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Testimony
Before the Committee on Indian Affairs
United States Senate

Legislative hearing on S.660, "*To provide for the acknowledgment of the Lumbee Tribe of North Carolina, and for other purposes.*"
July 12, 2006

My name is James Ernest Goins and I am Chairman of the Lumbee Tribe. I want to express the Tribe's appreciation to Chairman McCain and Vice-Chairman Dorgan for the Committee's hearing on S.660, a bill that would extend full federal recognition to the Tribe. I also want to express the Tribe's deep gratitude for the hard work and leadership on this issue of Senator Burr and Senator Dole. Lumbee history will record their faithfulness to the Lumbee cause.

As have generations of Lumbee leaders before me, I proudly appear today in support of federal recognition of the Lumbee Tribe that S.660 would provide. Congress has deliberated on this issue for more than one hundred years now and, on the Tribe's behalf, I urge the Committee to report S.660 favorably so that we can move one step closer to justice and fair treatment for the Tribe.

The Lumbee desire for federal recognition

I am a direct lineal descendant of tribal leaders who first petitioned the United States in 1888 for federal recognition. This petition to Congress was a request for federal recognition and financial support for the education of Lumbee children. At the time, the State had just established a separate school system for the education of Lumbee children; it had also established an Indian normal school to train Lumbee teachers, but only approved two years funding for the normal school and provided nothing for the construction of the normal school. The Tribe donated the land and built the normal school but had trouble keeping it open with so little support from the State. So, a full hundred years before the advent of Indian gaming, the Lumbee Tribe sought recognition from the Congress for the purpose of supporting the Tribe's normal school. The Congress referred the request to the Department of the Interior and the Department gave what was to become its stock response to the Lumbee quest for recognition:

While I regret exceedingly that the provisions made by the State of North Carolina seem to be entirely inadequate, I find it quite impractical to render any assistance at this time. The Government is responsible for the education of something like 36,000 Indian children and has provision for less than half this number. So long as the immediate wards of the Government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatan or any other civilized tribes.

This was a theme that we were to hear often from the federal government - we know you are Indian and you are in need but we have too little funding to assist you. In 1899, Congressman John Bellamy introduced a bill that would recognize the Croatan Indians and provide assistance to the Indian normal school. In 1905, our people made a third effort. A rally was held at the Indian normal school for the purpose of securing a federal census of Indians in the community and federal support for the Indian school. Both these efforts failed.

Between 1910 and 1924, no less than five separate bills were introduced to obtain federal recognition and assistance for the Indian normal school in Robeson County. Congress asked the Department of the Interior to investigate the history and needs of our people three times during this period. Each time, the Department acknowledged that we were Indian, but each time the Department recommended against the bill, mostly for fiscal reasons.

During the 1930s when my people were attempting to re-organize under the Howard Wheeler Act, my wife's grandfather helped raised money to send our people to Washington. Their pleas met with some results. Dr. Swanton from the Bureau of Ethnology was sent to investigate our origins and history. He concluded that the Lumbee people are descendants of the Cheraw Indians. Nevertheless, that effort failed as well.

Then, in 1935, Assistant Solicitor Felix Cohen put in writing a plan that would allow the Indians of Robeson County to organize under a constitution. Tribal leaders immediately submitted a request to organize to the Department of the Interior. Commissioner Collier sent an Indian agent, Fred Baker, to Robeson County to work out a plan for land resettlement so that a reservation might be created for qualified half-bloods. The Indian agent reported in 1935 that he had met with approximately 4,000 members of the Indian community and found strong support for the idea. That meeting was held at a small Lumbee church between Prospect and an adjoining Lumbee community, known as Pembroke. In his report to Washington, he described this meeting:

It may be said without exaggeration that the plan of the government meets with practically the unanimous support of all the Indians. I do not recall having heard a dissenting voice. They seemed to regard the advent of the United States government into their affairs as the dawn of a new day; a new hope and a new vision. They hailed with joy the offer of the government; many of the old people could not restrain their feelings, -- tears filled many eyes and flowed down furrowed cheeks. We must confess to the fact that our own feelings were deeply touched as the old people expressed so deep a longing to have a piece of land on which they could live in peace.....

