

MEMORANDUM

To: Acting Director, Eastern Area Office
Through: Chief, Div. of Indian Services
Through: Kaye Vann, Area Tribal Relations Specialist

From: Elizabeth Colliflower, Tribal Relations Specialist

Subject: Trip Report, Catawba Tribe April 25-27, 1995

The purpose of the trip to Catawba was to assist the tribe in accordance with Section 7 (c) of the 1993 Catawba Settlement Act, Public Law 103-116, to finalize "[appeal] rules made by the Executive Committee in consultation with the Secretary." I monitored the progress of the tribe's work on the proposed final membership roll. Additionally, I was to verify that all persons listed as members had provided proof of eligibility in accordance with section 7(a) of the Act.

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1. Draft appeal procedures.

It was disappointing to learn that the Executive Committee had done no work on the enrollment/membership appeal rules specified in the Act. More than a year ago, on March 23, 1994, this office urged the tribe in writing to begin work on the required appeal rules; see attached letter of 3/23/94. We offered assistance and urged them to contact us if necessary in order to develop the rules required in section 7(c). We have periodically since March 23, 1994, contacted them by telephone and attempted to gain knowledge of the progress of the development of the rules. The tribe has been remarkably unresponsive, but we assumed that some progress was being made.

Since no work has been done by the Executive Committee, I left a sample set of appeal rules with them. It is my intention to gain input from them as to changes or revisions in the sample rules that they believe are warranted.

2. Enrollment procedures.

There are serious problems with enrollment procedures currently in use by the tribe. Indeed, one can scarcely label them "procedures" since they are informal, subjective, and seem ad hoc at best. In numerous instances, there is either insufficient

documentation supporting the eligibility for enrollment of persons listed, or such documentation is entirely absent. When persons engaged in enrollment activities were questioned as to the lack of sufficient documentation for approximately half of the enrollees, the response was that someone in a leadership position with the tribe "knew" the listed person, and were, therefore, listed on the roll.

It is unclear why the tribe's enrollment processes are in such disarray. The Branch of Tribal Relations has provided members of the Executive Committee with Bureau Enrollment Manuals, has provided the leadership on several occasions with our written interpretation of the terms of the Act where it addresses the matter of Catawba tribal enrollment, and have made ourselves available for technical assistance--which was not, so far as I know, ever requested by the tribe. The Chief of the Division of Indian Services, along with a senior level EAO staffperson, took numerous trips to visit with the tribe. I am not privy to what technical assistance they may have provided the tribe. The Act provides, at section 7(c), that the tribe's decisions on enrollment are "subject to the Secretary's approval". Certainly we cannot proceed to publish membership rolls in the Federal Register when such rolls do not meet with our approval because they are unsupported by even rudimentary documentation.

The primary issue is whether or not all of the Individuals listed on the current membership roll, which is soon to become the proposed final roll to be published in the Federal Register, have provided sufficient documentary evidence of their eligibility to be included on the proposed final membership roll. It is inconceivable that the Secretary would approve such roll in the absence of documentary evidence for each individual listed on the proposed final roll.

Finally, the Tribe needs to decide if they are going include on the final roll those individuals who believe they should have been or are lineal descendants of someone who should have been on the 1961 FR roll. Section 7(a)(2) requires the Executive Committee to determine "based on the criteria used to compile the base roll ..." of 1961 those who should have been on the membership roll, but were not. It appears that the exact criteria used is not clear to the Executive Committee.

Recommendations:

1. The tribe must develop written rules governing the procedural aspects of enrollment. Listed below are some, but not all, of the technical provisions that a membership ordinance or interim resolution should include:
 - a. establish an enrollment committee and define its role--how it interacts with the Executive Committee as well as specifically designating the limits of its authority
 - b. identify the documents that are acceptable legal evidence which will establish the identity of a prospective member, i.e. birth & death certificates, marriage license, probate, church, school records, & census records, etc.
 - c. adoption-stipulate that membership is open only to those persons who

are Catawba Indian by blood and not by adoption.

d. disenrollment (banishment)

e. paternity-this appears to be one of the more difficult problem areas for the enrollment committee and clerks. They need to develop an acceptable paternity affidavit; or, they indicated that DNA testing which would conclusively establish the paternity of an applicant, should be the requirement when paternity is questionable.

f. all actions of the enrollment committee, enrollment officer, enrollment clerks and executive committee pertaining to the enrollment status of every application should be documented, i.e., applicant rejected, accepted, need additional documentation, etc.

2. Listed below are other technical aspects of the enrollment process the tribe must institute immediately.

a. The tribe has developed an application for enrollment which apparently meets its immediate needs, but the tribe does not and has not required all those listed on the membership roll to use the application. The tribe must require every applicant to formally apply for membership (meaning fill out the application).

b. develop a filing system the tribe is comfortable with but there should be a file for each enrolled member and the file needs to contain everything pertinent to the member/applicant, for example, the application, birth certificate, enrollment action, correspondence, name changes, marriage & death certificates, etc.

3. I recommend that the tribe develop and begin using an enrollment ordinance within the next thirty days. Enrollment procedures are not complex, therefore, the tribe can be responsible for instituting a system within a very short period of time. Thirty days is a reasonable time frame in which to accomplish this very fundamental and necessary responsibility, especially in view of the fact that this should have been the first course of action for the Bureau and the tribe.

Please keep in mind that the list above is not comprehensive, rather; these are the main problem areas in enrollment for the Catawba tribe.