2003 of individuals who claim but have not documented Indian ancestry. Indeed, the evidence shows the group's ancestors were consistently identified as non-Indians and as living in non-Indian communities. The group incorporated in the State of Texas in July 2003, but has an office in Marianna, Florida, on the eastern part of the Florida panhandle. Available evidence indicates the group began holding meetings probably no earlier than September 2004. The regulations

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

provide that the Department may not acknowledge associations, organizations, corporations, or groups of any character formed in recent times. Since early 2004, the membership of the group, as reflected on various membership lists, has fluctuated from a low of 52 to a high of 158.

### **Unambiguous Previous Federal Acknowledgment**

In correspondence and documentation to the Department,<sup>1</sup> the petitioner implied the Federal Government previously acknowledged the group because one claimed ancestor, a man named Burton Hunter, received a grant of public domain land from the Federal Government on November 30, 1878, in Jackson County, Florida, under the Homestead Act of 1862 (Hunter 11/30/1878). Grants under the 1862 Homestead Act did not require the recipients to be members of Indian tribes, or descendants of Indians. Neither did the language of the grant identify Burton Hunter as an Indian entitled to the benefits of homestead laws under the 1875 revision to the 1862 Homestead Act. This action does not constitute Federal acknowledgment of an Indian entity.

Unambiguous previous Federal acknowledgment means an action by the Federal Government clearly premised on the identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States (83.1). Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment and lessens the evidentiary burden for the petitioner.

A decision on the adequacy of the evidence for unambiguous previous Federal acknowledgment requires two steps. The first step is to determine if the Federal Government ever unambiguously acknowledged the historical Indian tribe claimed by the petitioning group. If it did, the next step is to determine whether the petitioning group is the same group as, or is a portion that evolved from this previously federally acknowledged Indian tribe. Substantial evidence to show unambiguous previous Federal acknowledgment includes, but is not limited to, the Federal Government having treaty relations with a group or declaring it an Indian tribe by Act of Congress or Executive Order (83.8(c)).

The historical overview above outlines the Federal Government's unambiguous acknowledgment of the historical Choctaw Indian tribe and the three federally recognized Choctaw tribes that continue to exist today. However, the petitioner has no known descent from or affiliation with any of the historical Choctaw Indian tribes. Thus, it has not evolved as a group from any of those acknowledged tribes.

The evidence presented by the petitioner, involving a land grant from the public domain by the Federal Government to one individual (Burton Hunter) through the Homestead Act of 1862, does not demonstrate evidence of that person's membership in the historical Choctaw Indian tribe. Neither does an individual land grant show the kind of action by the Federal Government that would represent unambiguous previous Federal acknowledgment (83.1) of a tribal entity. Therefore, Petitioner #288 has not demonstrated previous unambiguous Federal acknowledgment.

---

<sup>1</sup>See the facsimile letter from Rodgers 1/26/2005, affidavit from Willie Lee Williams 6/28/2004, and affidavit from Jerome A. James ca. 6/2004.

**Summary Evaluation under Criterion 83.7(e) as Modified by 83.10(e)(1)**

**Criterion 83.7(e) requires that**

**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.**

Introduction and Summary of the Petitioner’s Primary Claims and Evidence

The petitioner claims its members descend from the historical Choctaw Indian tribe. The Department determined that the evidence indicates that most of the current group’s members descend from a Burton Hunter (b. ca. 1836 - 1842) and his wife Lucy (b. ca. 1844 - 1850). None of the available evidence demonstrates this claimed descent for Burton Hunter from the Choctaw Indian tribe or any other Indian tribe. To demonstrate descent, the petitioner provided Federal census records for Burton Hunter, his wife, and children, which indicated they lived in Jackson County, FL, in 1870 and 1880. These censuses identified the Hunters as “Black” or “Mulatto”<sup>2</sup> (U.S. Census, Jackson County, FL, 1870, 1880). Jackson County is on the eastern half of the panhandle of Florida.

The petitioner did not provide any reliable genealogical evidence identifying the ancestors of this Burton Hunter or his wife Lucy. It claimed that this Burton Hunter was the son of a Richard Hunter, and that the census recorded both as living in the same household on the 1850 Federal census for Union County, GA. The petitioner argued this Richard Hunter was born in Haywood County, NC, and then moved with his family to Union County, GA, sometime between 1840 and 1850 (U.S. Census, Haywood, NC, 1840; Union County, GA, 1850). In 1860, Richard Hunter relocated, the petitioner claimed, to Fannin County, GA (U.S. Census, Fannin County, GA 1860, 1870). It also asserted his son Burton Hunter then migrated to Jackson County, FL, sometime around 1870. None of the available evidence demonstrates these claims for this particular Burton Hunter.

Federal census records obtained by the Department indicated a Burton Hunter, identified as “White,” and listed in the household of Richard Hunter, also identified as “White” on the 1850 Federal census for Union County, GA. He remained in Georgia for at least the next 30 years, residing in Fannin County, formed from Union County in 1854. These Federal censuses recorded this Burton Hunter, his wife, Louisa, and his children, as being “White” and living in

---

<sup>2</sup> Petitioners sometimes claim that census enumerators applied the term mulatto erroneously to their part Indian ancestors. When this occurs, the Department requires petitioners to demonstrate that other evidence indicates their ancestors descended from Indians despite these non-Indian identifications. This petitioner did not provide, and OFA did not find, any evidence to trace its ancestors to any Indians. Instead, all the evidence clearly demonstrates they were consistently identified as non-Indian. Thus, in this case, the petitioner cannot use these non-Indian identifications of their ancestors to demonstrate Indian ancestry because no other evidence identifies them as Indians (see Ramapough FD 1996, Technical Report, 117)

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

their own household in 1860, 1870, and 1880, which was 10 years after the group's ancestor also named Burton Hunter was in Florida (U.S. Census, Union County, GA, 1860; Fanning County, GA, 1870, 1880). Thus, the evidence did not demonstrate that the petitioner's ancestor named Burton Hunter moved to Jackson County, FL, from North Carolina by way of Georgia.<sup>3</sup> The evidence clearly supports the existence of two Burton Hunters, neither of whom was Indian. In addition, and most important, none of the available census records or any other documents in the record identified any of these individuals of the surname of Hunter, or their relatives and descendants, whether living in North Carolina, Georgia, or Florida, as Choctaw Indians or as Indians, or as belonging to any Indian group. In fact, all the evidence shows these individuals, including the Burton Hunter who was the petitioner's ancestor and the Burton Hunter who was not, were consistently identified as non-Indians living in non-Indian communities.

The group also provided various records for the petitioner's ancestor Burton Hunter's spouse, named Lucy, and their descendants recorded on the Federal census as living in Jackson County, FL, in 1870 and 1880. These items, mostly dated from 1870 to 1930, included a power of attorney, Federal census records, a last will and testament, an 1878 homestead grant, and a property conveyance document. These materials helped to establish the genealogical links of some of the descendants of the Burton Hunter from Jackson County, FL, from whom most of the petitioner's members descend. Yet they did not identify the Indian ancestry or descent from the historical Indian tribe of any individual who was the ancestor of a current member of the group (CNF Petition 2009, Legal Determination of Heirs).

The petitioner submitted some sections of various Federal censuses, mostly from Jackson County, FL, from 1870 to 1930 in which enumerators recorded some of the group's ancestors. To verify the group's claims of descent from the historical Indian tribe, the Department reviewed all these records for the group's ancestors. However, none of these records indicated the ancestors identified themselves or the census enumerators identified them as Choctaw or Indian, or as belonging to any Choctaw or other Indian group. These submitted records consistently identified the ancestors of the petitioner as non-Indians living in non-Indian communities.

To evaluate the petitioner's claims specifically, the Department obtained and examined all the Federal census schedules for Jackson County, FL over those 60 years to determine if enumerators identified any of the claimed or known ancestors of the group as Choctaw Indians or any other Indians. This evaluation revealed that census takers did not identify any of these ancestors as Indian; rather they identified all of them consistently as non-Indians living in non-Indian communities. From 1870 to 1930, only 15 individuals appeared on the general Federal census schedules<sup>4</sup> for Jackson County identified as Indian, and that was on the 1900 census for the town of Friendship. The Department found no genealogical connection between these individuals and the petitioner's ancestors, who lived mostly in Marianna, Jackson County (U.S. Censuses, Jackson County, FL 1870-1930).