The agent concluded, "It is clear to my mind that sooner or later government action will have to be taken in the name of justice and humanity to aid them."

Justice did not come that time either. The plan was contingent upon certification of Indians in the county as half or more Indian blood. Initially, Assistant Commissioner Zimmerman and Assistant Solicitor Cohen had thought that Indian school enrollment records, other state records and oral tradition would all be used in this process. But in the end, the determinations were made based solely on physical measurements and features, e.g., body measurements, skin pigmentation, and facial features, which have since been discredited as having no scientific basis. Most tribal members refused to submit to these tests. Only 209

agreed to do so, out of which 22 were eventually certified as half bloods. Thus, this effort failed.

In the early 1950's, the Tribe once again looked to legislation as the answer. After obtaining state legislation in 1953 recognizing the Tribe under the name Lumbee, the Tribe sought federal recognition legislation on the same terms. In 1956, Congress did pass the Lumbee Act, designating the Indians in Robeson and adjoining counties as Lumbees. But at the request of the Department of the Interior, the bill was amended before enactment to provide that Lumbees could not receive services as Indians. Thus, we failed once again because of the intervention of the Department of the Interior.

Our latest effort for special legislation began about twenty years ago, after the Department of the Interior had promulgated regulations on recognition. In December 1987, the Tribe filed a fully documented petition for federal acknowledgment. Two years later the Solicitor's Office decided that the Lumbee Tribe is not eligible for the administrative process because of the termination language added to the 1956 Lumbee Act at the request of the Department.

Even so, some say repeal the 1956 Lumbee Act and force the Tribe to go through the administrative process. My answer to this is to pose this question: What will the Department of Interior learn that its experts haven't already told them? Every time a bill was introduced to recognize us, the Department was asked to investigate our history and community. Each time the Department acknowledged the existence of an Indian community, but opposed the bill because money was too short. How much do our people have to take? How many times does the Department of the Interior have to investigate our history? We believe enough is enough and the time has come for Congress to finish what it started in 1956.

Our people lost control over our Lumbee schools because we are not federally recognized. When a federal judge ordered North Carolina to disband its segregated schools, the Tribe lost its separate schools. This was a serious blow to our people's independence. Without federal recognition, we cannot have full charge of our communities. Without federal recognition, we will continue to be treated as second-class Indians.

The Lumbee community and governance

My family and I are typical of Lumbee families. Let me share a little about myself and my family to illustrate the strength and ties that bind our people.

I am the son of Ernest and Ola Jacobs Goins and a son of the Prospect Community, the oldest documented Lumbee Community located in the historic Cheraw Settlement. My wife is Diane Locklear Goins, Lumbee, and a retired schoolteacher, who taught at Pembroke Elementary School, a Lumbee school, for 31 years. Diane grew up in the Union Chapel Lumbee community, the home community of my mother. My oldest daughter, Rhonda, is a Rehabilitation Coordinator with the Robeson County Mental Health Department where she works with children from birth to three years of age. My daughter, Jacqueline, is also a Lumbee educator at a predominantly Lumbee school. My youngest daughter, Jamie, recently served as an Ambassador

with the Americans for Indian Opportunity's American Indian Ambassador Program. All my sons-in-law are Lumbee Indians and grew up in Lumbee communities here in Robeson County.

I am the great, great, great grandson of Clarissa Sweat/Lowry Chavis. The Department of Interior's investigations in the 1930's show that Clarissa was one of the last speakers of our language. She often served as an interpreter between the white traders and her father. She died in 1897 and is buried along the banks of Drowning Creek, in the Harper Ferry's Lumbee community – located about five miles from where I grew up and presently live. This is the same river that is known as the Lumbee River to our People, and the Lumber River to others.

My family, like other Lumbee families, takes pride in our community and maintains a strong sense of tribalism. Because our communities are composed of large extended families, our children continue to be not only our children but also the sons and daughters of our Lumbee communities. Children are raised by the whole family, not just mothers and fathers. Our people live in parallel worlds. We know what it is to be Lumbee and we know about the world outside the Lumbee world.

