

Testimony by Chairwoman Ann Tucker
Muscogee Nation of Florida
Before the Senate Committee on Indian Affairs, November 4, 2009
Oversight Hearing on Fixing the Federal Acknowledgment Process

Chairman Dorgan, honorable members of this Committee, I am Chairwoman Ann Denson Tucker of the Muscogee Nation of Florida, Florida Tribe of Eastern Creek Indians. I am again honored to represent my Tribal Government and my people on the issue of federal recognition. As Petitioner Number 32 in the Office of Federal Acknowledgement, we are the last of the old Tribes who filed a petition before the 1978 regulatory changes. We have seen many things.

This hearing today has to involve the question of why our Tribe has come to this Committee with Senate Bill 530. We are here because no American, particularly the first Americans, should have to wait across generations to be recognized. We are shackled to a process described by an in depth report of the U.S. General Accounting Office as irrevocably broken. When we read the report, our Tribal Government had to face the fact that our evidence that fills 144 banker boxes was not going to cut it in the OFA.

We have no more resources to fight OFA procedural changes or worse, the legal precedents from federal courts that have become a mainstay in the recognition process. The burden of proof is always on the Indian, but today, there are no grants to help petitioners meet the next new precedent. There is no Grandfathering in. There is little to no written communications on proposed agency changes, no input on federal court cases involving one Tribe whose findings can and will impact every other petitioner left in the OFA process. Our universe is nothing more than 100 years of 10-year increments, scanned and digitized, sorted 4 ways, and subject to bureaucratic interpretation. For them, our world is a paper trail. We will never have enough paper.

We have buried 2 generations of people waiting for self-determination. The elders of the 3rd generation are now in their 80s. We did not come to Congress on a whim. It was a frightening reality that when a process is broken, Congress is where an Indian Tribe has to come. We have spent the last 10 years watching this same broken process eliminate petitioners, and now this includes the Little Shell, who wait in a 90 day window to receive a final determination that will demoralize their people and the leaders who have struggled to protect their rights these past 30 years. So it will be with us. Muscogee Nation of Florida has no confidence that a positive determination will ever be issued for our Tribe. How can it be when we share similar experiences in the OFA's broken process? We are the oldest petitioners left and we are destined to fail because we are exactly what we claim to be: an Indian community and government who lived separate and distinct in a world of Jim Crow Laws.

We did not come to Congress to circumvent the Administrative Process. People who say they only support the existing process support a process that is designed for failure. We worked for 20 years to try to answer every OFA criteria and we filed our paperwork to move to Ready, Waiting for Active Consideration. We came to Congress because we have no other option. We can sit in the OFA and be turned down because of historical gaps directly caused by Jim Crow laws or we can come here. We can sit in the OFA while a new process is created that we do not have the fiscal ability to respond to, or

we can come here. We can be a Tribal Government whose hands are tied while our impoverished Indian people live in substandard conditions, or we can come here to fight for the immediate relief and honor of self-determination and a government to government relationship with the United States. Our Tribe will never fit into pre-established criteria that do not allow for the devastating historical effects of state and local policies. We are not the exception as a Tribe in the current acknowledgement process. We are the norm. And that is the unfortunate truth. One process cannot fit all – not when it comes to the histories of indigenous people. We are not all alike and the process has to have enough flexibility that it allows for this fact.

Once again I have come from Bruce, Florida to tell you that we are a 150 year old community of indigenous people who are waiting for justice. Our quality of life matters. The preservation of our culture and our traditions matters, righting a 150-year wrong matters - and it matters now - not 5 years from now when the OFA makes a determination on Muscogee Nation of Florida that may or may not be just, and may or may not be reversed within the Department of Interior or by Congress. I came here because I am the head of a Tribal government for a people who have managed to survive Governor Andrew Jackson. We have survived Indian removal and genocide, the Civil War, the burning of our courthouses, the Jim Crow Laws and their KKK enforcers. Today we find our existence threatened by a broken process. We still exist just like we always did and we deserve recognition.

We have waited long enough for a broken process to determine our fate, so we have placed our faith in you. I ask you today to stand for our people.

On behalf of the tribal government and people of Muscogee Nation of Florida, thank you for allowing our voice to be heard today.