The Department also obtained and examined the Florida state censuses for 1885, 1935, and 1945, which had listings for Jackson County and Hillsborough County. State enumerators did

---

<sup>3</sup> This is true, even though the 1880 Federal census, but not the 1870, identified North Carolina as his birthplace.

<sup>4</sup> The Department found no Special Indian Population schedules for Jackson County in 1900 or 1910.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

not identify any of the claimed or known ancestors of the group as Indian on these censuses; instead, they identified them consistently as non-Indians living in non-Indian communities (Florida State Censuses, 1885, 1935, 1945). Finally, the Department obtained and analyzed the Bureau of Indian Affairs agency censuses from 1912 to 1940 for the State of Florida to determine if agency enumerators identified any of the claimed or known ancestors of the petitioner as belonging to any federally recognized Indian tribe. This examination did not identify any of the ancestors as being part of any Indian tribe during this period. Indeed, all of the Indians identified on such censuses were part of the federally recognized Seminole Indian tribe from central and southern Florida (Seminole Agency Censuses, 1912-1940). There was no evidence of a connection between the Seminole Indian tribe and the petitioner's ancestors.

The petitioner also claimed its ancestors were a part of several historical Indian treaties. For example, the group supplied a copy of the Spanish government's 1784 treaty with the Creek (see Deloria and DeMallie 1999, Vol. 1, 122-124). The petitioner also provided copies of Spanish treaties with the Choctaw, Creek, and Chickasaw in 1790, 1792, and 1793, and a copy of the United States treaty with the Choctaw from 1786 (see Deloria and DeMallie 1999, Vol. 1, 137-141; Kappler 1904, Vol. 2, 11-14). Initially, the petitioner identified three names on this treaty as the group's direct ancestors. Yet, the petitioner did not show how the group descended from or maintained tribal relations with the individuals listed on these historical documents. These treaties listed specific Indian leaders, but the available evidence does not demonstrate that the petitioner's ancestors Burton or Lucy Hunter, or any other ancestors, descend from or were related to any of these Indian leaders or Indian tribes. In addition, the Department examined all the treaties negotiated by Spain, and all the treaties, ratified or not, and agreements, accepted or rejected, negotiated by the United States from 1784 to 1901 with the historical Choctaw Indian tribe. These treaties did not document a Choctaw Indian presence in Jackson County, FL. The examination of these 26 documents did not reveal any genealogical connection between any of the leaders of the Choctaw Indians named on these documents and the petitioner's claimed or known ancestors.<sup>5</sup> None of this evidence demonstrates that the members of the group descend from a historical Indian tribe. A detailed examination of the evidence submitted by the petitioner and located by the Department follows.

### Evaluation of Evidence for Burton Hunter and Lucy Pope

#### *Evidence of Descent*

The petitioner submitted evidence linking current members generation-by-generation to Burton Hunter (b.ca.1833-1842 in NC or FL) and his wife Lucy [—?—] (b.ca.1842 in FL). However, the petitioner presented ancestry for a Burton Hunter (born circa 1835 in NC) and his wife Lucy Pope (b.ca.1833 in SC or b.ca.1835 in FL) who are not the petitioner's progenitors. Federal and State censuses, land and probate records support the presence of a Burton Hunter and wife Lucy in Jackson County, FL. However, those same records provide details for this couple that conflict with the petitioner's claims that any of the members of the group descend from a historical Indian tribe.

---

<sup>5</sup> See Kappler 1904, Vol. 2, pages 11, 56, 63, 69, 87, 137, 191, 211, 310, 435, 486, 652, 706, 918, 1,050; Deloria and DeMallie 1999, Vol. 1, 127, 134, 138-139, 603, 704; Vol. 2, 992, 1019, 1065, 1077, 1352, 1355, 1464.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

Lucy Pope is described by the petitioner as having a daughter, Mary, before she married Burton Hunter. The petitioner provided two pieces of evidence for this claim. One is an 1860 Federal census entry of the racially “White” family of Richard Pope in Georgetown County, SC, which includes his apparent wife “L. Pope” (age 27) and apparent daughter Mary (age 8). The second piece of evidence is an 1870 Federal census entry for two racially “Mulatto” women named Lucy Pope (b.ca.1835 in FL) and Mary Pope (b.ca.1855 in FL) in Jackson County, Florida. However, also in the 1870 Federal census of Jackson County, FL, is Burton Hunter with his wife Lucy; therefore, she is not the Lucy Pope recorded elsewhere in that county.

Other evidence located by Department researchers appears to explain what became of Lucy Pope. First, “L. Pope” in South Carolina in 1860 appears with the name “Luanzer” Pope (“White,” b.ca.1831 in SC) in 1880, when she was still residing in Georgetown County, SC, as a widow with some of the same children in her household as were enumerated in the 1860 census. Therefore, L. Pope is not the same as the Lucy Pope who was recorded in Jackson County, FL, in the same census years. Second, more is known about racially “Mulatto” Lucy Pope (with daughter Mary) of Jackson County, Florida, who the petitioner has confused with Burton Hunter’s wife Lucy. Jackson County’s volume of marriages performed for former slaves includes the December 28, 1875, wedding of a Lucinda Pope to an Asbury Hunter. The 1880 Federal census shows an unmarried Mary Evans (b.ca.1854 in FL) residing as a “daughter-in-law” (likely intended as “step-daughter”) in Asbury and Lucy’s household. Mary Evans married Edward Gainer in Jackson County on December 27, 1894; and the 1910 Federal census included a Lucy Hunter (b.1832 in FL) residing in the household of her married daughter Mary Gainer (b.ca.1862 in FL) (Marianna, ED 48, p.13B). This evidence establishes that Lucy Pope of Jackson County, Florida, is not the same Lucy married to Burton Hunter. In addition, Burton Hunter’s wife Lucy died before 1910, so this fact further distinguishes between the Jackson County Lucy Pope (living in 1910) referenced by the petitioner and the other Lucy [—?—] (maiden name unknown) who was the wife of Burton Hunter and the petitioner’s ancestress.

Lucy [—?—] Hunter (b.1842 in FL) married Burton Hunter circa 1864, according to her entry, with husband Burton Hunter, in the 1900 Federal census (Marianna, Precinct 6, ED 53, p. 14B). The census does not identify them racially as Indian. Her entry shows that both of her parents were born in Florida, and that Lucy was the mother of four children total, only two of whom were then living (the identities of the two then-deceased children remain unknown). OFA did not locate evidence demonstrating the ancestry of the petitioner’s Lucy [—?—] Hunter, or that identified her as Indian. However, the evidence submitted by the petitioner and obtained by OFA clearly demonstrates that she was not the “L. Pope” recorded in the 1860 Federal census of Georgetown County, SC, or the “Lucy Pope” recorded in the 1870 Federal census of Jackson County, FL. The Department did not find any evidence that any of these women were identified as Indian or Indian descendants.

The petitioner describes Burton Hunter as the son of Richard Hunter (b.ca.1805 NC) and Sarah Roof (b.ca.1818 NC) whose marriage bond was signed on October 23, 1839, in Haywood County, NC. According to their ages in Federal census records, this Burton Hunter and two of his apparent siblings were born before the 1839 marriage of a Richard Hunter to a Sarah Roof. This fact does not rule out the possibility that Sarah Roof was Burton’s mother, but the evidence in the record does not support that claim. In either case, all members of the Richard Hunter

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

household were identified as “White” in this and later census records.<sup>6</sup>

The full name of the son of Richard and Sarah Hunter whom the petitioner claims as an ancestor was Riley Burton Hunter. He can be traced from the 1850 Federal census until his death in 1884. The 1860 and 1870 Federal census records show individuals belonging to this racially “White” Richard Hunter family in Union or Fannin County, GA (the latter of which was formed from Union County in 1854). The 1870 Federal census recorded this Burton Hunter as a “White” man (b.ca. 1835 in NC) with an apparent wife “Louiza” and five minors in Fannin County, GA, at the same time that the petitioner’s Burton Hunter was recorded as a “Mulatto” man (b.ca.1842 in FL) with an apparent wife Lucy and two minors living in a household in Marianna, Jackson County, FL. These and later Federal census records of Fannin County, GA, demonstrate clearly that Richard and Sarah Hunter’s son Burton Hunter is a different man from the Burton Hunter in Florida, although both were born about the same time and, possibly, in the same state.