Throughout my life, I have attended all Indian churches. Growing up in the Prospect community, I attended Prospect United Methodist Church, located immediately across from Prospect School. The Prospect United Methodist Church is the largest American Indian church in the United Methodist Church. I now attend Union Chapel Holiness Methodist Church, my wife's home church. This church is part of the Lumbee River Holiness Methodist Conference (LRHMC), founded by Lumbee people in 1900. This religious conference is solely composed of Lumbee churches.

I attended Prospect School, an all-Indian school. Its teachers and principals were all Indian. This school was part of the separate school system established for the Lumbee Tribe by the State of North Carolina in 1885. Only a rural country road separated the school from my church. During the school year, I – along with all other students - marched across that road for "religious emphasis week". I have grandchildren who attend Prospect School today. And they continue to cross the road one week during the school year where they receive one hour of religious training. Today, however, students are required to obtain parental consent.

My schoolteachers were also my Sunday school teachers. The headmen of the community, being also the heads of our large extended families, selected the teachers for our schools. They also decided who could attend our schools. Both my paternal and maternal grandfathers, Willie Goins (Prospect community/school) and Anderson Jacobs (Union Chapel community/school) were among these headmen. They, along with the headmen from other Lumbee communities, had sole authority for purpose of deciding who attended Indian schools, and who would be allowed to teach in these schools. Teachers were selected based not only qualification, but also their moral character. As religious and school leaders, these tribal leaders not only shaped our schools, our churches, and our communities, they ultimately governed the Tribe.

After graduating from Prospect School in 1966, I enlisted in the United States Army and was severely wounded in the rice paddies of Vietnam on December 31, 1969. The men in my squad called me "Chief", and awarded me the job of walking point through the jungles and rice paddies of Vietnam. Like all Lumbee veterans, I am proud of my service to this country and I wear its medals with pride: the Purple Heart, the Bronze Star, and the Air Medal. My father, too, served this country in World War II. Indeed, Lumbee people have served this country as far back as 1775 when we fought side by side with the colonists. The only war the Lumbees did not serve in was the Civil War. During that period of time, we engaged in our own war against the Confederacy.

When we gather at the Pembroke VFW (all Lumbee, with exception of one member), where I am a lifetime member, I look at my friends and I am grateful that we, who have every reason not to bear arms for this country, have fought along with the sons and daughters of this great country when called to do so. No greater honor could be conferred upon those Lumbee men who gave their lives for this country and those who returned from its wars than passage of S.660.

Our connections to the land we call home and to each other are typical of Indian peoples. We draw our strength from home, known to others as Robeson County. Regardless of where a Lumbee may reside, home is always Robeson County. And when two Lumbees meet for the first time, the first question asked is who are your people, i.e. your family lines. All Lumbees know their family history three generations back and with a little discussion any two Lumbees can connect themselves either by direct kinship or marriage. These bonds - the ties to our land and each other - are the ties that have enabled us to survive as a tribe even without federal recognition.

For most of our history, the Lumbee Tribe has functioned with informal leaders, people typically drawn from the leading families within our communities. These leaders took whatever steps were required to protect our people, including self-defense such as during the Civil War, and handled all our government-to-government relations with the State of North Carolina. Recently, our people decided to establish a formal tribal government. In November 2001, by special referendum conducted among enrolled Lumbees, a tribal constitution was adopted by the Lumbee people. It creates three branches of tribal government: a tribal chairman with executive powers, a tribal council with 21 members representing districts within the Lumbee territory, and a tribal court to hear disputes arising under tribal law among members. This tribal government has been recognized by the State of North Carolina as the governing body of the Lumbee Tribe and I am the Tribal Chairman elected in accordance with its terms. A copy of the Tribe's constitution is attached to my statement.

Lumbee membership

Because the Tribe has not historically received services or other benefits for its members, the Tribe did not historically maintain a formal membership list. Informal and partial lists of

tribal members have been prepared for various purposes, though. For example, attendance at the Lumbee schools was limited to Lumbee children and committees of Lumbee leaders (sometimes called blood committees) had authority to determine a child's eligibility to enroll. These committees produced partial membership lists.