OFA did not locate evidence demonstrating the ancestry of the petitioner’s Burton Hunter of Jackson County, FL, although circumstantial evidence indicates Burton Hunter and his probable relative Toby Hunter were emancipated slaves (see next section). The evidence submitted by the petitioner and obtained by OFA clearly demonstrates that the petitioner’s Burton Hunter was not the Burton Hunter of Union and Fannin Counties, GA. Even if he were, it would not help the petitioner’s case since Burton Hunter of Union and Fannin Counties, GA, was consistently identified as “White.” There is no available evidence that he was a Choctaw or other Indian descendant.

As stated above, the petitioner submitted evidence linking current members generation-by-generation to Burton Hunter (b.ca.1833-1842 in NC or FL) and his wife Lucy [—?—] (b.ca.1842 in FL). However, the petitioner presented ancestry for a Burton Hunter and a Lucy Pope who are not the petitioner’s progenitors. Thus, the ancestry for current members who are Hunter descendants is demonstrated back only as far as Burton Hunter (b.ca.1833-1842 in NC or FL) and his wife Lucy [—?—] (b.ca.1842 in FL) of Jackson County, FL.

### *Evidence of Choctaw or Indian Ancestry*

Most members of the petitioner claim to descend from the historical Choctaw Indian tribe through their direct ancestors Burton Hunter (ca. 1833 – bef. 1907) and his wife Lucy [—?—] (ca. 1842 - 1907).<sup>7</sup> However, the petitioner has not provided any documentation that identified Burton or Lucy [—?—] Hunter as Choctaw or Indian, or as descended from or belonging to the Choctaw or any Indian tribe. None of their contemporaries or known neighbors was identified as Choctaw Indian. None of their descendants was recorded as Indian. The Department has not

---

<sup>6</sup> The instruction to the census enumerators in 1850 was to leave the column for “color” blank if the individual was “White.” The “color” column was blank for all members of the Richard Hunter household on the 1850 census; therefore, they were identified as “White.”

<sup>7</sup> From the 1900 Federal census, Burton Hunter was born in North Carolina in October 1833, and his wife Lucy (maiden name unknown) was born in Florida in May 1842. The 1900 Federal census also states that Burton Hunter’s parents were both born in North Carolina and that Lucy Hunter’s parents were both born in Florida. Burton and Lucy [—?—] Hunter both died in Jackson County, Florida. When Lucy Hunter died in 1907, she was identified as the widow of Burton Hunter; therefore, he died sometime between 1900 and 1907.



## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

been able to find any record demonstrating the petitioner's claims. Instead, the records identifying the petitioner's ancestors clearly show that they were not Indians and that petitioner's claims of descent from the historical Choctaw tribe are not valid.

### *Census Records*

The petitioner submitted some censuses and the Department also obtained various Federal and State censuses of Florida from 1870 to 1945 in which enumerators recorded the claimed ancestors of the group. To verify the group's claims of descent from the historical Choctaw Indian tribe, the Department's researchers reviewed these censuses for Burton and Lucy [—?—] Hunter, their immediate family members, and the subsequent generations to see whether they identified themselves or were identified, at any time, as Indian, or were listed with any particular Indian tribe. If the petitioner's ancestors did not identify themselves as Indian or were not identified as Indian by others, then the Department's researchers tried to determine whether the non-Indian identifications they asserted, or were ascribed to them by census takers, were accurate.

For purposes of criterion 83.7(e), descent from the historical Indian tribe, it is necessary to discuss the racial identifications used in historical materials, which like age, gender, and date of birth help distinguish individuals and provide evidence of descent. The Federal and State censuses provide identifications with respect to "Color or Race." Beginning in 1870, census takers were directed to include Indians living in the general population and in "all cases write 'Ind' in the column for 'Color'." However, census takers frequently used "I," or "In" in their identifications, or "1/2 I" or "I/W" when they enumerated individuals with mixed Indian and non-Indian ancestry. If a person were to identify himself or herself as Indian, or was identified as Indian by the census taker, then the census taker would record "Ind," "I," or "In" in the "Color or Race" column of the schedule form for that individual. Typical non-Indian indications included, but were not limited to: "B" for "Black," "C" for "Colored," "Ch" for Chinese, "M" or "Mu" for "Mulatto," "Neg" for "Negro," "Ot" for "Other," and "W" for "White" (Hinckley 2002, 11).<sup>8</sup>

The petitioner has been able to demonstrate its Hunter family claims back only to the 1870 Federal census in which Burton and Lucy [—?—] Hunter first appeared. In verifying the descent of this Hunter family identified on the 1870 Federal census, the Department's researchers checked the publically available Federal and State censuses for the following years: 1870, 1880, 1885, 1900, 1910, 1920, 1930, 1935, and 1945. On the 1870 Federal census, Burton Hunter is listed as "M." Lucy Hunter and three minors Alice and Susan Hunter and Jane Stephens are listed as "B." Toby and Etney Hunter, who are listed next door to the Burton Hunter household, are listed as "M" and "B" respectively.<sup>9</sup> On the 1880 Federal census, Burton,

---

<sup>8</sup> "Mulatto" and "colored" were terms generally used to refer to people with mixed race origins, and were sometimes used to refer to individuals who were part Indian, but the terms were not synonymous with Indian ancestry. The Department does not assume that these terms indicate Indian ancestry in the absence of primary source evidence of descent from a historical Indian tribe (Ramapough FD 1996, Technical Report, 117).

<sup>9</sup> The petitioner referred to this man as "Uncle Toby," suggesting that he was Burton Hunter's brother. Toby Hunter's recorded age, birthplace, close proximity on censuses, and association with Burton Hunter in court records support that possibility.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

Lucy, and daughter Susan Hunter are listed as “B.” Toby and Edney Hunter are again listed immediately after the Burton Hunter household, and are both listed as “B.” Alice is listed immediately before her father Burton Hunter with her husband Henry A. Jones and both are listed as “B.”

On the 1885 Florida State census, Burton, Lucy, and Sue are listed as “B” and living in the same household of Tobe and Edne Hunter, who are also listed as “B.” Burton Hunter’s grandson Dan Robinson is also listed as “B.” On the 1900 Federal census, Burton Hunter and Lucy Hunter are listed as “B.” Their grandchildren David Hunter, William Hunter, Axum Hunter [aka Cooper], and Mansie Kees [Keys?] are all listed as “B.” Elsewhere on the 1900 Federal census, Susan [Hunter] and her husband John Gilbert, with daughter Matilda and son Joseph E., are listed as “B.” On the 1910 Federal census, widow Susie Gilbert is listed as “B” and her daughter Matilda is listed as “Mu.” On the 1920 Federal census, Axom and Lula B. Cooper [*sic*] are listed as “B.” Floy Hunter, widow [of William Hunter], and her 12-year-old son Burton Hunter are listed as “B.” On the 1930 Federal census, Matilda L. James is listed with her husband Frank James, three sons Samuel, Jerome, and Frank, and brother, Joseph Gilbert all of whom are recorded as “Neg.” On the 1935 Florida State census, Frank and Matilda James, with their children Sam, Jerome, Frank Jr., Willie Lee, and Alphonso, are all listed as “C.” On the 1945 Florida State census, Frank and Mattie James and their children Jerome, Frank Jr, Willie Lee, and Al were recorded on a page for “Colored” residents of Hillsborough County, FL. The census takers clearly did not identify the Burton Hunter family as Indians or descendants of Indians.

Of the six Federal census returns for 1870, 1880, 1900, 1910, 1920, and 1930 for Jackson County, FL, only the 1900 Federal census listed any Indians living in that county. The census taker for Jackson County identified 15 individuals living at “Friendship Precinct” and recorded “Ind” in the column for “Color or race.” These individuals were Sarah A. Armstrong, James D. Free, Martha Free, Mary C. Free, Ether Jacobbs, George C. Jacobbs, George D. Jacobbs, Henry H. Jacobbs, James E. Jacobbs, James W. Jacobbs, John J. Jacobbs, Luvenia Jacobbs, Mary A. Jacobbs, Maggie A. Jacobbs, Ross Jacobbs. The available record does not show any relationship of these 15 individuals to the petitioner’s ancestors.<sup>10</sup>

None of the Federal and State censuses provided evidence that the petitioner’s ancestors were identified as Indians. There was no evidence in the petitioner’s records that the individuals who were identified as “Mulatto” had an Indian parent or other, more distant Indian ancestors. The Department’s researchers did not find the petitioner’s Burton Hunter as a child in his parents’ household or as an adult on the 1850 or 1860 Federal censuses for Florida or North Carolina, which later census records indicate would be the logical places of residence. Therefore, the Department followed standard genealogical research methodology to try to verify the petitioner’s claims of Choctaw Indian ancestry for Burton or Lucy [—?—] Hunter. These research methods led to a search of other Jackson County, FL, records that could identify the origins of the petitioner’s Burton Hunter family.

---

<sup>10</sup> These individuals were born in five different states (Alabama, Florida, Georgia, North Carolina, and South Carolina). They appear in the general population schedules and not in any Special Indian Population schedules that would have identified a specific Indian tribe.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

This research found that Jackson County, FL, records prior to 1870 also indicate that Burton and Lucy Hunter, and Toby and Edny Hunter, did not identify themselves nor were identified by others as Choctaw or Indian, or as belonging to any Choctaw or other Indian tribe. These documents consistently record the petitioners' ancestors as "Black" or "Mulatto."

### *Probate Records*

*Your Guide to the Federal Census for Genealogists, Researchers, and Family Historians* states, that "Researching court, property, and probate records of the slave owner sometimes reveals specific information about the names and ages of slaves" (Hinckley 2002, 12). With the assistance of Dale Rabon Guthrie, Clerk of Courts for Jackson County, FL, the Department's researchers were able to locate pre-Civil War estate records for several "White" Hunter families with slaves living in Jackson County, FL, before the Civil War. One Hunter family had slaves named Burton and Toby, and the other two Hunter families both had slaves named Lucy.<sup>11</sup>

The 1856 estate papers for Joseph T. and Caroline W. Hunter, containing an appraisal of property in neighboring Calhoun County, FL, filed and recorded in Book C, page 590, December 27, 1856, in Jackson County, FL,<sup>12</sup> listed the following slaves: Stephen, Allen, Charles, Charles Hunter, Ferry, **Toby**, Archy, Peter, **Burton**, Albert, Henry, Cherry, Caroline, Mariah, Eliza, Joe, Mary, Wity, Katy, Louisa & two children, Bitha, and Milly [bold for emphasis] (Tindel Telefax 3/14/2010).

### *Marriage Records*

In 1865, the Florida General Assembly passed a marriage law requiring "all the colored inhabitants of this State, claiming to be living together in the relation of husband and wife, and who have not been joined as such...to be regularly joined in the holy bonds of matrimony" (Laws of Florida, 1865, Chapter 1, 469). An amendment passed on December 14, 1866, obviated remarriage (Laws of Florida, 1866, Chapter 1, 552). The following are the 1866 Jackson County marriages for free African Americans named Hunter: **Toby Hunter & Edny Holden** (07/04/1866), William Hunter & Evalina Myrick (06/18/1866), Wm Anderson & Louisa Hunter (08/20/1866), Richard Jackson & Louisa Hunter (08/13/1866), Andrew Hunter & Mary Hunter (08/19/1866), Henry Hunter & Martha Glover (12/13/1866), Arthur Hunter & Virginia Hunter (06/05/1866), Richard Dickson & Mariah Hunter (9/20/1866), and Asbury Hunter & Lucinda Hunter (06/05/1866) (Tindel to Fleming, E-mail, 3/12/2010). All of these individuals complying with the 1865 Florida marriage law were recorded racially as "Col." Department researchers did not locate a marriage record for Burton and Lucy Hunter, who married circa 1864, according to their 1900 Federal census entry.

---

<sup>11</sup> The 1854/55 estate papers for Irvin and Mary Hunter, lists "negro slaves" as Titus, Jim, Cassin, Albert, Hampton, Henry, Sally, Andrew, Abram, Maria, Delia, George, **Lucy**, Phebe, Lucinda, Milly, Elcy, and Mary [bold for emphasis] (Tindel Telefax 3/14/2010).

The 1859 estate papers for James McG. and Margaret S. Hunter, dated September 1, 1859, list "Slaves" Sabra & child, Tamer, Simon, George, Isaac, Ben, Martha, Louisa, Aleck, Harry, Jinny, Mary, Basha, Milly, Guy, Dick, Arthur, Henry, Sillas, Andrew, Dempsee, **Lucy**, and Milly [bold for emphasis] (Tindel Telefax 3/14/2010).

<sup>12</sup> Calhoun County was formed in 1838 from Jackson, Franklin, and Washington Counties.

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

### *Church Records*

The Department found other references to the petitioner's ancestors contradicting the petitioner's claim that Burton Hunter was a Choctaw Indian. According to a 2006 book entitled, *The Legacy: African Americans of Jackson County, Florida*, in a chapter regarding "Churches," Burton Hunter was listed as one of the deacons for the St. Luke Missionary Baptist Church, an African-American church founded in 1867 (Legacy of Florida Committee, 14).

### *Military Records*

World War I records reveal that Burton and Lucy [—?—] Hunter's grandsons were identified as "Negro," "B," or "African." On the 1918 World War I, Registration Card, Axom Cooper is recorded as "Negro." On the World War I Civilian Draft Registration, Joseph Gilbert is recorded as "B." On the 1918 World War I, Registration Card, William Hunter is recorded as "African."

### *Vital Records*

Vital records reveal that the petitioner's ancestors were consistently identified as non-Indian. The 1922 birth record for Jerome Anthony James shows both parents Frank James and Matilda Gilbert as "colored." A November 26, 1937, Florida death record for an unnamed child of Frank James, born in Boston, GA, and Matilda Gilbert, born in Marianna, FL, recorded the "Race or color (on document): negro." The 1951 death record for Matilda James, daughter of John Gilbert and Susie Hunter, recorded her "Color or Race" as "Negro." On August 20, 1968, Axom Cooper's death record stated that he died at the age of 80 and listed his race as "Colored (Black)" (The Indexes of Vital Records for Georgia, 1919-1998).

### *Homestead Application*

As stated in the Historical Overview and Unambiguous Previous Federal Acknowledgment sections of this finding, the petitioner provided evidence from the General Land Office's Internet site that demonstrated a Burton Hunter obtained land from the Federal Government in Jackson County, FL, under the 1862 Homestead Act. The probate file of his widow Lucy [—?—] Hunter makes reference to this land, so it is clearly the petitioner's Burton Hunter who obtained the homestead land in Jackson County, FL. However, the petitioner makes the claim that Burton Hunter obtained this land by virtue of being an Indian: "This acquisition was a result of a prior act of Congress that permitted conveyance of land to native Indians, as well as the right to establish homesteads" (James 4/13/2004). This was not the case.

The land case file, which Department researchers obtained from the National Archives, contains the original paperwork submitted by Burton Hunter for his tract of the 80.06 acres constituting the west half of the southwest quarter of section 38 in township 5 north, range 10 west of the Tallahassee Meridian (#1491, Homestead, Gainesville Land Office, FL, NARA RG 49). On February 5, 1872, Hunter completed application #5449, which was filed on March 21, 1872. Hunter applied "under the provisions of the Homestead Act of 1862," which did not require Indian affiliation or ancestry.