A few lists of tribal members also can be found in our churches' records. Since Lumbee people have historically attended all Indian churches, these lists are among the Tribe's base rolls. Finally, the United States Census has occasionally prepared special Indian censuses to count Indians. This collection of documents was used to compile a base roll for the Lumbee Tribe for 1900 and 1910. They are excellent records and, because Indian households are listed by order of visitation, you have a record of the families comprising our communities, e.g. Prospect, Pembroke, Union Chapel, Saddletree, and Fairgrove. The same families are there today.

The Tribe has since the early 1980's (when work on the acknowledgment petition began) used a formal enrollment process. As part of the preparation of the acknowledgment petition done in 1987, the Tribe for the first time reduced its membership criteria to writing and prepared a complete list of its members. The written membership criteria are essentially the same used by the Lumbee people informally for generations for things such as school attendance. There are two criteria: first, the person must prove descent from an ancestor on the base roll, which consists of partial lists of tribal members found in school and church records; second, the person must maintain contact with the Lumbee community. To us, maintaining contact means that you must be known to us, that is, known to be related to one of the families at home. Unless the Tribe knows you, then you are not allowed to enroll even if you can prove descent from a Lumbee ancestor. And the data in every application for enrollment is confirmed before an individual is enrolled. Using this process, we have enrolled to date nearly 53,000 members.

S.660

The bill before the committee would give the Lumbee people what we have long sought - treatment equal to other Indian tribes in the United States. It is respectful of the Lumbee Tribe's historical independence - it does not create an Indian reservation and yet would provide the same protections of federal law enjoyed by other Indian tribes. It is also respectful of the Tribe's long-standing relationship with the State of North Carolina - it authorizes the continuation of the State's present jurisdiction over the Tribe and its members.

As for the same treatment as that given other tribes, let me say that, even though Indian tribes can conduct high stakes gaming under certain circumstances under federal law, gaming has nothing to do with the Lumbee Tribe's desire for federal recognition. History shows that the Lumbee Tribe first sought federal recognition in 1888 - a full one hundred years before the passage of the Indian Gaming Regulatory Act. The Tribe has no plans to set up a casino and has no economic development backer for that purpose. And there are several barriers to doing so in the future, even if the Tribe wanted to - first, our constitution requires that a chairman conduct a special referendum among our people to authorize him/her to negotiate for a casino; second, S.660 insures that any acquisition of land for gaming purposes would require the Governor's

concurrence. In other words, the Governor of North Carolina could veto any gaming by the Lumbee Tribe, even if the Tribe decided in the future that it wanted to do such an enterprise. But the important point for our people is that, finally and once and for all, the Lumbee Tribe is treated just like every other federally recognized tribe in the country. Congress should not pick and choose among federal Indian statutes for the Lumbee - after all we've endured we are entitled to the same privileges as all other federally recognized tribes, whether or not we exercise those privileges.

As for State jurisdiction, we always remind our Indian friends outside Lumbee territory that our situation is unique. Because of the size of the Tribe and the Tribe's political engagement, the Lumbee Tribe controls or influences many of the reins of local authority. Three out of eight Robeson County Commissioners are Lumbee, the Clerk of Court is Lumbee, several elected judges in the County are Lumbee, four out of eleven members of the County School Board are Lumbee, and the Mayor and Town Council of Pembroke are all Lumbee. We also have a Lumbee in the North Carolina General Assembly. So leaving jurisdiction in the hands of local organs of government means leaving jurisdiction largely in the hands of Lumbees. Probably because of the Tribe's long commitment to and involvement in the welfare of our communities, the Tribe enjoys a good working relationship with all neighboring non-Indian governments. As a result, the State of North Carolina supports the Tribe's question for recognition, as does Robeson County.

Senator Burr's and Senator Dole's bill would finish what Congress began in 1956 and is the right thing to do. The Lumbee people have been patient and persistent in their quest for federal recognition, but I can tell you our people yearn for federal recognition. It is important to us that the federal government formally acknowledge what we have paid such a high price to maintain -- tribal existence. The time has come for the United States to acknowledge the fact that the Lumbee people are and have always been an Indian tribe. This is the truth of the Lumbee people. It is a truth that North Carolina has long acknowledged. It is truth that other Indian people and experts on Indian history accept. And it is a truth that the Department of the Interior has known for one hundred years.

On behalf of the Lumbee people, I thank the committee for the opportunity to share our story with you and urge the Committee to act favorably on S.660.