On August 15, 1878, witnesses Toby Hunter and Isaac Smith gave sworn testimony that Burton Hunter was over 21 and had a wife and two children. The witnesses further swore that Hunter had inhabited the tract since September 1, 1872, improved 50 acres of it, and had built a house

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

and outbuildings upon it. The Gainesville Land Office issued on August 24, 1878, the final certificate #1491 that Burton Hunter then redeemed for a patent for this tract.

This land entry file does not record color or race designations or Indian affiliation for applicants. Further, the file does not contain any evidence to suggest that Burton Hunter was Indian or Choctaw.

### *Indian Rolls*

The petitioner claims to use two historical Indian rolls for membership determinations: the 1848 Mullan Roll of Eastern Cherokees and the 1885 Union (Choctaw Indians only) Roll of Choctaw residents of Blue County, Indian Territory (now Oklahoma). Department researchers examined these two rolls for the names of Burton and Lucy [—?—] Hunter and their daughter Susan but without success. One entry for an “Alice Jones” appeared in the 1885 Union Roll of Choctaw then residing in Blue County, Indian Territory, who was the same age as Burton Hunter and Lucy [—?—]’s married daughter Alice (Hunter) Jones. However, the Choctaw Alice Jones was enumerated in Indian Territory with an apparent husband Robert and 10-year-old daughter Victoria (b.ca.1875). In contrast, Burton Hunter’s daughter Alice (Hunter) Jones was married to a Henry A. Jones in Jackson County, Florida, in 1880, and no child (named Victoria or otherwise) appeared in their 1880 Federal census entry in Jackson County, Florida. Thus, the “Alice Jones” on the 1885 Union Roll is not identical to the petitioner’s Alice (Hunter) Jones.

Further, Department researchers examined two other rolls for the names of the Hunters: the Dawes Roll and the Miller Roll. The “Dawes Roll” refers to the “Final Rolls of Citizens and Freedmen of the Five Civilized Tribes in Indian Territory” (Cherokee, Choctaw, Creek, Chickasaw, and Seminole) authorized by Congress in 1893. Enrollment applications for this roll are dated 1899-1906. The “Miller Roll” refers to the Guion Miller Enrollment of the Eastern Cherokees. Enrollment applications for this roll are dated 1906-1909. Department researchers did not find the names of Burton or Lucy [—?—] Hunter or their daughter Susan (Hunter) Gilbert in either the Dawes or Miller rolls. The name of their daughter Alice (Hunter) Jones matched the names of three “Alice Jones” applicants for enrollment in the 1906-1909 Miller roll. One “Alice Jones” applicant was a child born in 1903 residing in Kansas (#1024); the second applicant was married to a Jesse Jones, residing in Ashe County, NC (#4340); and the third applicant was Alice (Masters) Hill Jones, a non-Indian filing an application in behalf of her Hill children, all of whom resided in Overton County, TN (#39529). Thus, none of the “Alice Jones” applicants for the 1906-1909 Miller roll is identical to the petitioner’s Alice (Hunter) Jones. In summary, none of the known family members of Burton Hunter appeared in either of the two Indian rolls used by the group for membership determinations or in either the Dawes or Miller rolls that included Indians then residing in the eastern U.S.

### *Summary of Evidence for Burton and Lucy Hunter*

To summarize, Burton and Lucy [—?—] Hunter, their relatives, and descendants were clearly not identified as Indian. No Federal or State censuses between 1870 and 1945 demonstrated that these individuals identified themselves, or that the census enumerators identified them, as Choctaw or Indian, or as belonging to Choctaw or any other Indian tribe. No county court, property, or probate records identified them as Choctaw or Indian, or as belonging to Choctaw or any other Indian tribe. No marriage, church, military, or vital records stated that the petitioner’s ancestors were identified as Choctaw or Indian, or as belonging to Choctaw or any other Indian

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

tribe.

The evidence in the record demonstrates that most of the petitioner's members descend from Burton and Lucy [—?—] Hunter. However, the evidence in the record also clearly demonstrates that neither Burton nor Lucy was identified as Choctaw or other Indians. In their own lifetimes, Burton Hunter and his wife Lucy identified themselves as "Black" or "Mulatto." The Federal and State censuses support these identifications and support a finding that Burton and Toby had been slaves of a Joseph T. Hunter family living in Jackson County, FL, in the 1850s. Lucy may also have been enslaved before the Civil War, but individuals named Lucy so often appeared in estate record listings as slaves that it was not possible to determine which, if any, pertained to Burton's wife Lucy. The records found for Lucy identified her as "Mulatto" or "Black" and not as an Indian or Indian descendant. By 1865, they were free and identified on the Federal censuses by their names Burton and Lucy Hunter for the first time in 1870. There is no evidence that this apparent former slave and his wife were Indians or Indian descendants.

### Evidence of Claimed Ancestry from Indian Census Rolls for other Ancestors of the Group as Defined in the Governing Document

CNF submitted its current membership list on November 6, 2009. OFA received the list on November 23, 2009. The petitioner's governing body certified the list, dated September 11, 2009, current as of October 22, 2009 (James et al. 11/6/2009). This membership list contained 77 members. The petitioner submitted one other membership list in February 2005, which OFA received on March 2, 2005. CNF's governing body certified this undated membership list current as of August 9, 2004 (James et al. 2/24/2005). This membership list contained 99 members. None of the available evidence for this petition demonstrated that any of the individuals listed on these two lists have descent from the historical Choctaw Indian tribe or any other Indian tribe.

The petitioner submitted a governing document in February 2005, received by OFA on March 2, 2005. CNF's governing body certified this governing document as current as of February 24, 2005. Article II, Section 1 of the document defined membership as follows:

The membership of the Hunter-Tsalagi-Choctaw Tribe shall consist of the following:

- (a) An application submitted to the tribal council with documented proof of Choctaw ancestry or blood.
- (b) Any child born to parents whose name appears on the membership roll.
- (c) The tribal council shall have the power to revise the membership roll at any time.

None of the current members of the group submitted evidence with his or her application of "documented proof of Choctaw ancestry or blood."

The petitioner also submitted an amended governing document dated September 18, 2008, which OFA received on March 23, 2009. This document contained no signature page but other evidence in the record indicated it is the current governing document for the group (CNF

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

Constitution 9/18/2008). Article II, Section 1 of this document defined “citizenship” in the group in this manner:

The Choctaw Nation of Florida shall consist of all Choctaw Indians whose ancestors names appear on Mullay Rolls or Choctaw Union Indian Rolls-623 or Choctaw Territory Indian Census Rolls-T-9, or Federal Census records from 1850 to 1880, with documented proof of lineal descendants, and an application submitted.

The petitioner did not explain any of these types of evidence further. The “Mullay Rolls” reference appears to refer to records that the National Archives microfilmed as the “Mullay Roll of Eastern Cherokee, 1848-1852,” microfilm 7RA-6. The petitioner does not explain why it utilizes an Eastern Cherokee roll for membership determinations when it claims the group is Choctaw. The “Choctaw Union Indian Rolls-623” reference appears to refer to records that the National Archives microfilmed as “Union (Choctaw Indians Only),” reel 623, within the “Indian Census Rolls, 1885-1940,” microfilm series 595. The 1885 Union roll is a census of Choctaw Indians who were residing in 1885 in Blue County, Indian Territory (now Oklahoma), not in Florida. The “Choctaw Territory Indian Census Rolls-T9” reference has the National Archives microfilm designation, T9, for the 1880 Federal census schedules. According to the National Archives’ Internet site’s description of its T9 microfilm series of the 1880 Federal census, “No census was taken in Indian Territory (Oklahoma)” ([www.archives.gov](http://www.archives.gov)).

None of the current members of the group submitted with his or her application, nor did OFA find, actual evidence of Choctaw ancestry. No member submitted, nor did OFA find, evidence of descent from any historical individual listed on the specific documents identified in the membership criteria portion of the governing document.

### *Evidence of Claimed Indian Ancestry on the Mullay Roll or Union Roll*

The Department also conducted a separate analysis to determine if any of the current members of the petitioner had evidence of Choctaw ancestry as required by the group’s governing document. For a connection to the Mullay Roll, the Department examined the genealogical records of the 35 claimed ancestors born before 1853. The Department then compared these 35 names for any possible genealogical connection to a published index of the names on the Mullay Roll, which was a census of the 1,517 Cherokee remaining in North Carolina after the 1838 removal. This evaluation revealed no genealogical connection for any of the 35 names (Blankenship 1992, 39-46).

For a connection to the Union Roll, the Department examined the genealogical records of the 76 claimed ancestors born before 1886. The Department then compared these 76 names for any possible genealogical connection to the names appearing on the Union Roll of 1885, which was an agency census of Choctaw Indians living in Indian Territory, now Oklahoma. This analysis uncovered no genealogical connection for any of the petitioner’s 76 names (Union Roll 1885).

The Department’s analysis of these Indian Census Rolls and the petitioner’s application forms clearly shows that none of the petitioner’s members has “documented proof of Choctaw ancestry or blood” as the governing documents of the group require.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

### Other Evidence of Claimed Indian Ancestry for other Claimed Ancestors of the Group

The petitioner submitted family genealogical information for six current members or their family lines that apparently descended from an individual other than the Burton Hunter named above. The available evidence for these individuals or families, as described below, did not demonstrate descent from the historical Choctaw Indian tribe or any other Indian tribe.

#### *Family Folders*

##### Boyd Family (Folder 1)

This folder contained a consent form signed by one member, with that individual's birth certificate (documenting her parentage); an extract from the 1910 Federal census of Walton County, FL, for Cora Lee Sparrow (born circa 1903) and her parents; and an ancestry chart for this member that included her parents, three of her grandparents, and four of her great-grandparents. This folder did not include documentary evidence demonstrating the descent of this member from anyone other than her parents. The Boyd member had not annotated any individual on the ancestry chart as the "Indian" or "Choctaw" ancestor who met the petitioner's membership criteria.

No dates of birth were listed for the four claimed great-grandparents, but Federal census records of their ages enabled OFA to estimate that they all were born before the 1885 Union (Choctaw Indians only) Roll, one of the two historical Indian rolls the petitioner stated it uses for membership determinations. Therefore, OFA searched the 1885 Union Roll, but without success, for the names of E. J. Sparrow (b.ca.1853 NC) and his wife Annie (b.ca.1869 FL), and Robert Hardrick (b.ca.1873 GA) and his wife Georgia Weldon (b.ca.1882 GA). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Boyd member's claimed ancestors were Indian or Choctaw (CNF Petition 2009, C. Boyd Family Folder Number 1).

##### Boyd Family (Folder 2)

This folder contained three consent forms, signed by one member and his two daughters, with their birth certificates (documenting their parentage); photocopies of two of his membership cards (dated 1989 and 1997) from the American Indian Center of Chicago, one of which had "Choctaw" typed on it; a four-page "Boyd Family Tree" narrative that described specific, claimed ancestors back to two great-great-great-grandparents; one ancestry chart; and nine family group sheets for direct and collateral historical relatives. This folder did not include documentary evidence demonstrating the descent of this member and his daughters from anyone other than their parents.

One of the nine family group sheets stated, "Nancy Harp married Henry Beaver who is Choctaw Indian." The "Boyd Family Tree" narrative in the folder stated that the member's great-



## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

grandfather Henry Beaver (b.1870 GA – d.1947 WI) was Choctaw, and claimed that Dawes Roll<sup>13</sup> cards exist for three of Henry’s children by Nancy Victoria Harp, identified as:

Frank (b.1893), “Indian Roll Card #399 Roll #1296 age 13 full blood;”  
Elizabeth (b.1894) “died at birth and is on the Indian Roll,” “Card #10589 Roll  
9120 age 0 full blood;” and  
Nellie (b.1896) “Card #3270 Roll #9120.”

Federal census records, located by OFA, indicated Henry and Victoria had a son Frank born in June 1893, and the infant Elizabeth who allegedly died at birth in 1894 may be one of the two deceased children ascribed to Victoria in 1900. The narrative claimed Henry and Victoria had a daughter Nellie born in August 1896, but the 1900 and 1910 Federal censuses identified Henry and Victoria’s daughter who was the same age as “Sallie,” not “Nellie.”

OFA’s review of the Dawes Roll shows that none of the Indian roll record citations referenced by the petitioner pertained to any of Henry and Victoria (Harp) Beaver’s children. The Frank Beaver on card #399 was born circa 1886, to Buck Beaver and Jennie Chisholm (Creek by Blood Roll). The Elizabeth Beaver cited as appearing on card #10589 did not appear on that card, but was found on an earlier enrollment card cited thereon. This Elizabeth Beaver was the 38-year-old widow of John Beaver with four children in 1900 (card #247 Delaware Roll, Old Series). She appeared on a Delaware Roll, New Series card (#127) in 1904, at which time the Cherokee Roll listed her sons (card #10589). The Nellie Beaver cited as appearing on card #3270 was born circa 1887 to Sanger and Elsa [—?—] Beaver (Creek Nation Roll). None of the three cited references pertained to Henry and Nancy (Harp) Beaver’s children or to Choctaw Indians. OFA located Federal census entries for Henry Beaver in 1870 Georgia, 1880 Georgia, 1900 Georgia, 1910 Minnesota, 1920 Wisconsin, and for his widow Nancy in 1930 Illinois. None of the census records for the petitioner’s ancestor named Henry Beaver identified him as Choctaw or Indian or as living among Indians.

The “Boyd Family Tree” narrative gave full or approximate dates of birth for all of the historical individuals it claimed as ancestors, but no supporting documentary evidence. OFA searched both of the historical Indian rolls that the petitioner stated it uses for membership determinations—the 1848 Mullan Roll of Eastern Cherokees and the 1885 Union Roll—without success for the following individuals claimed as Boyd ancestors who were listed, but not documented, as living during either of those periods: James Robert Beaver (b.ca.1814 SC) and his wife Margaret (b.ca.1813 GA); Theodore Smithee Beaver (b.ca.1846 GA) and his wife Nancy E. James (b.1849 GA); John Franklin Harp (b.1853 GA) and his wife Susan Groover (b.1861 GA); and Henry Beaver (b.1870 GA) and his wife Nancy Victoria Harp (b.1878 GA). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Boyd’s claimed ancestors were Indian or Choctaw (CNF Petition 2009, Mr. C. Boyd Family Folder).

## Deering Family

---

<sup>13</sup> The “Dawes Roll” refers to the “Final Rolls of Citizens and Freedmen of the Five Civilized Tribes in Indian Territory” (Cherokee, Choctaw, Creek, Chickasaw, and Seminole) authorized by Congress in 1893. Enrollment applications for this roll are dated 1899-1906.

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

This folder consisted of consent forms signed by two Deering siblings, their aunt, and one cousin. Included also were vital records for these members and their children that documented the descent of all (except for three adopted children) from a James Deering (b.ca.1929 Jackson County, FL). The 1930 Federal census, 1935 State census records, and Jackson County, FL, marriage records located by OFA verified that James Deering was the son of Solomon Deering (b.ca.1896 FL) and Rosa Watford (b.ca.1897 FL). Earlier census records verified Solomon Deering's parents and grandparents, and Rosa Watford's parents.

Three brief narratives describe the various family histories: "The Deering-Lawrence," "Deering, Paramore, Graham, Godwin, Bell," and "The Deering-Lawrence Migration Route." However, none of these narratives described any of the historical individuals as Indian or Choctaw. None of the Federal census photocopies provided, or located by OFA, describe any of these individuals as Indian or Choctaw. OFA searched the 1848 Mullay Roll and the 1885 Union Roll without success for the following individuals claimed as Deering ancestors who were living during either of those time periods: Abraham Deering (b.ca.1815 NC) and his wife Harriet (b.1820 NC); William Deering (b.ca.1855 FL) and his wife Vicy Lawrence (b.ca.1855 FL); Handy Watford (b.ca.1850 FL); John Paramore (b.ca.1874 FL), and Samuel Graham (b.ca.1873 SC). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Deering's claimed ancestors were Indian or Choctaw (CNF Petition 2009, Deering Family Folder).

### Gibbs Family

This folder had consent forms signed by 11 members, accompanied by vital record photocopies, a divorce citation, and Internet printouts of Federal census entries and county marriage abstracts. The evidence in this folder documented the ancestry of many of the members to ancestors living in the 1800s.

A narrative by a Gibbs member, "My Family Genealogy," described the family history and included the claim that the family of her great-grandfather, Henry Collins Jr., "stayed on an Indian reservation in Leon County." The narrative further states, "He was a Creek Indian." OFA located Federal census entries that showed this Collins family resided in Leon County, FL, 1870-1920, but the entries provided no indication of an Indian reservation or the family's residence on one. The census entries did not enumerate the family as Indian, Choctaw, or Creek.

The Federal census records in this folder, and those located by OFA, provided age information that enabled OFA to verify approximate birth dates for the historical individuals demonstrated or claimed as ancestors. OFA searched the 1848 Mullay Roll and the 1885 Union Roll, without success, for the names of these individuals claimed as Gibbs ancestors who were living during either of those time periods: Henry Collins, "Sr." (b.ca.1851 AL), and his wife Sophia; Henry Collins, "Jr." (b.ca.1872 FL), and his wife Elizabeth Brown (b. 1879 FL); Othello Harris (b.ca.1831 SC) and his wife Matilda (b.1850 SC or FL); William Harris (b.ca.1871 FL) and his wife Alice (b.ca.1872 FL); Napoleon Brown (b.ca.1828 NC) and his wife Edna Brown (b.ca.1833 NC); Isaac Brown (b.ca.1865 FL) and his wife Fannie McKinney or Kinney (b.ca.1857 NC); and John Kinney (b.ca.1815 NC) and his wife Patsy (b.ca. 1836 NC).

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

The front of this folder contained a printout from an index to “1896 Dawes Applications” that included three entries for the name “William Harris,” which was the name of a Gibbs member’s great-great-grandfather. There were no entries for “Othello Harris,” the only other Harris forebear claimed by the Gibbs member. Othello Harris, born in 1831, was the father of William Harris (b.ca.1871 FL). The Gibbs member’s narrative did not refer to these applications or claim that her ancestor William Harris was Indian. Of the printout’s three Dawes application citations for a William Harris, two pertained to Choctaw applicants and one to a Cherokee applicant. The Cherokee application was filed by a William Harris who was married to an Elizabeth and had children Wallace, Sam, Hattie, and Lillie before 1896, whereas the Gibbs member’s ancestor William Harris was married to an Alice and their children born before 1896 were Matilda and William. No William Harris references appeared in the two cited Choctaw applications (#191 and #1349). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Gibbs’ claimed ancestors were Indian or Choctaw (CNF Petition 2009, C. Gibbs Family Folder).

### Jackson Family

This folder included two consent forms signed by members who appear to be related as uncle and nephew, although that is not documented. The elder member’s consent form is accompanied by a short-form birth card that did not identify his parents. The other member submitted a full birth certificate identifying his parents. A single typed sheet in the folder listed the names of the eight children of a John Jackson, of South Carolina. If the list were correct, the two members would be John Jackson’s son and grandson. However, OFA did not find evidence in the folder, or in its own search, to verify that John Jackson was the father of the eight children attributed to him. Nevertheless, the folder provided photocopies of the 1920 and 1930 Federal census records that showed a John Jackson (b.ca.1917 SC) as the son of Willie and Emma [—?—] Jackson of Georgetown County, SC.

The petitioner did not indicate which individual in these records is believed to be Indian or Choctaw. None of the Federal census records provided, or located by OFA, recorded any of these Jackson individuals as Indian or Choctaw. The provided Federal census records do not agree upon the approximate birth date for Willie Jackson, the eldest male Jackson claimed by these members: 1887 per 1900 census; 1862 per 1920 census; and 1895 per 1930 census. However, Willie resided with his widowed mother Martha and a sister Charity (among other siblings) in 1900, and the 1880 census recorded a Richard Jackson (b.ca.1831) who then headed a household that included a wife Martha (b.ca.1840) and daughter Charity (1880 census, SC, Georgetown County, Black River, ED 51, p. 329). Therefore, Richard Jackson appears to be the father of Willie Jackson and old enough to have appeared in either of the two Indian rolls used by the petitioner to establish membership. OFA searched the 1848 Mullay Roll and the 1885 Union Roll without success for the names of Richard Jackson (b.ca.1831 SC) and his wife Martha (b.ca.1840 SC). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Jackson’s claimed ancestors were Indian or Choctaw (CNF Petition 2009, R. Jackson Family Folder).

## Choctaw Nation of Florida (Petitioner #288) Proposed Finding

### Reed Family

This folder contained a consent form signed by a Reed member, whose documentation of parentage was missing. The file also had consent forms from 11 additional members, with birth certificates (one short form) attached to each. Also supplied were vital records and census photocopies for earlier generations that included Bell, Cotton, Gammon(s), Garrett, and Wallace families claimed as ancestors of the Reed member. Documentation for connections between the most recent generations is lacking, including the Reed member's own parentage.

Denton and Swift family narratives were also in this file, without accompanying evidence to verify their claims. The Denton and Swift families are claimed as ancestors by 4 of the other 11 members represented in this file. However, those four members have no demonstrated relationship to the Reed member. Neither the Denton nor the Swift family narratives claim Indian or Choctaw ancestry.

The Reed member provided photocopies of two 1878 marriage records, annotated in different handwriting at an unknown date to indicate that the brides (Silva/Silvia Gammons and Augusta Cotton) and one groom (William Garrett) were "Indian." These anonymous annotations are not acceptable evidence of Indian ancestry. OFA located Federal and State census entries for Sylvia (Gammon) Williams in Jackson County, Florida, in 1880, 1885, 1900, 1910, 1920, and 1930. None of the census records for Sylvia (Gammon) Williams identified her as Indian, Choctaw, or ever living among Indians. OFA located Federal census records for William Garrett (b.ca.1856 FL) and his wife Augusta Cotton (b.ca.1857 FL) in 1880 FL, 1900 FL, 1910 FL, and 1920 FL, as well as what appears to be their 1928 Florida death record citations. Neither the census records nor the vital record identified William Garrett or Augusta Cotton as Indian or Choctaw or ever living among Indians.

For the Reed-related members, OFA searched the 1848 Mullay Roll and the 1885 Union Roll without success for the names of George Bell (b.ca.1875 FL) and his wife Mary Martin (b.ca.1878 FL); Arthur Bryant (b.ca.1870 FL) and his wife Lizzie (b.ca.1870 FL); George Williams (b.ca.1858 GA) and his wife Silvia Gammon(s)<sup>14</sup> (b.ca.1858 FL); Simon Cotton (b.ca.1828) and his wife Mary Belser (b.ca.1838); William Garrett (b.ca.1856 FL) and his wife Augusta Cotton (b.ca.1857 FL); Peggy Wallace (b.ca.1817 GA); and Thomas Wallace (b.ca.1849 FL) and his wife Martha Butler (b.ca.1856 GA). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the Reed's claimed ancestors were Indian or Choctaw.

For the non-Reed-related members, OFA located Federal census records for Elias Swift (b.ca.1818 NC) and his son David Elkanah Swift (b.1867 TN) in the Federal census of 1870, 1880, and for David in 1900, all in Johnson County, TN, and for David A. D. Denton (b.1860 VA) in 1880 and 1900 in Washington County, VA. The census records do not record these individuals as Indian or Choctaw or as ever living among Indians. OFA searched the 1848 Mullay Roll and the 1885 Union Roll without success for the names of Elias Swift (b.ca.1818

---

<sup>14</sup> The 1885 Union Rolls enumerated a similarly aged "Silvia Williams" residing in Blue County, Indian Territory (now Oklahoma) but her husband and children do not match those of the petitioner's Silvia (Gammon) Williams (census entry #1095).

## **Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

NC) and his wife Mary Loretta Stout (b.ca.1828 TN); David Elkanah Swift (b.ca.1867 TN) and his wife Sarah Grindstaff (b.ca.1865 TN); David James Denton (b.ca.1828 VA) and his wife Margaret Larimer (b.ca.1821); David A. D. Denton (b.1860 TN) and his wife Martha A. Bowman (b.1870 VA). No evidence submitted by the petitioner, or located by OFA, demonstrated that any of the non-Reed-related members' claimed ancestors were Indian or Choctaw (CNF Petition 2009, A. Reed Family File Folder).

In addition to checking the 1848 Mullay and 1885 Union Rolls, OFA searched the index to the 1899-1906 Dawes Roll of the "Five Civilized Tribes"—Cherokee, Choctaw, Creek, Chickasaw, and Seminole—for all of the same historical individuals claimed as the petitioner's ancestors, as identified above, who were sought without success in the 1848 Mullay Roll and the 1885 Union Roll of Choctaw. Many names on the Dawes Roll matched those individuals claimed as the petitioner's ancestors, but further investigation found that their ages or family compositions did not. OFA did not find any claimed ancestor of the petitioner's members represented in the index to the Dawes Roll of the "Five Civilized Tribes."

The petitioner claims Choctaw ancestry, yet includes the 1848 Mullay Roll of Eastern Cherokee as one of the two Indian rolls it claims to use for membership determinations. In addition, the family folders provided some citations (although without merit) to Cherokee enrollment for some claimed ancestors. Therefore, OFA also searched for the names of the historical individuals claimed as the petitioner's ancestors in the index to the 1906-1909 applications of the Guion Miller Enrollment of the Eastern Cherokees. Many names in the index to the Miller roll matched the names of individuals claimed as the petitioner's ancestors, but none resided in Florida (where Federal census and county marriage records indicate the petitioner's claimed ancestors of these same names then resided). Six of the Miller Roll applicants with matching names resided in nearby Georgia, but a review of their enrollment applications found that their ages, family compositions, and residences demonstrated that they were not the petitioner's claimed ancestors.<sup>15</sup> OFA did not find any claimed ancestor of the petitioner's members represented in the Guion Miller Roll of Eastern Cherokee.

### Conclusion for the Summary of the Evidence under Criterion 83.7(e)

The petitioner claims to have descended as a group from the historical tribe of Choctaw Indians. There is no primary or reliable secondary evidence submitted by the petitioner or located by OFA showing that any of the named ancestors or members of the group descended from this historical Choctaw Indian tribe or any other Indian tribe. None of the documentation on the petitioner's members and their individual ancestors, submitted by the petitioner or found by OFA researchers, supports the petitioner's claims of descent from the historical Choctaw Indian tribe or any other Indian tribe. The extensive evidence does not support any Indian ancestry. In fact, the evidence clearly shows the petitioner's members and ancestors were consistently identified as non-Indians living in non-Indian communities.

---

<sup>15</sup> OFA examined applications filed by George Bell (application #15344), Mary M. Bell (#4123), William A. Garrett (#16318 and #26634), Henry Jones (#42043), and George Williams (#12044), all residents of the state of Georgia circa 1906 ("Eastern Cherokee Applications of the U.S. Court of Claims, 1906-1909," National Archives microfilm M1104, rolls 43, 122, 144, 151, 220, and 322).

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

The petitioner clearly does not meet the requirements of criterion 83.7(e), as modified by 83.10(e)(1), because there is no evidence in the record establishing that any of the members of the petitioner descend from a historical Choctaw Indian tribe or any other Indian tribe. According to the regulations, failure to meet any of the seven mandatory criteria requires a determination that the group does not exist as an Indian tribe. Therefore, the Department proposes to decline to acknowledge Petitioner #288 as an Indian tribe.

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

**Bibliography**

- Blankenship, Bob  
1992                      *Cherokee Roots*, Vol.1, 2nd Edition (Cherokee, North Carolina)
- CNF Constitution  
9/18/2008                Choctaw Nation of Florida Constitution  
OFA Administrative Files
- CNF Petition  
2009                      Choctaw Nation of Florida Documented Petition  
11/6/2009
- Deloria and DeMallie  
1999                      *Documents of American Indian Diplomacy: Treaties, Agreements, and  
Conventions, 1775-1979*, Volumes 1 and 2 (University of Oklahoma  
Press: Norman, Oklahoma) Edited by Vine Deloria, Jr. and Raymond  
DeMallie
- Fleming  
52/22/2006                R. Lee Fleming, Director of the Office of Federal Acknowledgment, to  
Jerome James  
OFA Administrative Files
- 7/2/2004                R. Lee Fleming to Alfonso James, Jr.  
9/29/2009                OFA Administrative Files
- Galloway and Kidwell  
2004                      “Choctaw in the East,” in *Handbook of North American Indians*,  
*Volume 14, Southeast* (Washington, 2004), 499.
- Florida State Censuses  
1885                      Schedules of the Florida State Census  
1935                      Tenth Census of the State of Florida  
1945                      Eleventh Census of the State of Florida  
Obtained from ancestry.com
- Hinckley, Kathleen  
2002                      *Your Guide to the Federal Census*  
(Cincinnati, 2004)
- Hunter, Burton  
11/30/1878                Burton Hunter Federal Homestead Application and Grant #1491  
National Archives, Land Entry Files (RG 49), Gainesville, Florida, Box 114

**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

IBIA

2/11/2009 Choctaw Nation of Florida v. Eastern Regional Director, Bureau of Indian Affairs et al., Docket No. IBIA 09-38-A, Department of the Interior, 2009 I.D. LEXIS 10; 48 IBIA 273, February 11, 2009

11/19/2009 Choctaw Nation of Florida v. Director, Office of Federal Acknowledgment, and Acting Eastern Regional Director, Bureau of Indian, Docket No. IBIA 09-067, Department of the Interior, 2009 I.D. LEXIS 114; 50 IBIA 335, November 19, 2009

James, Jerome A.  
ca 6/2004 Affidavit submitted as part of the CNF Petition  
OFA Administrative Files

James et al.  
2/24/2005 Jerome James, Chairman, Choctaw Nation of Florida to  
11/6/2009 Lee Fleming, Director, Office of Federal Acknowledgment  
OFA Administrative Files

Kappler  
1904 *Indian Treaties, 1778-1883, Vol. 2*, edited by Charles J. Kappler  
(New York, 1972); Reprint of volume 2 of the 7 volume 1904 edition.

Pierce  
8/6/2008 Alycon Pierce, Acting Director of OFA, to Alfonso James, Jr. and  
6/1/2009 William Calhoun  
OFA Administrative Files

Rodgers  
1/26/2005 Bernadette Rodgers to Abe Haspell, Associate Deputy Secretary of the  
Office of the Secretary, Department of Interior  
Facsimile Transmission with Attachments  
OFA Administrative Files

Seminole Agency Censuses  
1912-1940 *Indian Census Rolls, 1885-1940*; (National Archives Microfilm  
Publication M595, (692 rolls); Records of the Bureau of Indian Affairs,  
Record Group 75; National Archives, Washington, D.C.  
Obtained from ancestry.com.

Souther  
5/12/2008 Rita Souther, Acting Director of OFA, to Alfonso James, Jr. and  
Bernadette Rodgers

Union Roll  
1885 *Indian Census Rolls, 1885-1940*; (National Archives Microfilm



**Choctaw Nation of Florida (Petitioner #288) Proposed Finding**

Publication M595, (692 rolls); Records of the Bureau of Indian Affairs, Record Group 75; National Archives, Washington, D.C. Obtained from ancestry.com.

U.S. Census

1840	Haywood County, North Carolina
1850	Union County, Georgia
1860	Union County, Georgia Fannin County, Georgia
1870	Jackson County, Florida Fannin County, Georgia Union County, Georgia
1880	Jackson County, Florida Union County, Georgia
1900	Jackson County, Florida
1910	Jackson County, Florida
1920	Jackson County, Florida
1930	Jackson County, Florida Censuses obtained from ancestry.com

Williams, Willie Lee

6/28/2004 Affidavit submitted as part of CNF Petition  
OFA Administrative Files

cc: OFASurname;Chron  
OFA:IA:ASalerno:as/rlf/jkc:6/15/10  
K:\OFA\CORRESP\AI\CNF\Choctaw Nation PFfinal.docx